Tab 1	**CS/SB 62** by **HE, Osgood (CO-INTRODUCERS) Book**; (Identical to CS/H 00767) Resident Status for Tuition Purposes

Tab 2	**CS/CS/SB 86** by **ACJ, JU, Book (CO-INTRODUCERS) Polsky, Yarborough**; (Similar to CS/CS/H 00045) Hope Cards for Persons Issued Orders of Protection

270744	D	S	RCS	FP, Book	Delete everything after	02/23 08:53 AM

Tab 3	**CS/SB 168** by **HP, Polsky**; (Identical to CS/H 00499) Congenital Cytomegalovirus Screenings

Tab 4	**CS/CS/SB 288** by **ATD, TR, Rodriguez (CO-INTRODUCERS) Hooper, Wright, DiCeglie, Broxson, Collins, Torres**; (Similar to CS/CS/H 00341) Designation of a Certain Diagnosis on Motor Vehicle Registrations

Tab 5	**CS/CS/SB 460** by **AED, ED, Simon (CO-INTRODUCERS) Perry**; (Similar to CS/CS/H 00917) Career and Technical Education

446798	D	S	RCS	FP, Simon	Delete everything after	02/25 12:15 PM
516442	AA	S	RCS	FP, Simon	Delete L.68:	02/25 12:15 PM

Tab 6	**SB 468** by **Bradley**; (Identical to H 01393) Court Interpreter Services

Tab 7	**CS/SB 484** by **JU, Bradley**; (Similar to CS/CS/H 01049) Flood Disclosure in the Sale of Real Property

Tab 8	**SB 558** by **Rouson**; (Similar to CS/H 00563) Homeless Service Professionals

Tab 9	**CS/SB 592** by **GO, Burgess**; (Similar to H 01679) Historical Preservation Programs

613796	A	S	RCS	FP, Burgess	Delete L.30 - 32:	02/23 11:16 AM

Tab 10	**CS/CS/SB 638** by **ACJ, CJ, Grall**; (Similar to CS/CS/H 00729) Lethality Assessments

611338	A	S	RCS	FP, Grall	Delete L.112:	02/23 03:23 PM
345950	A	S	RCS	FP, Grall	Delete L.120 - 125:	02/23 03:23 PM

Tab 11	**CS/SB 644** by **AHS, Simon**; (Similar to CS/H 00309) Rural Emergency Hospitals

Tab 12	**CS/CS/SB 656** by **AEG, GO, DiCeglie**; (Identical to CS/CS/CS/H 00149) Continuing Contracts

Tab 13	**CS/SB 678** by **CJ, Bradley**; (Similar to CS/H 00453) Forensic Investigative Genetic Genealogy Grant Program

Tab 14	**CS/SB 684** by **CA, DiCeglie**; (Compare to CS/CS/CS/H 00267) Residential Building Permits

824238	A	S	RCS	FP, DiCeglie	Delete L.261 - 526:	02/23 07:26 AM

Tab 15	**CS/SB 736** by **ATD, Trumbull**; (Similar to CS/CS/H 00247) Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents

611750	A	S	RCS	FP, DiCeglie	Delete L.238:	02/23 02:51 PM

Tab 16	**CS/CS/SB 764** by **ACJ, CJ, Stewart**; (Similar to CS/CS/H 00607) Retention of Sexual Offense Evidence

885644	A	S	RCS	FP, Stewart	Delete L.54 - 66:	02/23 01:45 PM

Tab 17	**CS/SB 776** by **CF, Powell**; (Similar to CS/H 00409) Temporary Cash Assistance Eligibility

Tab 18	**CS/CS/SB 796** by **CJ, GO, Avila (CO-INTRODUCERS) Yarborough**; (Similar to H 07063) Anti-human Trafficking					
420820	D	S	RCS	FP, Yarborough	Delete everything after	02/23 02:29 PM
Tab 19	**CS/SB 864** by **CJ, Collins (CO-INTRODUCERS) Perry**; (Similar to H 00829) Autism Spectrum Disorder Training for Law Enforcement and Correctional Officers					
144252	A	S	RCS	FP, Collins	Delete L.37 - 74:	02/23 02:53 PM
Tab 20	**CS/CS/SB 868** by **ATD, TR, Boyd (CO-INTRODUCERS) Rouson**; (Similar to CS/CS/H 00389) Transportation Facility Designations					
288298	A	S	RCS	FP, Boyd	Delete L.42 - 44:	02/25 12:20 PM
Tab 21	**CS/CS/SB 892** by **AEG, BI, Harrell**; (Similar to CS/CS/H 01219) Dental Insurance Claims					
547364	A	S	RCS	FP, Harrell	Delete L.95 - 383:	02/25 12:22 PM
Tab 22	**CS/CS/SB 964** by **AHS, BI, Calatayud**; (Similar to CS/CS/H 00885) Coverage for Biomarker Testing					
Tab 23	**CS/CS/SB 994** by **ATD, TR, Burgess**; (Similar to CS/CS/H 01045) Student Transportation Safety					
Tab 24	**CS/SB 1040** by **RI, Bradley**; (Similar to H 00849) Veterinary Practices					
880606	D	S	RCS	FP, Bradley	Delete everything after	02/23 07:32 AM
Tab 25	**CS/SB 1046** by **AEG, Martin**; (Similar to CS/CS/H 00189) Gaming Control					
879358	A	S	RCS	FP, Martin	Delete L.149 - 488:	02/23 01:59 PM
Tab 26	**CS/SB 1084** by **AEG, Collins**; (Similar to CS/H 01071) Department of Agriculture and Consumer Services					
789144	A	S	RS	FP, Collins	Delete L.737 - 1068:	02/23 03:33 PM
699264	SA	S	RCS	FP, Collins	Delete L.737 - 1071:	02/23 03:33 PM
Tab 27	**CS/CS/SB 1098** by **AEG, BI, DiCeglie**; (Similar to CS/CS/H 00989) Department of Financial Services					
814858	A	S	RCS	FP, DiCeglie	Delete L.316 - 2705:	02/25 12:25 PM
Tab 28	**CS/SB 1154** by **CJ, Simon**; (Similar to CS/CS/H 01241) Probation and Community Control Violations					
Tab 29	**CS/SB 1188** by **HP, Garcia**; (Similar to CS/H 01561) Office Surgeries					
~~148378~~	D	S	WD	FP, Garcia	Delete everything after	02/25 12:46 PM
~~958154~~	AA	S	WD	FP, Garcia	Delete L.723:	02/25 12:46 PM
~~107010~~	AA	S	WD	FP, Garcia	btw L.1108 - 1109:	02/25 12:46 PM
589844	D	S	RCS	FP, Garcia	Delete everything after	02/25 12:46 PM
224966	AA	S	RCS	FP, Garcia	Delete L.61:	02/25 12:46 PM
299274	AA	S	RCS	FP, Garcia	Delete L.68 - 73:	02/25 12:46 PM
241934	AA	S	RCS	FP, Garcia	Delete L.822:	02/25 12:46 PM
Tab 30	**CS/SB 1222** by **CJ, Trumbull (CO-INTRODUCERS) Perry**; (Similar to CS/H 00549) Theft					
Tab 31	**CS/CS/SB 1224** by **ACJ, CF, Burton**; (Similar to CS/CS/H 00185) Dependent Children					
655070	A	S	RCS	FP, Burton	Delete L.539:	02/23 02:38 PM
568060	A	S	RCS	FP, Burton	btw L.1818 - 1819:	02/23 02:38 PM

Tab 32	**CS/SB 1230** by **ACJ, Bradley**; (Identical to CS/CS/H 01235) Sexual Predators and Sexual Offenders

Tab 33	**CS/SB 1274** by **CJ, Martin**; (Similar to CS/CS/H 01181) Juvenile Justice

342476	A	S	RCS	FP, Martin	btw L.1094 - 1095:	02/23 02:06 PM

Tab 34	**CS/SB 1278** by **ACJ, Martin**; (Similar to CS/CS/H 01337) Department of Corrections

Tab 35	**SB 1324** by **Ingoglia**; (Similar to CS/H 01589) Driving Without a Valid Driver License

Tab 36	**CS/SB 1352** by **ACJ, Bradley**; (Similar to CS/H 01425) Juvenile Justice

329642	D	S	RCS	FP, Bradley	Delete everything after	02/25 12:50 PM

Tab 37	**CS/CS/SB 1362** by **ATD, TR, Harrell**; (Compare to CS/CS/H 00981) Aviation

444598	A	S	RCS	FP, Harrell	btw L.156 - 157:	02/23 02:08 PM

Tab 38	**CS/SB 1386** by **AEG, Calatayud**; (Similar to CS/CS/1ST ENG/H 01557) Department of Environmental Protection

334716	A	S	RCS	FP, Calatayud	Delete L.190 - 1843:	02/23 03:15 PM

Tab 39	**SB 1396** by **Gruters (CO-INTRODUCERS) Yarborough**; (Identical to H 01109) Security for Jewish Day Schools and Preschools

Tab 40	**CS/SB 1422** by **AEG, Burgess (CO-INTRODUCERS) Rouson**; (Similar to CS/CS/CS/H 01159) Food Recovery

Tab 41	**CS/SB 1530** by **JU, Martin**; (Similar to CS/CS/H 01365) Unauthorized Public Camping and Public Sleeping

952260	D	S	RCS	FP, Martin	Delete everything after	02/25 01:01 PM

Tab 42	**CS/SB 1544** by **RI, Hooper**; (Similar to CS/CS/H 01335) Department of Business and Professional Regulation

114064	A	S	RCS	FP, Boyd	Delete L.304 - 316.	02/25 01:03 PM
721376	A	S	RCS	FP, Boyd	Delete L.316:	02/25 01:03 PM
771042	A	S	RCS	FP, Hutson	btw L.335 - 336:	02/25 01:03 PM
659996	A	S	RCS	FP, Hooper	Delete L.453 - 642:	02/25 01:03 PM
610464	A	S	RCS	FP, Hooper	btw L.601 - 602:	02/25 01:03 PM

Tab 43	**CS/SB 1628** by **CA, Collins**; (Identical to CS/H 01547) Local Government Actions

369630	D	S	RCS	FP, Collins	Delete everything after	02/23 03:18 PM

Tab 44	**CS/SB 1798** by **HP, Trumbull**; (Identical to CS/CS/H 00935) Home Health Care Services

Tab 45	**SB 7052** by **CF**; (Similar to CS/CS/1ST ENG/H 01267) Economic Self-sufficiency

137630	A	S	RCS	FP, Garcia	btw L.376 - 377:	02/23 02:41 PM

Tab 46	**SB 7058** by **GO**; (Similar to CS/H 01551) Criminal History Checks for the Florida State Guard

Tab 47	**SB 7060** by **GO**; (Identical to H 07071) Foreign Investments by the State Board of Administration

Tab 48	**SB 7062** by **ACJ**; (Compare to CS/CS/H 00729) Public Records/Lethality Assessment

Tab 49	**SB 7072** by **AHS**; (Identical to H 07087) Cancer Funding

639792	A	S	RCS	FP, Harrell	Delete L.64 - 65:	02/25 01:05 PM
840478	A	S	RCS	FP, Harrell	Delete L.145:	02/25 01:05 PM

Tab 50	**SB 7078** by **FP**; (Compare to H 07087) Public Records and Meetings/Cancer Research Grant Applications

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Hutson, Chair
Senator Stewart, Vice Chair

MEETING DATE: Thursday, February 22, 2024
TIME: 12:00 noon—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Hutson, Chair; Senator Stewart, Vice Chair; Senators Albritton, Berman, Boyd, Burton, Calatayud, Collins, DiCeglie, Garcia, Jones, Mayfield, Osgood, Rodriguez, Simon, Thompson, Torres, Trumbull, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 62** Education Postsecondary / Osgood (Identical CS/H 767)	Resident Status for Tuition Purposes; Providing that a person may not lose his or her resident status for tuition purposes due to incarceration, etc. HE 02/06/2024 Fav/CS AED 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
2	**CS/CS/SB 86** Appropriations Committee on Criminal and Civil Justice / Judiciary / Book (Similar CS/CS/H 45)	Hope Cards for Persons Issued Orders of Protection; Requiring the Florida Association of Court Clerks, Inc., to develop the Hope Card Program; authorizing certain persons to apply for a Hope Card after a specified date; authorizing a person protected by an injunction for protection issued by a court of a foreign state to apply for and receive a Hope Card even if the person does not register the order for protection in this state, etc. JU 01/09/2024 Fav/CS ACJ 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
3	**CS/SB 168** Health Policy / Polsky (Identical CS/H 499)	Congenital Cytomegalovirus Screenings; Requiring certain hospitals to administer congenital cytomegalovirus screenings on newborns admitted to the hospital under specified circumstances; providing coverage under the Medicaid program for the screenings and any medically necessary follow-up reevaluations; requiring that newborns diagnosed with congenital cytomegalovirus be referred to a primary care physician for medical management, treatment, and follow-up services, etc. HP 01/23/2024 Fav/CS AHS 02/08/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 18 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/CS/SB 288** Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Rodriguez (Similar CS/CS/H 341)	Designation of a Certain Diagnosis on Motor Vehicle Registrations; Citing this act as the "Safeguarding American Families Everywhere (SAFE) Act"; requiring the application form for motor vehicle registration to include certain language allowing an applicant to indicate that he or she has been diagnosed with, or is the parent or legal guardian of a child or ward who has been diagnosed with, specified disabilities or disorders; requiring the Department of Highway Safety and Motor Vehicles to allow specified persons to update a motor vehicle registration to include or remove the specified designation at any time, etc. TR 02/06/2024 Fav/CS ATD 02/13/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 15 Nays 0
5	**CS/CS/SB 460** Appropriations Committee on Education / Education Pre-K -12 / Simon (Similar CS/CS/H 917)	Career and Technical Education; Providing an exemption for minors to work in specified conditions; providing an alternative to career fairs through other career and industry networking opportunities; revising a list of individuals who are required to review and comment on certain revisions to the state academic standards; revising the requirements for certain credits and certifications to meet specified graduation requirements, etc. ED 01/17/2024 Fav/CS AED 01/24/2024 Temporarily Postponed AED 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 13 Nays 4
6	**SB 468** Bradley (Identical H 1393)	Court Interpreter Services; Authorizing the state courts system to use state revenues, if available, to provide court-appointed interpreting services to nonindigent individuals; repealing the cost recovery requirement for court-appointed interpreting services, etc. JU 02/05/2024 Favorable ACJ 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
7	**CS/SB 484** Judiciary / Bradley (Similar CS/CS/H 1049)	Flood Disclosure in the Sale of Real Property; Requiring a seller of residential real property to provide specified information to a prospective purchaser at or before the sales contract is executed; specifying how such information must be disclosed, etc. JU 02/05/2024 Fav/CS FP 02/22/2024 Favorable RC	Favorable Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**SB 558** Rouson (Similar CS/H 563)	Homeless Service Professionals; Providing qualifications for certification as a person with lived experience; requiring the Department of Children and Families to conduct background screening; specifying disqualifying offenses for a person applying for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department, etc. CF 01/10/2024 Favorable AHS 01/17/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
9	**CS/SB 592** Governmental Oversight and Accountability / Burgess (Similar H 1679)	Historical Preservation Programs; Requiring the Department of State to partner with the Florida African American Heritage Preservation Network for a specified purpose; specifying preservation efforts that may be undertaken through the partnership; requiring the department and the network to determine other eligible expenditures necessary to further the partnership's mission and goals, etc. GO 01/22/2024 Fav/CS ATD 02/13/2024 Favorable FP 02/22/2024 Fav/CS	Fav/CS Yeas 12 Nays 5
10	**CS/CS/SB 638** Appropriations Committee on Criminal and Civil Justice / Criminal Justice / Grall (Similar CS/CS/H 729, Compare H 673, S 610, Linked S 7062)	Lethality Assessments; Requiring law enforcement officers who investigate an alleged incident of domestic violence to administer a lethality assessment under certain circumstances; requiring the Department of Law Enforcement to consult with specified entities, and authorizing the department to consult with other specified entities, to develop certain policies, procedures, and training necessary for the implementation of a statewide evidence-based lethality assessment; requiring the department to adopt a statewide lethality assessment form by a specified date; prohibiting law enforcement officers from disclosing in certain statements and reports the domestic violence center to which the victim was referred, etc. CJ 01/10/2024 Fav/CS ACJ 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**CS/SB 644** Appropriations Committee on Health and Human Services / Simon (Similar CS/H 309)	Rural Emergency Hospitals; Subjecting rural emergency hospitals to certain requirements for the provision of emergency services and care; defining the terms “rural emergency hospital” and “rural emergency services”; authorizing qualifying hospitals to apply to the Agency for Health Care Administration for designation as a rural emergency hospital, etc. HP 01/23/2024 Favorable AHS 02/08/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
12	**CS/CS/SB 656** Appropriations Committee on Agriculture, Environment, and General Government / Governmental Oversight and Accountability / DiCeglie (Identical CS/CS/CS/H 149)	Continuing Contracts; Revising the maximum estimated construction cost of construction projects for which a governmental entity may enter into a continuing contract; revising the definition of the term “continuing contract” to increase the maximum dollar value of such contract, to require the department, beginning on a specified date and annually thereafter, to adjust the maximum dollar value allowed under such contracts using a specified index, and to publish the new dollar value on its website, etc. GO 01/29/2024 Fav/CS AEG 02/13/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
13	**CS/SB 678** Criminal Justice / Bradley (Similar CS/H 453)	Forensic Investigative Genetic Genealogy Grant Program; Defining the term “investigative genetic genealogy”; requiring that certain methods be in accordance with Department of Law Enforcement rules and compatible with certain databases; specifying the intent for certain funding; creating the Forensic Investigative Genetic Genealogy Grant Program within the Department of Law Enforcement, etc. CJ 01/16/2024 Fav/CS ACJ 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**CS/SB 684** Community Affairs / DiCeglie (Compare CS/CS/CS/H 267, H 579, CS/CS/H 665, CS/CS/CS/S 812)	Residential Building Permits; Requiring certain governing bodies, by a date certain, to create a program to expedite the process for issuing residential building permits before a final plat is recorded; requiring a governing body to issue a certain number or percentage of building permits requested in an application when certain conditions are met; requiring the Florida Building Commission to modify a specific provision of the Florida Building Code to state that sealed drawings by a design professional are not required for replacement and installation of certain construction, etc. CA 02/06/2024 Fav/CS FP 02/22/2024 Fav/CS RC	Fav/CS Yeas 14 Nays 2
15	**CS/SB 736** Appropriations Committee on Transportation, Tourism, and Economic Development / Trumbull (Similar CS/CS/H 247)	Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents; Providing that a certain affidavit establishes a presumption of ownership and right of possession to a motor vehicle or mobile home when the previous owner of the motor vehicle or mobile home died testate; prohibiting the department or a tax collector from charging a fee for reissuance of certain certificates of title; authorizing certain disabled veterans to be issued a military license plate or specialty license plate in lieu of a “DV” license plate; authorizing the department to design, issue, and regulate the use of temporary tags when the existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien, etc. TR 01/17/2024 Favorable ATD 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
16	**CS/CS/SB 764** Appropriations Committee on Criminal and Civil Justice / Criminal Justice / Stewart (Similar CS/CS/H 607)	Retention of Sexual Offense Evidence; Requiring that specified sexual offense evidence be retained by specified entities for a minimum number of years after the collection date; requiring that such evidence be stored anonymously in a secure, environmentally safe manner, and with a documented chain of custody, etc. CJ 01/10/2024 Fav/CS ACJ 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
17	**CS/SB 776** Children, Families, and Elder Affairs / Powell (Similar CS/H 409)	Temporary Cash Assistance Eligibility; Providing that benefits may not be denied to certain victims of human trafficking, etc. CF 02/06/2024 Fav/CS AHS 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**CS/CS/SB 796** Criminal Justice / Governmental Oversight and Accountability / Avila (Similar H 7063, Compare S 628)	Anti-human Trafficking; Extending the future repeal date of the direct-support organization for the Statewide Council on Human Trafficking; revising the hotline telephone number to be included in human trafficking awareness signs; requiring that contractors with governmental entities attest that they do not use coercion for labor or services, etc. GO 01/22/2024 Fav/CS CJ 02/06/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 1
19	**CS/SB 864** Criminal Justice / Collins (Similar H 829)	Autism Spectrum Disorder Training for Law Enforcement and Correctional Officers; Providing requirements for training officers for interacting with individuals with autism spectrum disorder; requiring the Criminal Justice Standards and Training Commission to adopt rules requiring such training as part of continued employment training for officers, etc. CJ 01/23/2024 Fav/CS ACJ 02/08/2024 Favorable FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
20	**CS/CS/SB 868** Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Boyd (Similar CS/CS/H 389, Compare H 61, CS/H 841, H 1341, S 806, S 1148)	Transportation Facility Designations; Providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers, etc. TR 01/30/2024 Fav/CS ATD 02/13/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
21	**CS/CS/SB 892** Appropriations Committee on Agriculture, Environment, and General Government / Banking and Insurance / Harrell (Similar CS/CS/H 1219)	Dental Insurance Claims; Prohibiting a contract between a health insurer and a dentist from containing certain restrictions on payment methods; prohibiting a health insurer from charging a fee to transmit a payment to a dentist through Automated Clearing House (ACH) transfer unless the dentist has consented to such fee; prohibiting a health insurer from denying claims for procedures included in a prior authorization; prohibiting a contract between a prepaid limited health service organization and a dentist from containing certain restrictions on payment methods, etc. BI 02/06/2024 Fav/CS AEG 02/13/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	**CS/CS/SB 964** Appropriations Committee on Health and Human Services / Banking and Insurance / Calatayud (Similar CS/H 885)	Coverage for Biomarker Testing; Requiring the Department of Management Services to provide coverage of biomarker testing for specified purposes for state employees' state group health insurance plan policies issued on or after a specified date; requiring state group health insurance plans to provide enrollees and participating providers with a clear and convenient process for authorization requests for biomarker testing; authorizing the Agency for Health Care Administration to pay for biomarker testing under the Medicaid program for specified purposes, subject to specific appropriations; requiring that Medicaid recipients and participating providers be provided a clear and convenient process for authorization requests for biomarker testing, etc. BI 02/06/2024 Fav/CS AHS 02/13/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
23	**CS/CS/SB 994** Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Burgess (Compare CS/H 1045, CS/H 7039, CS/S 7002)	Student Transportation Safety; Revising requirements for signage posted on the rear of a school bus indicating the use of a school bus infraction detection system; requiring a law enforcement agency to send a notice of violation to the registered owner involved in a violation within a specified timeframe after receiving certain information; prohibiting the use of school bus infraction detection systems for remote surveillance; requiring that certain civil penalties be remitted to a participating school district operating a school bus with a school bus infraction detection system to be used for certain purposes, etc. TR 01/30/2024 Fav/CS ATD 02/13/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
24	**CS/SB 1040** Regulated Industries / Bradley (Similar H 849, S 1162, Compare H 261, CS/H 303, S 334, S 1100)	Veterinary Practices; Designating the "Providing Equity in Telehealth Services Act"; authorizing licensed veterinarians to practice veterinary telehealth in accordance with specified criteria; specifying the powers of the Board of Veterinary Medicine related to the practice of telehealth; authorizing certain persons to administer rabies vaccinations to certain animals under indirect supervision of a veterinarian; providing that a supervising veterinarian assumes responsibility for specified people who provide vaccinations, etc. RI 02/05/2024 Fav/CS FP 02/22/2024 Fav/CS RC	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
25	**CS/SB 1046** Appropriations Committee on Agriculture, Environment, and General Government / Martin (Similar CS/CS/H 189)	Gaming Control; Prohibiting a person from falsely personating any personnel or representative from the Florida Gaming Control Commission; increasing the criminal penalty for specified violations involving a slot machine or device; prohibiting a person from making false statements or disseminating false information regarding the legality of a slot machine or device to facilitate the sale or delivery of such device; prohibiting a person from, for profit or hire, transporting or procuring the transportation of a specified number of other persons to facilitate illegal gambling, etc. RI 01/16/2024 Favorable AEG 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 13 Nays 4
26	**CS/SB 1084** Appropriations Committee on Agriculture, Environment, and General Government / Collins (Similar CS/H 1071, Compare H 119, H 435, S 188, S 586)	Department of Agriculture and Consumer Services; Preempting the regulation of electric vehicle charging stations to the state; prohibiting local governmental entities from enacting or enforcing such regulations; providing that a pest control operator's certificate, a special identification card, and certain limited certifications for pesticide applicators, respectively, expire a specified length of time after issuance; authorizing the department to take disciplinary action against a person who swears to or affirms a false statement on certain applications, cheats on a required examination, or violates certain procedures under certain circumstances; authorizing Class "G" licensees to qualify for multiple calibers of firearms in one requalification class under certain circumstances; prohibiting the manufacture, sale, holding or offering for sale, or distribution of cultivated meat in this state, etc. AG 01/16/2024 Favorable AEG 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 11 Nays 4

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
27	**CS/CS/SB 1098** Appropriations Committee on Agriculture, Environment, and General Government / Banking and Insurance / DiCeglie (Similar CS/CS/H 989, Compare H 991)	Department of Financial Services; Creating the federal tax liaison position within the department; requiring the Chief Financial Officer to appoint the federal tax liaison; renaming the Division of Investigative and Forensic Services in the Department of Financial Services as the Division of Criminal Investigations; authorizing service of citations by e-mail under certain circumstances; specifying that licensed and appointed general lines agents, rather than general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents; revising the prohibition relating to accepting new claims to the Florida Birth-Related Neurological Injury Compensation Plan, etc. BI 01/22/2024 Fav/CS AEG 02/13/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
28	**CS/SB 1154** Criminal Justice / Simon (Similar CS/CS/H 1241)	Probation and Community Control Violations; Revising the sentencing score sheet to reflect the absence of community sanction points assessed in certain circumstances; revising sanctions for probation violations; providing for hearings within a specified time period for low-risk probation or community control violations; providing for the release of offenders in certain circumstances if a hearing is not held, etc. CJ 02/06/2024 Fav/CS ACJ 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
29	**CS/SB 1188** Health Policy / Garcia (Similar H 1561)	Office Surgeries; Revising the types of procedures for which a medical office must register with the Department of Health to perform office surgeries; specifying notification and inspection procedures for the department and the Agency for Health Care Administration if, during the registration process, the department determines that the performance of specified procedures in the office would create a risk to patient safety such that the office should instead be regulated as an ambulatory surgical center; revising standards of practice for office surgeries; requiring medical offices already registered with the department to perform certain office surgeries as of a specified date to reregister if such offices perform specified procedures, etc. HP 02/06/2024 Fav/CS FP 02/15/2024 Temporarily Postponed FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
30	**CS/SB 1222** Criminal Justice / Trumbull (Similar CS/H 549, Compare S 824)	Theft; Reducing the minimum threshold amount for grand theft of the third degree; creating the offense of grand theft of the third degree; providing criminal penalties; defining the term "social media platform"; providing criminal penalties for persons committing certain retail theft acts in concert with a certain number of other persons within one or more establishments for specified purposes, etc. CJ 01/23/2024 Fav/CS ACJ 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
31	**CS/CS/SB 1224** Appropriations Committee on Criminal and Civil Justice / Children, Families, and Elder Affairs / Burton (Similar CS/CS/H 185)	Dependent Children; Requiring the Statewide Guardian ad Litem Office and circuit guardian ad litem offices to participate in the development of a certain state plan; requiring the court to appoint a guardian ad litem for a child at the earliest possible time; requiring parents to consent to provide certain information to the guardian ad litem and attorney ad litem; requiring a court to give a guardian ad litem an opportunity to address the court in certain proceedings; requiring a court to appoint a guardian ad litem to represent a child in certain proceedings, etc. CF 01/30/2024 Fav/CS ACJ 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
32	**CS/SB 1230** Appropriations Committee on Criminal and Civil Justice / Bradley (Identical CS/CS/H 1235)	Sexual Predators and Sexual Offenders; Revising the definitions of the terms "conviction," "permanent residence," "temporary residence," and "transient residence"; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; authorizing sexual predators to report to the Department of Law Enforcement through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned, etc. CJ 01/23/2024 Favorable ACJ 02/08/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
33	**CS/SB 1274** Criminal Justice / Martin (Similar CS/CS/H 1181)	Juvenile Justice; Revising penalties for minors committing specified firearms violations; redesignating civil citation programs as prearrest delinquency citation programs; revising program requirements; requiring that youths who are arrested for certain electronic monitoring or supervised release violations be placed in secure detention until a detention hearing; requiring conditional release conditions for children released after confinement for specified firearms offenses; requiring the Department of Juvenile Justice to establish a specified class for firearms offenders, etc. CJ 01/30/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 12 Nays 5
34	**CS/SB 1278** Appropriations Committee on Criminal and Civil Justice / Martin (Similar CS/CS/H 1337)	Department of Corrections; Providing additional authority for law enforcement officers of the office of the inspector general concerning department and contractor-operated correctional facilities; providing that correctional privatization contracts are not exempt from specified state contracting provisions unless otherwise specified; renaming the term "private correctional facility" as "contractor-operated correctional facility"; renaming the term "private correctional officer" as "contractor-employed correctional officer"; deleting provisions concerning development of consensus per diem rates by the Prison Per-Diem Workgroup, etc. CJ 01/23/2024 Favorable ACJ 02/08/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
35	**SB 1324** Ingoglia (Similar CS/H 1589)	Driving Without a Valid Driver License; Providing criminal penalties for the offense of driving without a valid driver license; requiring the court to sentence an offender to a specified minimum jail sentence upon a third or subsequent conviction for the offense, etc. TR 01/23/2024 Favorable ACJ 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
36	**CS/SB 1352** Appropriations Committee on Criminal and Civil Justice / Bradley (Similar CS/H 1425, Compare CS/H 7025)	Juvenile Justice; Authorizing personnel of the Department of Juvenile Justice and of certain contracted providers to possess, store, and administer emergency opioid antagonists and providing immunity from civil or criminal liability for such personnel; deleting a provision requiring the juvenile justice circuit advisory board to establish certain community service programs; requiring sheriffs' offices to submit an annual report regarding certain received proceeds to the department, rather than the juvenile justice circuit advisory board; requiring the public safety coordinating council to cooperate with the department, rather than the juvenile justice circuit advisory board, to prepare a comprehensive public safety plan, etc. CJ 01/30/2024 Favorable ACJ 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
37	**CS/CS/SB 1362** Appropriations Committee on Transportation, Tourism, and Economic Development / Transportation / Harrell (Compare CS/CS/H 981)	Aviation; Beginning on a specified date, requiring the owner or lessee of a proposed vertiport to comply with a specified provision in obtaining certain approval and license or registration; requiring the Department of Transportation to conduct a final physical inspection of the vertiport to ensure compliance with specified requirements; providing duties of the department, within specified resources, with respect to vertiports, advanced air mobility, and other advances in aviation technology, etc. TR 01/23/2024 Fav/CS ATD 02/08/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
38	**CS/SB 1386** Appropriations Committee on Agriculture, Environment, and General Government / Calatayud (Similar CS/CS/H 1557)	Department of Environmental Protection; Revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; defining the term "Florida Flood Hub"; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads, etc. EN 01/17/2024 Favorable AEG 02/08/2024 Temporarily Postponed AEG 02/13/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
39	**SB 1396** Gruters (Identical H 1109)	Security for Jewish Day Schools and Preschools; Subject to and consistent with funds appropriated from the General Appropriations Act, requiring the Department of Education to establish a program to provide funds to full-time Jewish day schools and preschools for specified security purposes, etc. ED 02/06/2024 Favorable AED 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
40	**CS/SB 1422** Appropriations Committee on Agriculture, Environment, and General Government / Burgess (Similar CS/CS/H 1159)	Food Recovery; Directing the Department of Agriculture and Consumer Services, subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price; requiring food recovery entities to negotiate with food producers; requiring the department to reimburse food recovery entities for certain costs, etc. AG 01/16/2024 Favorable AEG 02/13/2024 Fav/CS FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
41	**CS/SB 1530** Judiciary / Martin (Similar CS/H 1365)	Unauthorized Public Camping and Public Sleeping; Defining the terms “public camping” and “public sleeping”; prohibiting counties and municipalities, respectively, from authorizing or otherwise permitting public sleeping or public camping on public property without a specified permit; authorizing counties and municipalities to designate certain public property for such purpose for a specified time period; requiring the Department of Children and Families to conduct inspections of such property at specified intervals and to produce a report; providing an exemption from certain requirements for a fiscally constrained county or municipality, etc. CA 01/29/2024 Favorable JU 02/05/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 12 Nays 5

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
42	**CS/SB 1544** Regulated Industries / Hooper (Similar CS/CS/H 1335)	Department of Business and Professional Regulation; Requiring persons or entities licensed or permitted by the department's Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system and provide an e-mail address to the division; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; creating the employee leasing companies licensing program under the department, etc. RI 02/05/2024 Fav/CS AEG 02/13/2024 Favorable FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0
43	**CS/SB 1628** Community Affairs / Collins (Identical CS/H 1547)	Local Government Actions; Revising applicability provisions for the enactment or adoption of and legal challenges to county and municipal ordinances, respectively, etc. CA 01/29/2024 Temporarily Postponed CA 02/06/2024 Fav/CS FP 02/22/2024 Fav/CS	Fav/CS Yeas 16 Nays 0
44	**CS/SB 1798** Health Policy / Trumbull (Identical CS/CS/H 935)	Home Health Care Services; Authorizing advanced practice registered nurses and physician assistants to order or write prescriptions for certain Medicaid services, etc. HP 02/06/2024 Fav/CS AHS 02/13/2024 Favorable FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
45	**SB 7052** Children, Families, and Elder Affairs (Similar CS/CS/H 1267)	Economic Self-sufficiency; Providing that a participant has good cause for noncompliance with work requirements for a specified time period under certain circumstances; providing requirements for staff members of local workforce development boards when interviewing participants; requiring benefit management and career planning using a specified tool as part of the state's one-stop delivery system; requiring the Department of Commerce to develop certain training; authorizing certain participants to participate in certain programs or courses for a specified number of hours per week, etc. FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
46	**SB 7058** Governmental Oversight and Accountability (Similar CS/H 1551, Compare S 1694)	Criminal History Checks for the Florida State Guard; Requiring applicants for the Florida State Guard to submit a complete set of fingerprints to the Division of the State Guard or other specified entity, vendor, or agency; requiring that the division or such entity, vendor, or agency forward the fingerprints to the Department of Law Enforcement for processing and that the department forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check; requiring the Department of Military Affairs, and authorizing the division, to review certain results and make a specified determination, etc. FP 02/22/2024 Favorable	Favorable Yeas 17 Nays 0
47	**SB 7060** Governmental Oversight and Accountability (Identical H 7071)	Foreign Investments by the State Board of Administration; Prohibiting the State Board of Administration from acquiring, on behalf of the Florida Retirement System Trust Fund, direct holdings in Chinese companies; requiring the board to initiate a review of its direct holdings to make a specified determination by a specified date; requiring the board to develop a certain divestment plan for such holdings by a specified date; requiring the board to divest from such holdings according to the required plan by a specified date, etc. FP 02/22/2024 Favorable	Favorable Yeas 15 Nays 0
48	**SB 7062** Appropriations Committee on Criminal and Civil Justice (Compare CS/CS/H 729, Linked CS/CS/S 638)	Public Records/Lethality Assessment; Providing a public records exemption for certain information pertaining to a lethality assessment administered by a trained law enforcement officer; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. FP 02/22/2024 Favorable	Favorable Yeas 16 Nays 0
49	**SB 7072** Appropriations Committee on Health and Human Services (Identical H 7087, Linked S 7078)	Cancer Funding; Revising the purpose of the Casey DeSantis Cancer Research Program; revising duties of the Department of Health under the program; creating the Cancer Connect Collaborative, a council, within the department for a specified purpose; requiring the collaborative to administer the Cancer Innovation Fund; requiring the collaborative to review grant applications and make recommendations to the department for awarding grants upon the appropriation of funds to the fund, etc. FP 02/22/2024 Fav/CS	Fav/CS Yeas 17 Nays 0

Consideration of proposed bill:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
50	**SB 7078** Fiscal Policy (Compare H 7087, Linked S 7072)	Public Records and Meetings/Cancer Research Grant Applications; Providing an exemption from public records requirements for proprietary business information included in cancer research grant applications submitted to the Cancer Connect Collaborative and records generated by the collaborative relating to the review of such information; providing an exemption from public meeting requirements for portions of collaborative meetings during which such proprietary business information is discussed; providing for legislative review and repeal of the exemptions; providing statements of public necessity, etc. RC	Submitted and Reported Favorably as Committee Bill
	(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 Committee on Fiscal Policy

BILL:	CS/SB 62
INTRODUCER:	Education Postsecondary Committee; Senator Osgood and others
SUBJECT:	Resident Status for Tuition Purposes
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	HE	**Fav/CS**
2.	Gray	Elwell	AED	**Favorable**
3.	Jahnke	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 62 provides that an individual may not lose his or her resident status for tuition purposes due to incarceration in a state or federal correctional facility in this state.

This bill does not have appear to have a fiscal impact. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

Residency Status for Tuition Purposes

Students must be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers, career centers operated by school districts, Florida College System (FCS) institutions, and state universities. Students pay differing tuition rates based on their status as a resident or nonresident of Florida.[1]

Specifically, to qualify as a resident for tuition purposes:

- A person or, if that person is a dependent child, his or her parent or parents must have established legal residence in Florida and must have maintained legal residence for at least 12

[1] Section 1009.21. F.S.

consecutive months immediately prior to his or her initial enrollment in an institution of higher education.

- Every applicant for admission to an institution of higher education must make a statement as to his or her length of residence and establish that his or her presence or, if the applicant is a dependent child, the presence of his or her parent or parents in Florida currently is, and during the requisite 12-month qualifying period was, for the purpose of maintaining a bona fide domicile.[2]

A person must show certain proof that he or she should be classified as a resident for tuition purposes and may not receive the in-state tuition rate until clear and convincing evidence related to legal residence and its duration has been provided. Each institution of higher education must make a residency determination that is documented by the submission of written or electronic verification that includes two or more specified documents that:

- Must include at least one of the following ("Tier 1"):
  - A Florida voter's registration card.
  - A Florida driver license.
  - A State of Florida identification card.
  - A Florida vehicle registration.
  - Proof of a permanent home in Florida which is occupied as a primary residence by the individual or by the individual's parent if the individual is a dependent child.
  - Proof of a homestead exemption in Florida.
  - Transcripts from a Florida high school for multiple years if the Florida high school diploma or high school equivalency diploma was earned within the last 12 months.
  - Proof of permanent full-time employment in Florida for at least 30 hours per week for a 12-month period.
- May include one or more of the following ("Tier 2"):
  - A declaration of domicile in Florida.
  - A Florida professional or occupational license.
  - Florida incorporation.
  - A document evidencing family ties in Florida.
  - Proof of membership in a Florida-based charitable or professional organization.
  - Any other documentation that supports the student's request for resident status, including, but not limited to, utility bills and proof of 12 consecutive months of payments; a lease agreement and proof of 12 consecutive months of payments; or an official state, federal, or court document evidencing legal ties to Florida.[3]

Guidelines for Residency for Tuition Purposes

The Articulation Coordinating Committee (ACC) Statewide Residency Committee reviews statutes and rules relating to residency for tuition purposes and drafts and revises statewide residency guidelines that provide further clarification of statutes and rules.[4] The ACC statewide residency guidelines provide that prison inmates are not precluded from establishing residency

[2] Section 1009.21(2)(a), F.S.
[3] Section 1009.21(3), F.S.
[4] Florida Department of Education, Articulation Coordinating Committee – Statewide Residency Committee, *Purpose*, https://www.fldoe.org/policy/articulation/committees/articulation-coordinating-committee-st.stml (last visited Feb. 7, 2024).

for tuition purposes in Florida. However, they may not establish residency for tuition purposes by virtue of their incarceration in Florida and evidence must be provided for the 12-month period prior to incarceration.[5]

Each institution of higher education must make a residency determination and can establish policies regarding incarcerated individuals. For example, Tallahassee Community College and St. Petersburg College both require an incarcerated individual to provide documentation that he or she lived in Florida for 12 months before incarceration and requires Tier 1 and Tier 2 documentation to prove his or her physical presence in Florida for 12 months before being incarcerated. If the individual has been released for a year or longer, he or she must provide documentation for the most recent 12 months.[6]

Florida law does not specifically authorize or prohibit time incarcerated in a Florida prison to count toward the 12-month legal residency requirements.

Tuition and Out-of-State Fees

Florida law defines "tuition" as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state. A student who is classified as a "resident for tuition purposes" qualifies for the in-state tuition rate. An "out-of-state fee" is the additional fee for instruction provided by a public postsecondary education institution in the state, and is charged to a student who does not qualify for the in-state tuition rate.[7]

Residents for tuition purposes are charged in-state rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless these costs are exempted or waived.[8] The resident undergraduate tuition rate for the State University System (SUS) is currently set in statute at $105.07 per credit hour.[9] The SUS average cost of resident and nonresident tuition and fees per credit hour is shown below:[10]

State University System Tuition & Fees				
Undergraduate Baccalaureate	**Standard Tuition (Per Credit Hour)**	**Average Tuition & Fees (Per Credit Hour)**	**Standard Tuition (Per 30 Credit Hours)**	**Average Tuition & Fees (Per 30 Credit Hours)**
Resident	$105.07	$199.72	$3,152.10	$5,991.79
Non-Resident	$105.07	$690.63	$3,152.10	$20,719.07
Difference	-	$490.91	-	$14,727.28

[5] Articulation Coordinating Committee, *Guidelines on Florida Residency for Tuition Purposes*, at A-1 (Oct. 28, 2015), available at, https://www.fldoe.org/core/fileparse.php/7671/urlt/RTPMACC.pdf. (last visited Feb. 7, 2024).
[6] Tallahassee Community College, *Residency FAQs*, https://www.tcc.fl.edu/media/divisions/admissions-and-recruiting/forms/Residency-FAQs.pdf and St. Petersburg College, *Residency FAQs*, https://www.spcollege.edu/future-students/admissions/residency/residency-faqs (last visited Feb. 7, 2024).
[7] Section. 1009.01, F.S. Adding that "[a] charge for any other purpose shall not be included within this fee."
[8] Section. 1009.24(2), F.S.
[9] Section. 1009.24(4)(a), F.S.
[10] Florida Board of Governors, *State University System of Florida, Tuition and Required Fees, 2023-2024, available at,* https://www.flbog.edu/wp-content/uploads/2023/07/2023-2024-SUS-Tuition-and-Fees-Report-PDF-1.pdf. (last visited Feb. 7, 2024)

Within the Florida College System (FCS), for college credit courses in advanced and professional, postsecondary vocational, developmental education, and educator preparation institute programs, the standard tuition is $71.98 per credit hour for residents and nonresidents, and the out-of-state fee is $215.94 per credit hour. Baccalaureate degree program tuition is $91.79 per credit hour for students who are residents for tuition purposes. The sum of the tuition and the out-of-state fee per credit hour for students who are nonresidents for tuition purposes can be no more than 85 percent of the sum of the tuition and the out-of-state fee at the state university nearest the FCS institution.[11]

III. Effect of Proposed Changes:

This bill modifies s. 1009.21, F.S., by providing that an individual who has met the requirements to be classified as a resident for tuition purposes may not lose his or her resident status for tuition purposes solely because of incarceration in a state or federal correctional facility in Florida.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[11] Section 1009.23(3), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not appear to have a fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.21 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 Education Postsecondary on February 6, 2023:
The committee substitute retains the bill provision that an individual may not lose his or her resident status for tuition purposes due to incarceration in a state or federal correctional facility in this state and makes the following modifications:

- Removes the provision allowing an individual who is currently incarcerated or who has been released within the 12 months preceding their residency determination to provide expired documentation to support his or her request for resident status.
- Removes the provision allowing a non-resident to earn residency for tuition purposes by virtue of being incarcerated in Florida for at least 18 months of a sentence of three years or longer and by evidencing ties to Florida.

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 Education Postsecondary; and Senators Osgood and Book

589-03002-24 202462c1

A bill to be entitled

An act relating to resident status for tuition purposes; amending s. 1009.21, F.S.; providing that a person may not lose his or her resident status for tuition purposes due to incarceration; providing an effective date.

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

Section 1. Present subsections (4) through (13) of section 1009.21, Florida Statutes, are redesignated as subsections (5) through (14), respectively, and a new subsection (4) is added to that section, to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.

(4) An individual may not lose his or her resident status for tuition purposes solely by reason of incarceration in a state or federal correctional facility in this state.

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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

Feb. 22, 2024
Meeting Date

Fiscal Policy
Committee

CS/SB 62
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gus Corbella

Phone 850-222-6891

Address 101 East College Avenue
Street

Email corbella@gtlaw.com

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:
FL Rights Restoration Coalition

☐ 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. 2020-2022JointRules.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

2/22/24
Meeting Date

Fiscal Policy
Committee

62
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sarah Massey

Phone 850 545 0543

Address 136 S Bronough St.
Street

Email smassey@flchamber.com

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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 86
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Judiciary Committee; Senator Book and others
SUBJECT:	Hope Cards for Persons Issued Orders of Protection
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Fav/CS**
3.	Bond	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 86 requires the clerks of the court to create the Hope Card program for persons issued orders of protection, such as a domestic violence injunction or an injunction against the exploitation of a vulnerable adult. Under the program, the Clerks would be required to issue Hope Cards, which identifies and describes the person who is restrained by an order of protection, identifies those protected by the order, and provides the telephone number for the statewide domestic violence hotline. These cards must be issued on a credit-card sized laminated card or in digital form, without cost to the protected person. Displaying the card is expected to facilitate the law enforcement response to a violation of the order.

The bill creates a second degree misdemeanor related to using a Hope Card to wrongfully claim that one is protected by an order of protection.

The bill may have an indeterminate, negative fiscal impact to the Clerks. See Section V., Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Injunctions for Protection

Florida has created many forms of injunctive relief protecting persons from harm:

Domestic Violence Injunction

The first injunction against violence was codified in s. 741.30, F.S. It authorizes a family or household member[1] who is either the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence to file in the circuit court a petition for an injunction against domestic violence. The term "domestic violence" means "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member."

Because the injunction is limited to family or household members, similar injunctions have been developed to protect other persons from harm.

Injunction for Protection Against Repeat Violence, Sexual Violence, or Dating Violence

Section 784.046, F.S., provides that a petition for an injunction for protection against repeat violence may be filed in the circuit court by a person who is the victim of repeat violence[2] or the parent or legal guardian of any minor child who is living at home. The statute also provides that a petition for an injunction for protection against dating violence may be filed in the circuit court by a person who is the victim of dating violence[3] and has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating violence; a person who has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence; or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against dating violence on behalf of that minor child.

Section 784.086, F.S., also provides that a petition for an injunction for protection against sexual violence may be filed in the circuit court by a person who is the victim of sexual violence[4] or the parent or legal guardian of a minor child who is living at home who is the victim of sexual violence on his or her own behalf or on behalf of the minor child.

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[1] "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. Section 741.28(3), F.S.

[2] "Repeat violence" means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member. Section 784.046(1)(b), F.S.

[3] "Dating violence" is violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. This relationship is determined based on specified factors. Section 784.046(1)(d), F.S.

[4] "Sexual violence" means any one incident of sexual battery; a lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age; luring or enticing a child; sexual performance by a child; or any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney. Section 784.046(1)(c), F.S.

Injunction Against Stalking

Section 784.0485, F.S., authorizes a person who is the victim of stalking[5] or the parent or legal guardian of a minor child who is a victim and living at home to file in the circuit court a petition for an injunction for protection against stalking. For the purposes of injunctions for protection against stalking, the offense of stalking includes the offense of cyberstalking.[6]

Injunction for Protection Against Exploitation of a Vulnerable Adult

Section 825.1035, F.S., creates a cause of action for an injunction for protection against exploitation[7] of a vulnerable adult.[8] This injunction may be sought by a vulnerable adult in imminent danger of being exploited; the guardian of a vulnerable adult in imminent danger of being exploited; a person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; an agent under a valid durable power of attorney with the authority specifically granted in the power of attorney; or a person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.[9]

Legal Standard for a Protective Injunction

The procedures for the issuance of a protective injunction issued under ss. 741.30, 784.046, 784.0485 and s. 825.1035, F.S., are similar. As to domestic violence, a person who is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence has standing to file a sworn petition for an injunction.[10] Based on this initial petition, a court may issue a *temporary* injunction ex-parte.[11] During an ex-parte proceeding, a court is generally not required to review a response from the accused and may base a temporary injunction on hearsay evidence.[12,13] Additional evidence may be considered, however, if an accused appears at the ex-parte proceeding or has received reasonable notice of the hearing.[14] This ex-parte proceeding is often necessary because "the existence of a true emergency . . . may sometimes require immediate action that will not permit the movant to verify each allegation made."[15]

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[5] The offense of stalking is committed by a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person. Section 784.048(2), F.S.

[6] "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person; or to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose. Section 784.048(1)(d), F.S.

[7] Exploitation means exploitation of an elderly person or disabled adult under s. 825.103(1), F.S. Section 825.101(6), F.S.

[8] *See* discussion of the definition of "vulnerable adult," *supra*.

[9] Section 825.1035(2), F.S.

[10] Section 741.30(1)(a), F.S.

[11] Section 741.30(5)(c), F.S.

[12] *Parrish v. Price*, 71 So. 3d 132, 134 (Fla. 2d DCA 2011) (holding that a temporary injunction may be based solely on the petition filed, even if it is almost entirely based on hearsay statements).

[13] Additionally, when a "parent files a sworn petition and has reasonable cause to believe the minor child is a victim of sexual violence by a nonparent, the sworn petition is *a presumptively sufficient* basis for an injunction." (emphasis added) *Berthiaume v. B.S. ex rel. A.K.*, 85 So. 3d 1117, 1119 (Fla. 1st DCA 2012).

[14] Section 741.30(5)(b), F.S.

[15] *Smith v. Crider*, 932 So. 2d 393, 399 n. 4 (Fla. 2d DCA 2006).

Parties to an injunction are entitled to a full hearing and a temporary injunction is effective for a maximum of 15 days.[16] A full hearing is required prior to the expiration of the temporary injunction. At the full hearing, the accused must have a reasonable opportunity to prove or disprove the allegations made in the complaint and is entitled to introduce evidence and cross-examine witnesses.[17] Based upon the full hearing, a court "must consider the current allegations, the parties' behavior within the relationship, and the history of the relationship as a whole" to determine if a permanent injunction is warranted based on the petitioner's belief that he or she is in imminent danger of becoming a victim of domestic violence.[18]

Enforcement of a Protective Injunction

Just as filing and issuance of protective injunctions are similar, so is enforcement. A person who willfully violates an injunction for protection commits a misdemeanor of the first degree.[19] A third offense related to the same protected person is a third degree felony.[20] Similarly, a warrantless arrest can be made for violation of an injunction if a law enforcement officer has probable cause to believe that the person has violated an injunction.[21] The general rule requiring a law enforcement officer to witness the offense before making a misdemeanor arrest does not apply to arrests for violation of an injunction.

Statewide Record of Injunctions

The Florida Department of Law Enforcement is required to create and maintain the Domestic and Repeat Violence Injunction Statewide Verification System.[22] The system is a statewide communication system capable of electronically transmitting information to and between criminal justice agencies relating to domestic violence injunctions and repeat violence injunctions issued by the courts throughout the state. The information must include, but is not limited to, information as to the existence and status of any injunction for verification purposes. The system must be notified according to the following requirements:

- Within 24 hours after the court issues an injunction for protection against domestic violence or changes, continues, extends, or vacates an injunction for protection against domestic violence, the clerk of the court must electronically transmit a certified copy of the injunction for service to the sheriff having jurisdiction over the residence of the petitioner.
- Within 24 hours after service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must electronically transmit the written proof of service of process to the sheriff having jurisdiction over the residence of the petitioner.
- Within 24 hours after the sheriff receives a certified copy of the injunction for protection against domestic violence, the sheriff must make information relating to the injunction

[16] A court may, however, grant a continuance for good cause as requested by either party. The temporary injunction may be extended to include the continuance. Section 741.30(5)(c), F.S.
[17] *Furry v. Rickles*, 68 So. 3d 389, 390 (Fla. 1st DCA 2011) (citing *Ohrn v. Wright*, 963 So. 2d 298 (Fla. 5th DCA 2007)).
[18] *Giallanza v. Giallanza*, 787 So.2d 162, 164 (Fla. 2d DCA 2001) (citing *Gustafson v. Mauck*, 743 So. 2d 614, 616 (Fla. 1st DCA 1999)).
[19] Section 741.31(4)(a), F.S. (domestic violence); s. 784.047(1), F.S. (repeat violence, sexual violence, or dating violence), and s. 825.1036(4)(a), F.S. (exploitation of vulnerable adult).
[20] Sections 741.31(4)(c), 784.047(2), and 825.1036(4)(b), F.S.
[21] Section 901.15(6)-(7), F.S.
[22] Section 741.30(8)(b), F.S.

available to other law enforcement agencies by electronically transmitting the information to the department.
- Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting the information to the department.

The apparent purpose of the statewide verification system is to allow any law enforcement agency in the state access to injunctions in order to facilitate their enforcement.

III. Effect of Proposed Changes:

The bill requires the clerks of court, consulting with the Attorney General, to develop the Hope Card Program. The purpose of the program is to issue a Hope Card to any person who has been issued a final order of protection by a court in this state and who requests a card.

Beginning October 1, 2024, a person who has been issued a final judgment of an injunction for protection against domestic violence, repeat violence, sexual violence, dating violence, or exploitation of a vulnerable adult may apply for a Hope Card with the clerk of the court of the circuit where the petition for an injunction for protection was initially filed. A person may apply for a Hope Card at the time the final judgment on injunction for protection is issued or at any other time before the expiration of the order of protection.

The clerk of the court may not assess a fee for the issuance of a Hope Card.

A clerk of court must create and provide the card within 3 business days after request. The card must be a digital card or a durable, laminated, wallet-sized card containing all of the following information:
- The respondent's name and date of birth.
- The name and date of birth of the petitioner or protected person.
- The telephone number for the statewide domestic violence hotline.
- Pertinent information about the order of protection, including, but not limited to, the issuing court; the date the order of protection was issued; and the expiration date, if any, of the order of protection.
- The issue date and expiration date.

A Hope Card is valid during the term of the injunction, but for no longer than 2 years, and may be renewed so long as the underlying injunction is valid.

The bill provides that a person who has actual knowledge that he or she is not protected by a current injunction and who presents a Hope Card or other document purporting to be a Hope Card for the purpose of evidencing the existence of an injunction commits a second degree misdemeanor.[23]

[23] A second degree misdemeanor is punishable by a fine of up to $500 and incarceration for up to 60 days, or both. Sections 775.082 and 775.083, F.S.

The bill is effective October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may have an indeterminate, negative fiscal impact to the Clerks. In the 2022-2023 fiscal year, there were 80,159 petitions filed for one of the forms of injunction against violence.[24] The clerks estimate that 22 percent of cases are resolved by issuance of a final order of protection, which equates to approximately 17,635 cases per annum.[25]

The Clerks estimate that it will cost $40 to create a hardcopy Hope Card, which includes the start-up and annual costs for supplies and equipment, the printing and mailing of the Hope Cards, and related staff costs for processing applications and issuing a Hope Card. If every person eligible were to apply for a card, the annual cost to the 67 Clerks would be $705,400.[26]

[24] *Florida's Trial Courts Statistical Reference Guide for FY 2022-23*, page 5-2 (December 2023).
[25] Florida Association of Court Clerks, Inc., *Bill Analysis for SB 86* (undated, received Jan. 5, 2024).
[26] *Id.*

The bill also permits Clerks to issue a digital form of the Hope Card which will be less costly to produce.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 741.30, 784.046, 784.0485, and 825.1035.

This bill creates section 741.311 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/CS by Fiscal Policy on February 22, 2024:
The committee substitute removed the Florida Association of Court Clerks, Inc. from responsibility for creating the program, moved the implementation date from July 1, 2024 to October 1, 2024, extended the deadline for production and delivery of a card to 3 business days, limited personal information to be printed on the card and added a requirement to list an expiration date, removed the ability to get a Hope Card related to a foreign judgment, and added a misdemeanor offense for falsely claiming the existence of an injunction.

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 8, 2024:
The committee substitute allows for the issuance of a digital Hope Card and requires the Hope Card to contain the telephone number for the statewide domestic violence hotline.

CS by Judiciary on January 9, 2024:
The committee substitute removes references to the Office of the State Court Administrator, clarifying that the Florida Association of Court Clerks, Inc., is solely responsible for implementation of the program. It also removes the requirement to use certified mail for delivery of the card, and changes delivery times from "24 hours" to delivered to the petitioner or deposited in the mail not later than the end of the next business day after the card is created.

B. Amendments:

None.

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

270744

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 741.311, Florida Statutes, is created to read:

741.311 Hope Card Program for persons issued orders of protection.—

(1) The clerks of the circuit court, in consultation with the Office of the Attorney General, shall develop and implement the Hope Card Program, which provides for the issuance of a Hope

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Card to any person who has been issued an order of protection by a county or circuit court in this state.

(2) Beginning October 1, 2024, a person who has been issued a final judgment on injunction for protection under s. 741.30, s. 784.046, s. 784.0485, or s. 825.1035 may request a Hope Card from the clerk of the court of the circuit in which the order for an injunction for protection was entered. A person may request a Hope Card at the time the final judgment on injunction for protection is issued or at any other time before the expiration of the order for protection.

(3) After the court has issued a final judgment on injunction for protection and within 3 business days after receipt of a request for a Hope Card, the clerk of the court shall create the Hope Card and provide it to the petitioner.

(4) The clerk of the court may not assess a fee for the issuance of a Hope Card.

(5) A Hope Card is valid for 2 years after the date of issuance of the final order or the expiration date of the injunction, whichever is earlier. A Hope Card may be renewed after the 2-year period if the injunction is still in effect.

(6) A Hope Card issued under the program may be digital or a durable, wallet-sized card and must contain all of the following information:

(a) The respondent’s name and date of birth.

(b) The name and date of birth of the petitioner or protected person.

(c) Information regarding the issuing court; the case number; the date the order of protection was issued; and the expiration date, if any, of the order of protection.

(d) The telephone number for the statewide domestic violence hotline.

(e) The date of issuance and the expiration date of the Hope Card.

(7) A person who, having actual knowledge that he or she is not protected by an injunction that is currently in force and effect, knowingly and willfully presents to another person a Hope Card or other document purporting to be a Hope Card for the purpose of evidencing the existence of an injunction, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Paragraph (d) is added to subsection (8) of section 741.30, Florida Statutes, to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(8)

(d) The petitioner may request a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 3. Paragraph (d) is added to subsection (8) of section 784.046, Florida Statutes, to read:

784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.—

(8)

(d) The petitioner may request a Hope Card under s. 741.311 after the court has issued a final order of protection.

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Section 4. Paragraph (c) is added to subsection (8) of section 784.0485, Florida Statutes, to read:

784.0485 Stalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(8)

(c) The petitioner may request a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 5. Paragraph (c) is added to subsection (10) of section 825.1035, Florida Statutes, to read:

825.1035 Injunction for protection against exploitation of a vulnerable adult.—

(10) TRANSMITTAL TO SHERIFF; SERVICE; HOPE CARD.—

(c) The petitioner may request a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 6. This act shall take effect October 1, 2024.

================ 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 Hope Cards for persons issued orders of protection; creating s. 741.311, F.S.; requiring the clerks of the circuit court, in consultation with the Office of the Attorney General, to develop and implement the Hope Card Program; authorizing certain persons to request a Hope Card

after a specified date; specifying when and how a person may request a Hope Card; requiring clerks' offices to create a Hope Card and provide such card to petitioners within a specified time frame; prohibiting the assessment of a fee; providing requirements for the Hope Card; providing criminal penalties for the fraudulent use of a Hope Card; amending ss. 741.30, 784.046, 784.0485, and 825.1035, F.S.; conforming provisions to changes made by the act; providing an effective date.

By the Appropriations Committee on Criminal and Civil Justice; the Committee on Judiciary; and Senators Book, Polsky, and Yarborough

604-03136-24 202486c2

A bill to be entitled

An act relating to Hope Cards for persons issued orders of protection; creating s. 741.311, F.S.; requiring the Florida Association of Court Clerks, Inc., to develop the Hope Card Program; authorizing the association to consult with specified entities to develop and implement the program; authorizing the association to seek federal grants and private donations to defray the cost of the program; authorizing certain persons to apply for a Hope Card after a specified date; requiring the association to develop a uniform application for use by the clerks of the circuit court; requiring that applications for a Hope Card be available online and in clerks' offices; requiring the clerk of the circuit court, within a specified timeframe after receipt of an application, to either create the Hope Card or electronically transmit the application to the association for creation of the card; requiring that the delivery or mailing of the Hope Card be within a specified timeframe; prohibiting the assessment of a fee to a Hope Card applicant; providing requirements for the Hope Card; amending s. 741.315, F.S.; authorizing a person protected by an injunction for protection issued by a court of a foreign state to apply for and receive a Hope Card even if the person does not register the order for protection in this state; amending ss. 741.30, 784.046, 784.0485, and 825.1035, F.S.; conforming provisions to changes made by the

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

Florida Senate - 2024 **CS for CS for SB 86**

604-03136-24 202486c2

act; providing an effective date.

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

Section 1. Section 741.311, Florida Statutes, is created to read:

741.311 Hope Card Program for persons issued orders of protection.—

(1) The Florida Association of Court Clerks, Inc., shall develop the Hope Card Program, which provides for the issuance of a Hope Card to any person who has been issued an order of protection by a circuit court in this state, or by a court of a foreign state pursuant to s. 741.315. The Florida Association of Court Clerks, Inc., may consult with the Office of the State Courts Administrator, the Attorney General, the Department of Children and Families, and other interested agencies and private entities to develop and implement the program. The association may seek federal grants and private donations to defray the cost of the program.

(2) Beginning July 1, 2024, a person who has been issued a final judgment on injunction for protection under s. 741.30, s. 784.046, s. 784.0485, or s. 825.1035 may apply for a Hope Card with the clerk of the court of the circuit where the petition for an injunction for protection was initially filed. A person protected by a foreign protection order under s. 741.315 may submit an application for a Hope Card to any clerk of the court in this state. A person may apply for a Hope Card at the time the final judgment on injunction for protection is issued or at any other time before the expiration of the order of protection.

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(3) The Florida Association of Court Clerks, Inc., shall develop a uniform application for use by the clerks of the circuit court. Hope Card applications must be available on the website of each clerk of the circuit court, and paper applications must also be available at the clerk's office.

(4) Not later than the end of the next business day after receipt of an application, the clerk of the circuit court shall either create the Hope Card or electronically transmit the application to the Florida Association of Court Clerks, Inc., for creation of the Hope Card. The Hope Card must be delivered to the petitioner or deposited in the mail not later than the end of the next business day after the card is created.

(5) The Florida Association of Court Clerks, Inc., or a clerk of the circuit court, may not assess a fee to the applicant for the issuance of a Hope Card.

(6) A Hope Card issued under the program may be digital or a durable, laminated card, 3.375 inches wide by 2.125 inches high, and must contain all of the following information:

(a) The respondent's name, date of birth, height, weight, sex, race, eye color, hair color, and any other distinguishing features or characteristics of the respondent.

(b) The petitioner's name and date of birth and the names and dates of birth of any minor children protected under the order.

(c) The name and date of birth, if applicable, of any other person or animal protected under the order.

(d) The telephone number for the statewide domestic violence hotline.

(e) Pertinent information about the order of protection,

including, but not limited to, the issuing court; the case number; the date the order of protection was issued; the expiration date, if any, of the order of protection; the locations from which the respondent is restrained; and any other relevant details of the order.

Section 2. Present subsections (4), (5), and (6) of section 741.315, Florida Statutes, are renumbered as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to that section, to read:

741.315 Recognition of foreign protection orders.—

(4) A person protected by an injunction for protection issued by a court of a foreign state may apply for a Hope Card under s. 741.311, as if the order of protection was issued by a Florida court. Failure to register a foreign order does not preclude a protected person from applying and receiving a Hope Card.

Section 3. Paragraph (d) is added to subsection (8) of section 741.30, Florida Statutes, to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—

(8)

(d) The petitioner may apply for a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 4. Paragraph (d) is added to subsection (8) of section 784.046, Florida Statutes, to read:

784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating

violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.—

(8)

(d) The petitioner may apply for a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 5. Paragraph (c) is added to subsection (8) of section 784.0485, Florida Statutes, to read:

784.0485 Stalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(8)

(c) The petitioner may apply for a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 6. Paragraph (c) is added to subsection (10) of section 825.1035, Florida Statutes, to read:

825.1035 Injunction for protection against exploitation of a vulnerable adult.—

(10) TRANSMITTAL TO SHERIFF; SERVICE; HOPE CARD.—

(c) The petitioner may apply for a Hope Card under s. 741.311 after the court has issued a final order of protection.

Section 7. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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

2/22/24	SB 86
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name Lisa Hurley Phone 850.224.5081

Address 311 E. Park Ave. Email

Street

Tallahassee Florida 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:

Family Law Section, Florida Bar

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 168
INTRODUCER:	Health Policy Committee and Senator Polsky
SUBJECT:	Congenital Cytomegalovirus Screenings
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Gerbrandt	McKnight	AHS	**Favorable**
3.	Looke	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 168 amends newborn health screening requirements in s. 383.145, F.S., to require that all newborns who are born in a hospital that provides neonatal intensive care services and who are born before 35 weeks gestation, require cardiac care, or require medical or postsurgical treatment for at least three weeks, be tested for the Cytomegalovirus (CMV). Additionally, the bill requires that if the newborn is transferred to another hospital for higher-level care, the receiving hospital must administer the CMV test if the test was not already performed at the transferring hospital or birth facility. The bill clarifies that a CMV test is required if the newborn will be transferred or admitted for intensive and prolonged care, regardless of whether the newborn failed his or her hearing screening.

The bill creates a new requirement that CMV screening and medically necessary follow-up reevaluations leading to diagnosis are covered benefits for Medicaid patients and that private health insurance policies and health maintenance organizations (HMO) that provide comprehensive coverage must compensate providers for the covered benefit at the contracted rate. The bill provides that a child who is diagnosed with CMV must be referred to a primary care physician and the Children's Medical Services (CMS) Early Intervention Program for the management of his or her condition.

The bill will likely have a significant, negative fiscal impact on state government. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Cytomegalovirus

Cytomegalovirus (CMV) is a common virus for people of all ages; however, a healthy person's immune system usually keeps the virus from causing illness.[1] In the United States, nearly one in three children are already infected with CMV by age five. Over half of adults have been infected with CMV by age 40. Once CMV is in a person's body, it stays there for life and can reactivate. A person can also be re-infected with a different strain (variety) of the virus. Most people with CMV infection have no symptoms and aren't aware that they have been infected.[2]

A pregnant woman can pass CMV to her unborn baby. The virus in the woman's blood can cross through the placenta and infect the baby. This can happen when a pregnant woman is infected with CMV for the first time or is infected with CMV again during pregnancy.[3]

Some babies with congenital CMV infection have health problems that are apparent at birth or that develop later during infancy or childhood. In the most severe cases, CMV can cause the death of an unborn baby (pregnancy loss).

Some babies with congenital CMV infection have signs at birth. These signs include:
- Rash
- Jaundice (yellowing of the skin or whites of the eyes)
- Microcephaly (small head)
- Low birth weight
- Hepatosplenomegaly (enlarged liver and spleen)
- Seizures
- Retinitis (damaged eye retina)

Some babies with signs of congenital CMV infection at birth may have long-term health problems, such as:
- Hearing loss
- Developmental and motor delay
- Vision loss
- Microcephaly (small head)
- Seizures

Some babies without signs of congenital CMV infection at birth may have hearing loss. Hearing loss may be present at birth or may develop later, even in babies who pass the newborn hearing test.[4]

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[1] About Cytomedalovirus (CMV), Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/overview.html (last visited Jan. 18, 2024).
[2] *Id.*
[3] Babies Born with Conginital Cytomegalovirus (CMV), Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/congenital-infection.html, (last visited Jan. 18, 2024).
[4] *Id.*

CMV is the most common infectious cause of birth defects in the United States. About one out of 200 babies are born with congenital CMV. One out of five babies with congenital CMV will have symptoms or long-term health problems, such as hearing loss. Hearing loss may progress from mild to severe during the first two years of life, which is a critical period for language learning. Over time, hearing loss can affect a child's ability to develop communication, language, and social skills.

Babies who show signs of congenital CMV disease can be treated with medicines called antivirals. Antivirals may decrease the severity of hearing loss. Babies who get treated with antivirals should be closely monitored by their doctor because of possible side effects.[5]

Newborn and Infant Hearing Screening

Section 383.145, F.S., requires that a newborn hearing screening must be conducted on all newborns in hospitals in this state on birth admission. When a newborn is delivered in a facility other than a hospital, the parents must be instructed on the importance of having the hearing screening performed and must be given information to assist them in having the screening performed within three months after the child's birth.[6]

Before a newborn is discharged from the hospital or other state-licensed birthing facility that provides maternity and newborn care services, and unless objected to by the parent or legal guardian,[7] the newborn must be screened for the detection of hearing loss to prevent the consequences of unidentified disorders.[8] Additionally, within 30 days of discharge from the hospital, each such facility must refer the newborn to a licensed audiologist, physician, or hospital for screening for detection of hearing loss.[9] If the birth is a home birth, the healthcare provider in attendance must provide the referral to a licensed audiologist, hospital, or other newborn hearing screening provider within 30 days.[10]

Section 383.145, F.S., also requires that all screenings be conducted by a licensed audiologist, a licensed physician, or an appropriately supervised individual who has completed documented training specifically for newborn hearing screening.[11] When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration (FDA).[12]

If a newborn fails his or her hearing screening, the hospital or birthing facility must administer a test approved by the FDA, or other diagnostically equivalent test, to screen for CMV before the newborn becomes 21 days old or before discharge, whichever is sooner. A child who is diagnosed as having a permanent hearing impairment must be referred to the primary care

[5] Congenital CMV and Hearing Loss, Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/hearing-loss.html, (last visited Jan. 17, 2024).
[6] Section 383.145(3)(i), F.S.
[7] Section 383.145(3)(c), F.S.
[8] Section 383.145(3)(a), F.S.
[9] Section 383.145(3)(b), F.S.
[10] Section 383.145(3)(d), F.S.
[11] Section 383.145(3)(e), F.S.
[12] Section 383.145(3)(i), F.S.

physician for medical management, treatment, and follow-up services. Furthermore, any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.[13] Any person who is not covered through insurance and cannot afford the costs of testing must be given a list of newborn hearing screening providers who provide the necessary testing free of charge.[14]

Early Steps

Early Steps is Florida's early intervention system that offers services to eligible infants and toddlers, from birth to 36 months, who have or are at risk for developmental disabilities or delays. Early intervention supports families and caregivers to increase their child's participation in daily activities and routines that are important to the family. Fifteen local Early Steps offices throughout the state receive referrals from various primary referral sources. Infants and toddlers are assessed in the following developmental domains to determine eligibility: physical, cognitive, communication, social-emotional, and adaptive. Each child receives an Individualized Family Support Plan that meets his or her unique needs. Families also receive support to develop the skills and confidence needed to help their child learn and develop.[15]

Medicaid and Private Health Insurance Coverage

Section 383.145(3)(k), F.S., currently requires that the initial procedure for screening the hearing of the newborn or infant and any medically necessary follow-up reevaluations leading to diagnosis are a covered benefit for Medicaid patients and that all private health insurance policies and health maintenance organizations providing comprehensive health coverage must compensate providers for the covered benefit at the contracted rate.

Mandated Health Insurance Coverage

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal that would mandate health coverage or the offering of health coverage by an insurance carrier, to submit to the Agency for Health Care Administration (AHCA) and the legislative committees having jurisdiction, a report that assesses the social and financial impacts of the proposed coverage. As of January 22, 2024, the Senate Committee on Health Policy staff has not received this report.

Under the federal Patient Protection and Affordable Care Act (ACA), individuals and small businesses can shop for health insurance coverage on the federal marketplace. All non-

[13] Section 383.145(3)(k), F.S.
[14] Section 383.145(3)(l), F.S.
[15] Early Steps, Florida Department of Health, available at https://www.floridahealth.gov/programs-and-services/childrens-health/early-steps/index.html#:~:text=Early%20Steps%20is%20Florida's%20early,for%20developmental%20disabilities%20or%20delays (last visited Jan. 19, 2024).

grandfathered plans[16] must include minimum essential coverage (MEC),[17] including an array of services that includes the 10 essential health benefits (EHBs). These 10 EHBs are further clarified or modified each year through the federal rulemaking process and are open for public comment before taking effect. The 10 general categories for the EHBs are:

- Ambulatory services (outpatient care);
- Emergency services;
- Hospitalization (inpatient care);
- Maternity and newborn care.
- Mental health and substance abuse disorder services;
- Prescription drugs.
- Rehabilitative services and rehabilitative services and devices;
- Laboratory services;
- Preventive care and chronic disease management; and
- Pediatric services, including oral and vision care.[18]

States are free to modify the EHBs offered in their states by adding coverage; however, because of concerns that federal funds would be used on costly mandated coverages that were not part of the required EHBs, the ACA contains a provision requiring that starting in 2016, the states would have to pay for the cost of the coverage. As a result, the State of Florida may be required to defray the costs of any additional benefits beyond the required EHBs put in place after 2011.[19]

Examples of health insurance benefits mandated under Florida law include:

- Coverage for certain diagnostic and surgical procedures involving bones or joints of the jaw and facial region (s. 627.419(7), F.S.);
- Coverage for bone marrow transplants (s. 627.4236, F.S.);
- Coverage for certain cancer drugs (s. 627.4239, F.S.);
- Coverage for any service performed in an ambulatory surgical center (s. 627.6616, F.S.);
- Diabetes treatment services (s. 627.6408, F.S.);
- Osteoporosis (s. 627.6409, F.S.);
- Certain coverage for newborn children (s. 627.641, F.S.);
- Child health supervision services (s. 627.6416, F.S.);
- Certain coverages related to mastectomies (s. 627.6417, F.S.);
- Mammograms (s. 627.6418, F.S.); and
- Treatment of cleft lip and cleft palate in children (s. 627.64193, F.S.).

[16] A "grandfathered health plan" are those health plans, both individual and employer plans, that maintain coverage that were in place prior to the passage of the ACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the ACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. *See* 26 U.S.C. 7805 and 26 C.F.R. s. 2590.715-1251(a).

[17] To meet the individual responsibility provision of the ACA statute, a benefit plan or coverage plan must be recognized as providing minimum essential coverage (MEC). Employer based coverage, Medicaid, Medicare, CHIP (i.e. Florida KidCare), and TriCare would meet this requirement.

[18] 42 U.S.C. s. 18022(b)(1)(A)-(J).

[19] *See* 42 U.S.C. s. 18031(d)(3)(B)(ii).

Florida's current EHB includes anti-viral medications for CMV.[20]

III. Effect of Proposed Changes:

The bill amends s. 383.145, F.S., to require each hospital that provides neonatal intensive care services to administer an FDA-approved test for cytomegalovirus (CMV), or another diagnostically equivalent test, to each newborn admitted to the hospital as the result of a premature birth before 35 weeks gestation, for cardiac care, or medical or postsurgical treatment requiring an anticipated stay of three weeks or longer. The CMV screening must be initiated before the newborn is 21 days of age.

The bill requires that if the newborn is transferred to another hospital for higher-level care, the receiving hospital must administer the CMV test if the test was not already performed at the transferring hospital or birth facility. The bill also requires a CMV test if the newborn will be transferred or admitted for intensive and prolonged care, regardless of whether the newborn failed his or her hearing screening.

The bill creates a new requirement that CMV screening and medically necessary follow-up reevaluations leading to a diagnosis are covered benefits for Medicaid patients and that private health insurance policies and health maintenance organizations providing comprehensive health coverage must compensate providers for the covered benefit at the contracted rate. The bill provides that a child who is diagnosed with CMV must be referred to a primary care physician and the Children's Medical Services Early Intervention Program for the management of his or her condition and be deemed eligible for a baseline evaluation and any medically necessary follow-up reevaluations and monitoring.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

[20] *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on the families of newborns who are diagnosed with cytomegalovirus (CMV) due to the required screening, are eligible for services, and can manage the condition before any permanent hearing loss occurs.

The bill may have an indeterminate negative fiscal impact on hospitals that are required to perform additional CMV tests due to the requirements in the bill.

C. Government Sector Impact:

The bill may have a significant, negative fiscal impact on the Department of Health (DOH) if the number of CMV screenings the DOH is required to perform increases and if more children are eligible to for the Children's Medical Services Early Intervention Program as a result of the requirements in the bill. As of this writing, the DOH has not submitted an estimate of such fiscal impact.

The bill may have a significant, negative fiscal impact on the Medicaid program due to the bill's provisions that require a CMV screening and medically necessary follow-up to be covered services under the Medicaid program. As of this writing, the Agency for Health Care Administration has not submitted an estimate of such fiscal impact.

The bill may have a significant, negative fiscal impact on state government if the state is required to defray additional costs related to adding CMV screenings or treatments to the specified mandated insurance coverage.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 383.145(3)(k), F.S., to create a new requirement that cytomegalovirus (CMV) screening and medically necessary follow-up reevaluations leading to diagnosis are covered benefits for Medicaid patients and that private health insurance policies and health maintenance organizations providing comprehensive health coverage must compensate providers for the covered benefit at the contracted rate, however, the bill is not specific as to what services are

required to be covered under the medically necessary follow-up reevaluations. It may be advisable to clarify what services are required to be covered under the bill.

VIII. Statutes Affected:

This bill substantially amends section 383.145 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 January 23, 2024:
The CS:

- Increases the gestational age, from 33 to 35 weeks, for the requirement that a hospital providing NICU services must administer a CMV test to infants born earlier than that gestational age;
- Removes the requirement to administer a CMV test to newborns who are small for their gestational age; and
- Moves the requirement to administer a CMV test when a newborn is being transferred for more intensive care from the birthing hospital to the hospital receiving the transfer.

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 Polsky

588-02399-24 2024168c1

A bill to be entitled

An act relating to congenital cytomegalovirus screenings; amending s. 383.145, F.S.; requiring certain hospitals to administer congenital cytomegalovirus screenings on newborns admitted to the hospital under specified circumstances; requiring that the screenings be initiated within a specified timeframe; providing construction; providing coverage under the Medicaid program for the screenings and any medically necessary follow-up reevaluations; requiring that newborns diagnosed with congenital cytomegalovirus be referred to a primary care physician for medical management, treatment, and follow-up services; requiring that children diagnosed with a congenital cytomegalovirus infection without hearing loss be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for evaluation and any medically necessary follow-up reevaluations and monitoring under the program; providing an effective date.

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

Section 1. Paragraphs (a), (k), and (l) of subsection (3) of section 383.145, Florida Statutes, are amended to read:

383.145 Newborn and infant hearing screening.—

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a)1. Each hospital or other state-licensed birthing

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

588-02399-24 2024168c1

facility that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birthing facility must administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age or before discharge, whichever occurs earlier.

2. Each hospital that provides neonatal intensive care services shall administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test to screen for congenital cytomegalovirus in each newborn admitted to the hospital as a result of a premature birth occurring before 35 weeks' gestation, for cardiac care, or for medical or surgical treatment requiring an anticipated stay of 3 weeks or longer. Such screening must be initiated before the newborn becomes 21 days of age.

3. If a newborn requires transfer to another hospital for a higher level of care, the receiving hospital must initiate the congenital cytomegalovirus screening if it was not already performed by the transferring hospital or birthing facility. For newborns transferred or admitted for intensive and prolonged care, the congenital cytomegalovirus screening must be initiated regardless of whether the newborn failed a hearing screening.

(k) The initial procedures ~~procedure~~ for the congenital cytomegalovirus screening and the hearing screening of the newborn or infant and any medically necessary follow-up

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

reevaluations leading to diagnosis are ~~shall be a~~ covered benefits ~~benefit~~ for Medicaid patients covered by a fee-for-service program. For Medicaid patients enrolled in HMOs, providers must ~~shall~~ be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service is ~~may~~ not ~~be~~ considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental policies, must ~~shall~~ compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are eligible to bill Medicaid for the professional and technical component of each procedure code.

(l) A child ~~who is~~ diagnosed as having permanent hearing loss or a congenital cytomegalovirus infection must be referred to the primary care physician for medical management, treatment, and follow-up services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age ~~who is~~ diagnosed as having hearing loss that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides. A child diagnosed with a congenital cytomegalovirus infection without hearing loss must be referred to the Children's Medical Services Early Intervention Program and be deemed eligible for a baseline evaluation and any medically

necessary follow-up reevaluations and monitoring.

Section 2. This act shall take effect July 1, 2024.

The Florida Senate

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Fiscal Policy
Committee

~~SB~~ 168
Bill Number or Topic

Amendment Barcode (if applicable)

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TLH
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 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. 2020-2022JointRules.pdf (flsenate.gov)

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168
Bill Number or Topic

Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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Committee

168
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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☐ I am a registered lobbyist, representing:

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168
Bill Number or Topic

Amendment Barcode (if applicable)

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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:
1.) Florida Academy of Audiology
2.) AG Bell Assoc. of Deaf (FL chapter)
3.) Sertoma

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

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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. 2020-2022JointRules.pdf (flsenate.gov)

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SB 168
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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:

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168
Bill Number or Topic

Amendment Barcode (if applicable)

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St. Augustini FL 32092
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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:

DEAF Kids Can

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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 288
INTRODUCER:	Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; Senator Rodriguez and others
SUBJECT:	Designation of a Certain Diagnosis on Motor Vehicle Registrations
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Fav/CS**
2.	Wells	Jerrett	ATD	**Fav/CS**
3.	Shutes	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 288 is to be cited as the "Safeguarding American Families Everywhere (SAFE) Act." The bill provides that the application form for motor vehicle registrations must include language allowing an applicant to voluntarily indicate that the applicant has been diagnosed with, or is the parent or legal guardian of a child or ward who has been diagnosed with certain disabilities or disorders by a physician. If the applicant indicates a certain diagnosis on the application, the Department of Highway Safety and Motor Vehicles (DHSMV) must include the designation "SAFE" in the motor vehicle record. The department may not include in the motor vehicle record personal identifying information of or any diagnosis of a person for whom a diagnosis is indicated. The "SAFE" designation may be included or removed at any time upon request of the owner or co-owner.

The bill has an insignificant, negative fiscal impact on state government. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

Motor Vehicle Registration Application

Every owner or person in charge of a motor vehicle that is operated or driven on the roads of Florida must register the vehicle in the state. The owner or person in charge must apply to the Department of Highway Safety and Motor Vehicles (DHSMV) or to its authorized agent for registration of each such vehicle on a form prescribed by the DHSMV.[1]

The application for registration must include the street address of the owner's permanent residence or the address of his or her permanent place of business and be accompanied by personal or business identification information. An individual applicant must provide a valid driver license or identification card issued by this state or another state or a valid passport. A business applicant must provide a federal employer identification number, if applicable, or verification that the business is authorized to conduct business in the state, or a Florida municipal or county business license or number.[2]

Additionally, the DHSMV must include certain language on the application form such as, but not limited to, language allowing an applicant who is deaf or hard of hearing to voluntarily indicate that he or she is deaf or hard of hearing. If the applicant indicates on the application that he or she is deaf or hard of hearing, such information must be included through the Driver and Vehicle Information Database and available through the Florida Crime Information Center system.[3]

The DHSMV does not currently allow a motor vehicle owner or registrant to designate on his or her application form for the motor vehicle registration, whether or not he or she, or is the parent or legal guardian of a child or ward who has been diagnosed with a developmental disability or psychiatric disorder.

Driver License and Identification Card Designations

Driver license and identification cards contain various designations/identifiers/symbols that inform law enforcement, emergency medical personnel, retail establishments, or any persons reviewing the card of certain conditions or entitlements.[4] Designations related to physical health are as follows:

- Developmental disability is designated as a "D";
- Deaf or hard of hearing may have the international symbol for the deaf; and
- Insulin dependent persons may have the insulin dependent designation.

The SAFE Program

The Santa Rosa County Sheriff's Office created and operates the SAFE Program with the intent to protect Santa Rosa County's special needs community and any person who may not respond

[1] Section 320.02(1), F.S.
[2] Section 320.02(2)(a), F.S.
[3] Section 320.02(14), F.S.
[4] DHSMV 2024 Legislative Bill Analysis: SB 288 (December 14, 2023) at p. 2.

as expected in an emergency situation.[5] The SAFE Program allows families to voluntarily fill out a form to enroll their loved ones in the program. Once the information from the form is received from a family or individual, the dispatchers enter the details into their local communication system. The information is then securely shared with other first responders in the community. After enrollment in the program, a family will be mailed complimentary decals to place at the entrance of their home and on the rear window of their vehicles if they so choose. The decal is an immediate signal to all Santa Rosa's first responders that the family's situation is different and that there is extra information available to keep everyone safe. The decal indicates for first responders to handle the situation with a little extra care.[6]

III. Effect of Proposed Changes:

The bill provides legislative intent and provides that the act be known as the "Safeguarding American Families Everywhere (SAFE) Act."

The bill amends s. 320.02, F.S., to provide that the application form for motor vehicle registrations must include language allowing an applicant to voluntarily indicate that the applicant has been diagnosed with, or is the parent or legal guardian of a child or ward has been diagnosed with any of the following disabilities or disorders by a physician licensed under ch. 458, F.S., or ch. 459, F.S.:

- Autism;
- Attention deficit hyperactivity disorder;
- Down syndrome;
- Alzheimer's disease;
- Traumatic brain injury;
- Posttraumatic stress disorder;
- Diabetes;
- An autoimmune disorder;
- Deafness;
- Blindness; or
- Any other mentally or physically limiting disorder

If the applicant indicates a diagnosis listed above on the application, the department must include the designation "SAFE" in the motor vehicle record. The department may not include in the motor vehicle record personal identifying information of or any diagnosis of a person for whom a diagnosis is indicated. The department must also allow a motor vehicle owner or co-owner to update a motor vehicle registration to include or remove the "SAFE" designation at any time.

The bill makes conforming changes in s. 320.27, F.S.

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[5] Certain law enforcement data has suggested that individuals with special needs are seven times more likely to have law enforcement encounters than the general population. Moreover, studies have suggested that there needs to be better preparation of law enforcement and the special needs community to understand these interactions and to improve the safety of everyone involved in emergency situations. Autism Speaks, *How better understanding can support better outcomes in police interactions with autistics*, (Dec. 23, 2020), https://www.autismspeaks.org/science-news/how-better-understanding-can-support-better-outcomes-police-interactions-autistics (last visited Jan. 29, 2024).

[6] Santa Rosa Sheriff Office, *SAFE Program*, https://santarosasheriff.org/safe-program/ (last visited Jan. 29, 2024).

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an insignificant, negative fiscal impact on the DHSMV, as the department will need to make changes to its motor vehicle registration application and enter the new information in the Driver and Vehicle Information Database. Additionally, the MyDMV Portal will need to be updated. The DHSMV estimates that the bill will cost $33,120 for such programming and implementation.[7]

VI. Technical Deficiencies:

None.

[7] DHSMV, 2024 Legislative Bill Analysis: SB 288 (December 14, 2023) at p. 5.

VII. Related Issues:

The DHSMV recommends that the effective date of the bill should be amended to October 1, 2025, in order to allow adequate time for programming and implementation of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.02 and 320.27.

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 Transportation, Tourism, and Economic Development on February 13, 2024:
The committee substitute;

- Removes a reference to the Driver and Vehicle Information Database and substitutes the term "motor vehicle record."
- Prohibits DHSMV from including any personal identifying information of any diagnosis of a person who has indicated a disability in a motor vehicle record.
- Clarifies that a motor vehicle owner or co-owner may update a motor vehicle registration to include or remove the "SAFE" designation at any time.

CS by Transportation on February 6, 2024:
The committee substitute:

- Adds the term "American" to the title of the act to read "Safeguarding American Families Everywhere (SAFE) Act."
- Lists specific disabilities or disorders which may be included on the application for motor vehicle registration.
- Specifies the information on the application must be included through the Driver and Vehicle Information Database.
- Changes the effective date from July 1, 2024 to October 1, 2024.

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 Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senators Rodriguez, Hooper, Wright, DiCeglie, and Broxson

606-03289-24 2024288c2

A bill to be entitled

An act relating to designation of a certain diagnosis on motor vehicle registrations; providing a short title; amending s. 320.02, F.S.; requiring the application form for motor vehicle registration to include certain language allowing an applicant to indicate that he or she has been diagnosed with, or is the parent or legal guardian of a child or ward who has been diagnosed with, specified disabilities or disorders; requiring a specified designation to be included in a motor vehicle record; prohibiting inclusion of specified information in a motor vehicle record for certain purposes; requiring the Department of Highway Safety and Motor Vehicles to allow specified persons to update a motor vehicle registration to include or remove the specified designation at any time; amending s. 320.27, F.S.; conforming a cross-reference; providing an effective date.

WHEREAS, persons with special needs, including developmental disabilities and mental illnesses, are among the most vulnerable within their communities, and

WHEREAS, interacting with law enforcement officers or first responders in an emergency, such as a motor vehicle crash or other crisis situation, can be more complex for persons with special needs, as language, physical, cognitive, learning, or mental disabilities may create barriers to receiving immediate and appropriate assistance, and

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

606-03289-24 2024288c2

WHEREAS, providing law enforcement officers and first responders with advance notice that a person with whom they are about to interact has a developmental disability, mental illness, or other special need will improve communication, reduce unnecessary adverse actions, and ensure that the person receives the specific response and care he or she requires, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Safeguarding American Families Everywhere (SAFE) Act."

Section 2. Present subsections (15) through (20) of section 320.02, Florida Statutes, are redesignated as subsections (16) through (21), respectively, and a new subsection (15) is added to that section, to read:

320.02 Registration required; application for registration; forms.—

(15) The application form for motor vehicle registration must include language allowing an applicant to voluntarily indicate that the applicant has been diagnosed with, or is the parent or legal guardian of a child or ward who has been diagnosed with, any of the following disabilities or disorders by a physician licensed under chapter 458 or chapter 459:

(a) Autism.

(b) Attention deficit hyperactivity disorder.

(c) Down syndrome.

(d) Alzheimer's disease.

(e) Traumatic brain injury.

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

(f) Posttraumatic stress disorder.

(g) Diabetes.

(h) An autoimmune disorder.

(i) Deafness.

(j) Blindness.

(k) Any other mentally or physically limiting disorder.

If the applicant indicates one of the diagnoses listed above on the application, the department must include the designation "SAFE" in the motor vehicle record. For purposes of this subsection, the department may not include in the motor vehicle record personal identifying information of or any diagnosis of a person for whom a diagnosis is indicated. The department must allow a motor vehicle owner or co-owner to update a motor vehicle registration to include or remove the "SAFE" designation under this subsection at any time.

Section 3. Paragraph (b) of subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

1. Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that

the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

2. Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

3. Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

4. Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

5. Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

6. Failure to apply for transfer of a title as prescribed in s. 319.23(6).

7. Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

8. Failure to continually meet the requirements of the licensure law.

9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

10. Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

11. Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

12. Requirement by any motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

13. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

14. Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

15. Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

16. Willful failure to comply with any administrative rule

adopted by the department or the provisions of s. 320.131(8).

17. Violation of chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

18. Failure to maintain evidence of notification to the owner or co-owner of a vehicle regarding registration or titling fees owed as required in s. 320.02(18) ~~s. 320.02(17)~~.

19. Failure to register a mobile home salesperson with the department as required by this section.

Section 4. This act shall take effect October 1, 2024.

The Florida Senate

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2-22-24
Meeting Date

Fiscal
Committee

SB 288
Bill Number or Topic

Amendment Barcode (if applicable)

Name Major Doug Bringmans Phone 850-983-1117

Address 5755 East Milton Rd. Email
Street

Milton FL 32583
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Fiscal Policy
Committee

288
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive
Street

Email mdunagan@flsheriffs.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 Sheriffs 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. 2020-2022JointRules.pdf (flsenate.gov)

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Committee

SB 288
Bill Number or Topic

Amendment Barcode (if applicable)

Name Angela Nandin

Phone 702-336-8465

Address 6602 Federal St.
Street

Email

Navarre FL 32566
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-2024
Meeting Date

Fiscal Policy
Committee

SB 288
Bill Number or Topic

Amendment Barcode (if applicable)

Name James Hartsell

Phone

Address Evin B. Hartsell Foundation
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:

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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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 460
INTRODUCER:	Fiscal Policy Committee; Education Pre-K - 12 Committee; Appropriations Committee on Education; and Senators Simon and Perry
SUBJECT:	Career and Technical Education
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	**Fav/CS**
2.	Gray	Elwell	AED	**Fav/CS**
3.	Brick	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 460 aims to enhance vocational and technical education. The bill authorizes minors aged 16 or 17 to work in construction if the minor:

- Has earned his or her Occupational Safety and Health Administration (OSHA) 10 certification;
- Is under the direct supervision of a person 21 years of age or older with at least two years of related experience and his or her OSHA 10 certification.
- Is not working on any scaffolding, roof, superstructure, or ladder above six feet.
- Is not in violation of any OSHA rule or federal law related to minors in the workplace.

The bill provides a uniform standard for counties and municipalities to recognize a journeyworker.

The bill authorizes district school boards to satisfy the career fair requirement through consulting with specified groups to determine free or cost-effective methods to provide other career and industry networking opportunities.

The bill authorizes a student who earns credit for one year of related technical instruction for a registered apprenticeship or preapprenticeship program to use such credit to satisfy high school graduation credit requirements.

The bill authorizes an exemption from the career education basic skills assessment to certain students with a private school diploma or home education affidavit.

Lastly, the bill adds to the duties of the Office of Reimagining Education and Career Help to study the status of CTE in each school district within the state and coordinate a statewide report on the supply and demand of nursing occupations. The bill also repeals the Florida Talent Development Council.

The bill takes effect July 1, 2024.

II. Present Situation:

Hazardous Occupations Prohibited

The Fair Labor Standards Act of 1938 regulates the employment of children in particularly hazardous occupations.[1] Prohibitions regarding the employment of minors age 16 or 17 in hazardous occupations in Florida are consistent with regulations adopted by the United States (US) Secretary of Labor.[2] No minor under 18 years of age, whether such person's disabilities of nonage have been removed, may be employed or permitted or suffered to work on any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet. This prohibition does not apply to a student learner who:

- Is enrolled in a youth vocational training program under a recognized state or local educational authority.
- Is employed under a written agreement that provides:
  - That the work of the student learner in the occupation declared particularly hazardous shall be incidental to the training.
  - That such work will be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.
  - That safety instructions shall be given by the school and correlated by the employer with on-the-job training.
  - That a schedule of organized and progressive work processes to be performed on the job shall have been prepared.[3]

Every employer in the construction industry is required to secure the payment of workers' compensation to his or her employees.[4] Employers who fail to secure the payment of workers' compensation for their employees are required to stop working and are liable for administrative and criminal penalties.[5] Employers must provide this benefit to all employees, including minors, whether lawfully or unlawfully employed.[6]

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[1] 29 U.S.C. s. 203(l).
[2] *Compare* s. 450.061, F.S., with 29 CFR Part 570, Subpart E (Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well–Being). However, the Secretary of Labor has not selected residential construction as a particularly hazardous activity. *See* 3 EMP. COORD. *Compensation IV* s. 24.20 (Jan. 2024).
[3] Sections 450.061(2) and 450.161, F.S.
[4] Sections 440.10(1) and 440.38(1), F.S.
[5] *See* ss. 440.105 and 440.107, F.S.
[6] Section 440.02(18), F.S.

Employers are also required to provide certain training for their employees. Employers are required to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or other exposure to illness or injury. Employers are encouraged to use the safety and health training programs provided by the Secretary of Labor.[7]

The Occupational Health and Safety Administration (OSHA) within the US Department of Labor, provides an Outreach Training Program to promote workplace safety and health and to make workers more knowledgeable about workplace hazards and their rights. The OSHA Outreach Training Program provides training on the recognition, avoidance, abatement, and prevention of workplace hazards. Outreach classes also provide overview information regarding OSHA, including workers' rights, employer responsibilities, and how to file a complaint.[8]

The 10-hour training program is primarily intended for entry level workers. The 30-hour training program is intended to provide workers with some safety responsibility a greater depth and variety of training. All outreach training is intended to cover an overview of the hazards a worker may encounter on a job site. Training emphasizes hazard identification, avoidance, control and prevention, not OSHA standards.[9]

In the Fiscal Year 2023, 1,341,168 individuals were trained through the Outreach Training Program.[10] The construction 10-hour certification comprised 42 percent of the trainings.[11]

Apprentices and Journeyworkers

Florida law defines an apprentice as a person at least 16 years of age who has entered into a written apprentice agreement with an employer, an association of employers, or a local joint apprenticeship committee, to learn a recognized skilled trade through actual work experience under the supervision of another worker who has completed an apprenticeship program or has worked in the field for a minimum number of years established by industry standard. Training for an apprentice should be combined with properly coordinated studies of related technical and supplementary subjects.[12]

An apprenticeship program must be registered and approved by the Department of Education (DOE).[13] A student who earns credit upon completion of a registered apprenticeship or preapprenticeship program may use such credit to satisfy high school graduation credit requirements for fine or performing arts, speech and debate, or career and technical education, or electives. The State Board of Education (SBE) is required to approve and identify in the Course

[7] 29 CFR s. 1926.21.
[8] USDOL, OSHA, *Outreach Training Program: Program Overview*, https://www.osha.gov/training/outreach/overview (last visited Jan. 18, 2024).
[9] *Id.*
[10] USDOL, OSHA, *Outreach Training Program Annual Number of Trainees*, https://www.osha.gov/training/outreach/growth (last visited Jan. 18, 2024).
[11] USDOL, OSHA, *Number of Trainees by Class Type*, https://www.osha.gov/training/outreach/growth#tab2 (last visited Jan. 18, 2024).
[12] Section 446.021(2), F.S.
[13] Section 446.021(6), F.S.

Code Directory the apprenticeship and preapprenticeship programs from which earned credit may be used to satisfy high school graduation requirements.[14]

The term of an apprenticeship may be completed through either a time-based approach, a competency-based approach, or a hybrid approach, as follows:

- The time-based approach measures skill acquisition through the apprentice's completion of at least 2,000 hours of on-the-job training, exclusive of related technical instruction.
- The competency-based approach measures the apprentice's successful demonstration of acquired skills and knowledge, demonstrated through on-the-job training and related technical instruction.
- The hybrid approach measures the individual apprentice's skill acquisition through a combination of a range of specified number of hours of on-the-job training and the successful demonstration of competency.[15]

Florida apprenticeship standards define a journeyworker as a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation.[16]

Counties and municipalities are authorized to issue journeyman licenses in the plumbing, pipe fitting, mechanical, HVAC, electrical and alarm system trades. An individual who holds a valid, active journeyman license in the trade issued by any county or municipality may work as a journeyman in the trade in which he or she is licensed in any other county or municipality without taking an additional examination or paying an additional license fee, if he or she:

- Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;
- Has completed a registered apprenticeship program and demonstrates four years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates six years' verifiable practical experience in the trade for which he or she is licensed;
- Has satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code compliance and mitigation training program,[17] specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such curriculum or coursework within 6 months after such certification; and
- Has not had a license suspended or revoked within the last five years.[18]

A local government may charge a registration fee for reciprocity, not to exceed $25.[19] Subject to limited exceptions,[20] state law related to electrical and alarm system contracting does not limit the power of a municipality or county to require that one electrical journeyman, who is a

[14] Section 1003.4282(7), F.S.
[15] Rule 6A-23.004(2), F.A.C.
[16] Section 446.021(4), F.S.
[17] Section 553.841, F.S.
[18] Sections 489.1455 and 489.5335, F.S.
[19] *Id.*
[20] *See* s. 489.503, F.S.

graduate of the Institute of Applied Technology in Construction Excellence or licensed locally, be present on an industrial or commercial new construction site with a facility of 50,000 gross square feet or more when electrical work in excess of 77 volts is being performed in order to supervise or perform such work.[21]

Career Fairs

Each district school board must require each high school within its jurisdiction to host an annual career fair during the school year and establish a process to provide students in grades 11 and 12 the opportunity to meet or interview with potential employers during the career fair. The career fair must be held on the campus of the high school, except that a group of high schools in the district or a group of districts may hold a joint career fair at an alternative location. A joint career fair must be held at a location located within reasonable driving distance for students at all participating schools. The career fair must be held during the school day and may use Florida's online career planning and work-based learning system as part of the career fair activities.[22]

State Academic Standards

The state academic standards establish the core content of the curricula to be taught in the state and specify the core content knowledge and skills that K-12 public school students are expected to acquire. Standards must be rigorous and relevant and provide for the logical, sequential progression of core curricular content that incrementally increases a student's core content knowledge and skills over time. Curricular content for all subjects must integrate critical-thinking, problem-solving, and workforce-literacy skills; communication, reading, and writing skills; mathematics skills; collaboration skills; contextual and applied-learning skills; technology-literacy skills; information and media-literacy skills; and civic-engagement skills.[23]

The standards must include distinct grade-level expectations for the core content knowledge and skills that a student is expected to have acquired by each individual grade level from kindergarten through grade 8. The standards for grades 9 through 12 may be organized by grade clusters of more than one grade level except as otherwise provided for visual and performing arts, physical education, health, and foreign language standards.[24]

The Commissioner of Education (commissioner), as needed, is required to develop and submit proposed revisions to the standards for review and comment by Florida educators, school administrators, representatives of the Florida College System institutions and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education and careers, business and industry leaders, and the public. The commissioner, after considering reviews and comments, must submit the proposed revisions to the SBE for adoption.[25]

[21] Section 489.537(3), F.S.
[22] Section 1001.43(14), F.S.
[23] Section 1003.41(1), F.S.
[24] *Id.*
[25] Section 1003.41(3), F.S.

CAPE Industry Certification Funding List

The SBE is required to adopt, at least annually, based on recommendations by the commissioner, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List that meet a statewide, regional, or local demand.[26]

Certifications included on the CAPE Industry Certification Funding List:[27]
- Require at least 150 hours of instruction.
- Can be earned in middle and high school.
- Usually require passage of a subject area examination and some combination of work experience, educational attainment, or on-the-job training.

Requirements for Career Education Basic Skills

Each career and technical education (CTE) career certificate program, 450 clock hours or longer, includes associated basic academic skills (reading, mathematics, and language) that are required for completion from each CTE program. For the purpose of CTE and basic skills requirements, completion is accomplished when a student has demonstrated mastery of the entire program's standards and benchmarks and receives a Career Certificate of Completion.[28]

Students who enroll in a program offered for career credit of 450 hours or more must complete an entry-level examination within the first six weeks after admission into the program.[29] The SBE designates examinations to assess student mastery of basic skills, which include the following:
- Tests of Adult Basic Education (TABE), Forms 11 and 12, 2017;
- Demonstration of basic communication and computation skills;
- Comprehensive Adult Student Assessment System (CASAS), GOALS 900 Series, 2019;
- 2014 GED® Tests: Reasoning through Language Arts and Mathematical Reasoning where a minimum score as determined by the SBE has been attained on each test; and
- A test adopted by the Criminal Justice Standards and Training Commission, used for admission into law enforcement or corrections training programs.[30]

Any student who lacks the required level of basic skills for the career program must be provided with a structured program of basic skills instruction to correct deficiencies. A student may not receive a career or technical certificate of completion without first demonstrating the basic skills required in the state curriculum frameworks for the career education program.[31]

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[26] Section 1008.44(1), F.S.
[27] Rule 6A-6.0576(5)-(6), F.S.
[28] Florida Department of Education, *Career and Technical Education, 2019-2020 Technical Assistance Paper, CTE Basic Skills Assessment Requirements* (Mar. 2020), *available at* https://www.fldoe.org/core/fileparse.php/5398/urlt/basic-skill-tap-att1.pdf, at 2. (last visited Jan. 18, 2026).
[29] Section 1004.91(2), F.S.
[30] Rule 6A-10.040(1), F.A.C.
[31] Section 1004.91(2), F.S. *See also* Rule 6A-10.040, F.A.C.

An adult with a disability[32] may be exempted from the basic skills assessment requirement. In addition, the following students are exempt from taking the initial basic skills assessment:

- A student who possesses a college degree at the associate in applied science level or higher.
- A student who demonstrates readiness for public postsecondary education in communication and computation specified in SBE rule.[33]
- A student who passes a specified state, national or industry certification or licensure examination that is aligned to the career education program.
- An adult student who is enrolled in an apprenticeship program that is registered with the DOE.[34]

Florida law does not include in the specified exemptions from the basic skills requirements:

- A student who possesses a high school diploma from a private school.[35]
- A student in a home education program or a personalized education program.[36]

Office of Reimagining Education and Career Help

The Office of Reimagining Education and Career Help (REACH Office) within the Executive Office of the Governor facilitates alignment and coordination of entities responsible for Florida's workforce development system.[37] The specific duties of the REACH Office include:

- Establishing criteria and goals for workforce development and diversification in Florida's workforce development system.
- Coordinating state and federal workforce related programs, plans, resources, and activities provided by CareerSource Florida Inc., the Department of Commerce, and the DOE.
- Facilitating coordination among the Department of Commerce, the DOE, and CareerSource, to develop and expand apprenticeship, preapprenticeship, and other work-based learning models and streamline efforts to recruit and onboard new apprentices, preapprentices, students, and employers interested in work-based learning opportunities.[38]

The Florida Talent Development Council

The Florida Talent Development Council was created to develop a coordinated, data-driven, statewide approach to meeting Florida's needs for a 21st century workforce that employers and educators use as part of Florida's talent supply system. Among various assigned tasks, the council is required to coordinate, facilitate, and communicate statewide efforts to meet supply and demand needs for the state's health care workforce.[39]

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[32] An adult with disability means an individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment, and who requires modifications to the educational program, adaptive equipment, or specialized instructional methods and services in order to participate in workforce development programs that lead to competitive employment. Section 1004.02(6), F.S.
[33] Rule 6A-10.0315, F.A.C.
[34] Section 1004.91(3), F.S.
[35] A private school is defined in s. 1002.01(3), F.S.
[36] A home education program and a personalized education program are defined in s. 1002.01, F.S.
[37] Section 14.36(1), F.S.
[38] Section 14.36(3)(k), F.S.
[39] Section 1004.015(6), F.S.

Annually, by December 1, the Florida Talent Development Council is required to report on the health care workforce and any other relevant information on the Florida Talent Development Council's web page located on the Department of Economic Opportunity's website.[40] To support the efforts of the office, the Board of Governors (BOG) and the SBE are required to provide 10-year trend information on nursing education programs. The Department of Health, the BOG, the SBE, the Commission for Independent Education, the Independent Colleges and Universities of Florida, the Florida Center for Nursing, and postsecondary institutions participating in a state grant, fund, or performance-based incentive program are required to provide data, by institution and program, on:

- The number of student slots available.
- The number of student applications submitted, the number of qualified student applicants, the number of students accepted, and the number of students enrolled.
- The number of program graduates.
- Program retention rates of students tracked from program entry to graduation.
- Graduate passage rates for, and the number of times each graduate took, the National Council of State Boards of Nursing Licensing Examination.
- The number of graduates who become employed as practical or professional nurses in this state.
- The educational advancement of nurses through career pathways for the preceding 10 years by comparing their initial degree to the highest degree they obtained.
- The outcomes of students enrolled at institutions participating in the Linking Industry to Nursing Education (LINE) Fund or the Prepping Institutions, Programs, Employers, and Learners through Incentives for Nursing Education (PIPELINE) Fund.
- The outcomes of graduates who have received a nursing student loan forgiveness repayment. Such data must include, for the previous 4 fiscal years, the number of graduates who have received a repayment, the amount repaid on behalf of each graduate, each graduate's employer of record for each repayment and the length of employment at each employer, and the level or levels of nursing licensure earned by each graduate.[41]

The BOG and the SBE are also required to develop definitions for data elements and a uniform survey for use by the Department of Health, the Commission for Independent Education, the Independent Colleges and Universities of Florida, and postsecondary institutions participating in a state loan forgiveness program, grant, fund, or performance-based incentive program to collect the required data. The survey must include, but is not limited to, a student's age, gender, race, ethnicity, veteran status, wage, employer information, loan debt, and retirement expectations.[42]

III. Effect of Proposed Changes:

This bill aims to enhance vocational and technical education.

[40] Section 1004.015(6), F.S.
[41] Section 1004.015(6), F.S.
[42] Section 1004.015(6)(b), F.S.

Hazardous Occupations Prohibited

The bill amends s. 450.061, F.S., to authorize a minor aged 16 or 17 to be employed on any residential building construction if he or she:

- Has earned his or her OSHA 10 certification
- Is under the direct supervision of a person at least 21 years of age who has earned his or her OSHA 10 certification and has at least two years of work experience related to the work he or she is supervising.
- Is not working on any scaffolding, roof, superstructure, or ladder above six feet.
- Is not working in violation of the Fair Labor Standards of 1938, any OSHA rule, or federal law related to minors in the workplace.

Apprentices and Journeyworkers

The bill amends s. 446.021, F.S., to modify the definition of journeyworker to clarify that, in addition to existing requirements, one must complete a state-approved apprenticeship and pass a state-approved test, when required, to meet the definition of journeyworker.

The bill modifies ss. 489.1455 and 489.5335, F.S., to require a local government to recognize a person as a journeyman plumbing, pipe fitting, mechanical, HVAC, electrical, or alarm trades if the person has:

- Scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;
- Completed a registered and state-approved apprenticeship program or has at least 12,000 hours of on-the-job training in his or her specific trade; and
- Satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s. 553.841, F.S., specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such coursework within 6 months after such certification.

The bill accordingly removes the authority of a county or municipality to issue a journeyman license.

Career Fairs

The bill amends s. 1001.43, F.S., to add an alternative to the required annual career fair hosted at each school district high school. The bill authorizes district school boards, as an alternative to the required career fair, to consult with local workforce development boards, advisory committees, and business groups to determine free or cost-effective methods to provide other career and industry networking opportunities, during the school day, for secondary students and exposure for elementary and secondary students to a representative variety of industries, businesses, and careers.

State Academic Standards

The bill modifies s. 1003.41, F.S., to add to the persons who the Commissioner of Education (commissioner) must include for review and comment on proposed revisions to the state standards to include a representative from the Department of Commerce and specifies that business and industry leaders are limited to those for in-demand careers.

Career and Technical Education Courses

The bill modifies s. 1003.4282, F.S., to change how apprentice and preapprenticeship programs may satisfy the high school graduation credit requirements for fine or performing arts, speech and debate, or career and technical education, or electives. The bill authorizes earned credit for completion of one year of related technical instruction in a registered apprenticeship or preapprenticeship program, rather than completion of the entire program, to satisfy the high school graduation credit requirements for fine or performing arts, speech and debate, or career and technical education, or electives.

Requirements for Career Education Basic Skills

The bill modifies s. 1004.91, F.S., to authorize an exemption from postsecondary career education program basic skills requirements for a student who possesses a high school diploma from a private school, or, for a student in a home education program or a personalized education program, a signed affidavit submitted by the student's parent attesting that the student has completed a home education program.

Office of Reimagining Education and Career Help

The bill modifies s. 14.36, F.S., to add to the duties of the Office of Reimagining Education and Career Help (REACH Office). The bill requires the REACH Office to coordinate with the Department of Education, the Department of Commerce, and CareerSource Florida, Inc., to publish and disseminate, by March 1, 2025, a statewide asset map of career and technical education to inform workforce and industry partners of opportunities to partner and expand career and technical education in the state. The bill requires the information to be disseminated in a user-friendly form and:

- List secondary career and technical education courses offered by each school district in the state, categorized by career cluster, school, grade level, and the number of students enrolled.
- Identify the total amount of funding provided for the secondary career and technical education programs offered by each school district in the state.
- Compare existing secondary career and technical education program offerings, funding, and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify industry opportunities in which increased program offerings would support state and local needs.
- Compare alignment and funding of existing secondary career and technical education program offerings and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify opportunities to better align funding of programs to industry demand and statewide economic needs. Funding alignment may consider the use of virtual reality and other workforce education technologies for secondary

career and technical education program offerings and outcomes, including credential attainment.

- List career dual enrollment programs offered in each school district in the state categorized by program type, offering location, and the number of students enrolled. The list must indicate the credential earned upon completion of the program and if the credential is part of a sequence as identified by the Credentials Review Committee.

The bill also requires the REACH Office to assume the duty currently assigned to the Florida Talent Development Council to coordinate, facilitate, and communicate statewide efforts to meet supply and demand needs for the state's health care workforce. The bill requires the REACH Office to publish the report conducted by the Board of Governors and the State Board of Education on the Department of Education's website.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.36, 446.021, 450.061, 489.117, 489.1455, 489.5335, 1001.43, 1003.41, 1003.4282, and 1004.91.

This bill repeals section 1004.015 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/CS by Fiscal Policy on February 22, 2024:
The committee substitute removes from the bill the career and technical education task force and instead requires the Office of Reimagining Education and Career Help (REACH) to coordinate with the Department of Education, the Department of Commerce, and CareerSource Florida, Inc., to publish and disseminate, by March 1, 2025, a statewide asset map of career and technical education to inform workforce and industry partners of opportunities to partner and expand career and technical education in the state. The committee substitute requires the information to be disseminated in a user-friendly form and:

- List secondary career and technical education courses offered by each school district in the state, categorized by career cluster, school, grade level, and the number of students enrolled.
- Identify the total amount of funding provided for the secondary career and technical education programs offered by each school district in the state.
- Compare existing secondary career and technical education program offerings, funding, and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify industry opportunities in which increased program offerings would support state and local needs.
- Compare alignment and funding of existing secondary career and technical education program offerings and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify opportunities to better align funding of programs to industry demand and statewide economic needs. Funding alignment may consider the use of virtual reality and other workforce

education technologies for secondary career and technical education program offerings and outcomes, including credential attainment.
- List career dual enrollment programs offered in each school district in the state categorized by program type, offering location, and the number of students enrolled. The list must indicate the credential earned upon completion of the program and if the credential is part of a sequence as identified by the Credentials Review Committee.

The committee substitute also requires the REACH Office to assume the duty currently assigned to the Florida Talent Development Council to coordinate, facilitate, and communicate statewide efforts to meet supply and demand needs for the state's health care workforce. The committee substitute requires the REACH Office to publish the report conducted by the Board of Governors and the State Board of Education on the Department of Education's website.

CS/CS by Appropriations Committee on Education on February 8, 2024:
The committee substitute:
- Clarifies that the employment of minors in residential construction may not violate the Fair Labor Standards Act of 1938.
- Clarifies that, in addition to existing requirements, an individual must complete a state-approved apprenticeship and pass a state-approved test, when required, to meet the definition of journeyworker.
- Restores the authority of local governments to recognize journeyworkers while retaining the provision of the bill removing the authority to grant local journeyworker licenses. The amendment requires a local government to recognize a person as a journeyman if the person:
  - Passed a test approved for the trade;
  - Completed an apprenticeship or has 12,000 hours of experience in the trade; and
  - Completed coursework as approved by the Florida Building Commission.
- Makes optional for institutions the exemption from basic skills requirements for home education and private school completers, similar to existing exemption for public school graduates.
- Shifts the CTE task force to be housed within the Department of Commerce instead of the Department of Education.
- Repeals the Florida Talent Development Council.

CS in Education Pre-K – 12 on January 17, 2024:
The committee substitute narrows the exception provided in the bill to the prohibition on minors aged 16 to 17 working on scaffolding, roof, superstructure, or residential or nonresidential building construction, to apply the exception only to residential building construction. The committee substitute maintains the requirement that the exception only apply to minors with an Occupational Safety and Health Administration (OSHA) 10 certification, who are supervised as provided in the bill.

The committee substitute removes the requirement of the bill that:
- High school career fairs include specific additional criteria, and instead authorizes district school boards, as an alternative to the required career fair, to consult with

local workforce development boards, advisory committees, and business groups to determine free or cost-effective methods to provide other career and industry networking opportunities, during the school day, for secondary students and exposure for elementary and secondary students to a representative variety of industries, businesses, and careers.

- The specific curricular content established in the state academic standards for mathematics ensure the integration of real-life opportunities to use such curricular content.
- All courses directly related to CAPE Digital Tool or Industry Certifications be weighted the same as a grade in an honors course for purposes of calculating grade-point-average (GPA).
- Conditions high school credit for apprenticeship or preapprenticeship programs on the completion of OSHA 10 certification and maintains the provision of the bill authorizing students to use one year of related technical instruction (CTE) to satisfy high school credit requirements.
- Require the Department of Education (DOE) and the Board of Governors (BOG) to establish and publish lists related to articulation certain CTE credits.
- Increases the career-themed courses that district high school and middle schools must offer.
- Modifies the CAPE Act 3-year strategic plan, curriculum review committee, and the Commissioner of Education's annual review of CTE offerings.

The committee substitute adds to the bill:

- December 1, 2024, as a deadline for the Department of Education (DOE) to convene the workgroup to identify the three math pathways for students enrolled in secondary grades.
- An exemption from postsecondary career education program basic skills requirements for a student who possesses a high school diploma from a private school, or, for a student in a home education program, a signed affidavit submitted by the student's parent attesting that the student has completed a home education program.

The committee substitute removes from the bill the provision providing flexibility from certification requirements for district school boards in hiring non-degree CTE teachers.

The committee substitute adds to the CTE Task Force created in the bill the responsibility to:

- Compile a list of career and technical education courses offered through the Department of Corrections and Juvenile Justice. Such data must be broken down by location, population, industry course offering, the number of students enrolled in each course, and the number of students who complete such courses
- Review existing postsecondary credits available for K-12 career and technical education course offerings and how this information is advertised to students and parents.
- Compare existing career and technical education course offerings with data from the Department of Commerce and industry leaders on in-demand careers and the state's economic needs.

- Provide recommendations for increasing funding, eliminating barriers to expanding career and technical education offerings, and streamlining regulations.
- Provide recommendations for improving the marketing of career and technical education offerings to students and parents.

The committee substitute modifies the date for the task force to report on its findings to require the task force to submit its report by September 1, 2025, and its recommendations by January 1, 2026.

B. Amendments:

None.

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	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Simon) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (j) and (k) of subsection (3) of section 14.36, Florida Statutes, are amended, and a new paragraph (k) and paragraph (l) are added to that subsection, to read:

14.36 Reimagining Education and Career Help Act.—The Reimagining Education and Career Help Act is created to address

the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training within and equity and access to a more integrated workforce and education system for all Floridians.

(3) The duties of the office are to:

(j) ~~Direct the objectives of the Talent Development Council established in s. 1004.015.~~

~~(k)~~ Facilitate coordination among the Department of Economic Opportunity, the Department of Education, and CareerSource Florida, Inc., to develop and expand apprenticeship, preapprenticeship, and other work-based learning models and streamline efforts to recruit and onboard new apprentices, preapprentices, students, and employers interested in work-based learning opportunities. Such coordination must include, but need not be limited to, conducting outreach with business leaders, local governments, and education providers.

(k) Coordinate with the Department of Education, the Department of Commerce, and CareerSource Florida, Inc., to publish and disseminate, by March 1, 2025, a statewide asset map of career and technical education to inform workforce and industry partners of opportunities to partner and expand career and technical education in the state. The information must be disseminated in a user-friendly form and must:

1. List secondary career and technical education courses offered by each school district in the state, categorized by career cluster, school, grade level, and the number of students enrolled.

2. Identify the total amount of funding provided for the

secondary career and technical education programs offered by each school district in the state.

3. Compare existing secondary career and technical education program offerings, funding, and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify industry opportunities in which increased program offerings would support state and local needs.

4. Compare alignment and funding of existing secondary career and technical education program offerings and outcomes, including credential attainment, to data on in-demand careers and the state's economic needs to identify opportunities to better align funding of programs to industry demand and statewide economic needs. Funding alignment may consider the use of virtual reality and other workforce education technologies for secondary career and technical education program offerings and outcomes, including credential attainment.

5. List career dual enrollment programs offered in each school district in the state categorized by program type, offering location, and the number of students enrolled. The list must indicate the credential earned upon completion of the program and if the credential is part of a sequence as identified by the Credentials Review Committee pursuant to s. 445.004(4).

(l) Coordinate, facilitate, and communicate statewide efforts to meet supply and demand needs for the state's health care workforce. Annually, by December 1, the office shall report on the implementation of this paragraph and any other relevant information on the Department of Economic Opportunity's website.

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To support the efforts of the office, the Board of Governors and the State Board of Education shall:

1. Provide 10-year trend information on nursing education programs subject to s. 464.019. The Department of Health, the Board of Governors, the State Board of Education, the Commission for Independent Education, the Independent Colleges and Universities of Florida, the Florida Center for Nursing, and postsecondary institutions participating in a state grant, fund, or performance-based incentive program under s. 1009.89, s. 1009.8962, or s. 1009.897 shall provide data, by institution and program, on:

a. The number of student slots available.

b. The number of student applications submitted, the number of qualified student applicants, the number of students accepted, and the number of students enrolled.

c. The number of program graduates.

d. Program retention rates of students tracked from program entry to graduation.

e. Graduate passage rates, as defined in s. 464.003, for, and the number of times each graduate took, the National Council of State Boards of Nursing Licensing Examination.

f. The number of graduates who become employed as practical or professional nurses in this state.

g. The educational advancement of nurses through career pathways for the preceding 10 years by comparing their initial degree to the highest degree they obtained.

h. The outcomes of students enrolled at institutions participating in the Linking Industry to Nursing Education (LINE) Fund under s. 1009.8962 or the Prepping Institutions,

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Programs, Employers, and Learners through Incentives for Nursing Education (PIPELINE) Fund under s. 1009.897.

i. The outcomes of graduates who have received a nursing student loan forgiveness repayment under s. 1009.66. Such data must include, for the previous 4 fiscal years, the number of graduates who have received a repayment, the amount repaid on behalf of each graduate, each graduate's employer of record for each repayment and the length of employment at each employer, and the level or levels of nursing licensure earned by each graduate.

2. Develop definitions for data elements and a uniform survey for use by the Department of Health, the Commission for Independent Education, the Independent Colleges and Universities of Florida, and postsecondary institutions participating in a state loan forgiveness program, grant, fund, or performance-based incentive program under s. 1009.66, s. 1009.89, s. 1009.8962, or s. 1009.897 to collect data required under paragraph (a). The survey must include, but is not limited to, a student's age, gender, race, ethnicity, veteran status, wage, employer information, loan debt, and retirement expectations.

Section 2. Subsection (4) of section 446.021, Florida Statutes, is amended to read:

446.021 Definitions of terms used in ss. 446.011-446.092.—As used in ss. 446.011-446.092, the term:

(4) "Journeyworker" means a person working in an apprenticeable occupation who has successfully completed a registered and state-approved apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation and, if

required for the specific industry, has passed the appropriate state-approved industry test.

Section 3. Subsection (2) of section 450.061, Florida Statutes, is amended to read:

450.061 Hazardous occupations prohibited; exemptions.—

(2) A ~~no~~ minor under 18 years of age, regardless of whether such person's disabilities of nonage have been removed, may not ~~shall~~ be employed or permitted or suffered to work in any of the following places of employment or in any of the following occupations, provided that ~~the provisions of~~ paragraphs (b), (e), (g), (h), (j), (m), (o), and (q) do ~~shall~~ not apply to the employment of student learners under the conditions prescribed in s. 450.161:

(a) In or around explosive or radioactive materials.

(b) On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet. A minor 16 or 17 years of age may be employed on any residential building construction if:

1. The minor 16 or 17 years of age has earned his or her Occupational Safety and Health Administration 10 certification and is under the direct supervision of a person who:

a. Has earned his or her Occupational Safety and Health Administration 10 certification.

b. Is 21 years of age or older.

c. Has at least 2 years of work experience related to the work he or she is supervising.

2. The minor 16 or 17 years of age is not working on any scaffolding, roof, superstructure, or ladder above 6 feet.

3. The work being performed by the minor 16 or 17 years of

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age is not in violation of the federal Fair Labor Standards Act of 1938, any Occupational Safety and Health Administration rule, or federal law related to minors in the workplace.

(c) In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.

(d) Any mining occupation.

(e) In the operation of power-driven woodworking machines.

(f) In the operation of power-driven hoisting apparatus.

(g) In the operation of power-driven metal forming, punching, or shearing machines.

(h) Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c).

(i) In the operation of power-driven bakery machinery.

(j) In the operation of power-driven paper products and printing machines.

(k) Manufacturing brick, tile, and like products.

(l) Wrecking or demolition.

(m) Excavation operations.

(n) Logging or sawmilling.

(o) Working on electric apparatus or wiring.

(p) Firefighting.

(q) Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

Section 4. Paragraph (a) of subsection (4) of section

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489.117, Florida Statutes, is amended to read:

489.117 Registration; specialty contractors.—

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a person to obtain a license, issued by the local government or the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455 ~~s. 489.1455(1)~~, or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a state or local license to obtain a permit for such job scopes. For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling when the scope of the project does not include a task for which a state license is required; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of critical state concern under s. 380.05 may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before

January 1, 2021.

3. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021.

4. A local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.

Section 5. Section 489.1455, Florida Statutes, is amended to read:

489.1455 Journeyman; reciprocity; standards.—

~~(1)~~ Counties and municipalities must recognize a person as a journeyman ~~are authorized to issue journeyman licenses~~ in the plumbing, pipe fitting, mechanical, or HVAC trades if he or she meets the following requirements:~~.~~

~~(2) An individual who holds a valid, active journeyman license in the plumbing, pipe fitting, mechanical, or HVAC trades issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any county or municipality of this state without taking an additional examination or paying an additional license fee, if he or she:~~

(1)~~(a)~~ Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;

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(2) ~~(b)~~ Has completed a registered and state-approved ~~an~~ apprenticeship program as defined in s. 446.021(6) or has at least 12,000 hours of on-the-job training in his or her specific trade ~~registered with a registration agency defined in 29 C.F.R. s. 29.2 and demonstrates 4 years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates 6 years' verifiable practical experience in the trade for which he or she is licensed~~; and

(3) ~~(c)~~ Has satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s. 553.841, specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such coursework within 6 months after such certification.~~; and~~

~~(d) Has not had a license suspended or revoked within the last 5 years.~~

~~(3) A local government may charge a registration fee for reciprocity, not to exceed $25.~~

Section 6. Section 489.5335, Florida Statutes, is amended to read:

489.5335 Journeyman; reciprocity; standards.—

~~(1)~~ Counties and municipalities must recognize a person as a journeyman ~~are authorized to issue journeyman licenses~~ in the electrical and alarm system trades if he or she meets the following requirements:~~.~~

~~(2) An individual who holds a valid, active journeyman license in the electrical or alarm system trade issued by any county or municipality in this state may work as a journeyman in~~

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~~the trade in which he or she is licensed in any other county or municipality of this state without taking an additional examination or paying an additional license fee, if he or she:~~

(1) ~~(a)~~ Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;

(2) ~~(b)~~ Has completed a registered and state-approved ~~an~~ apprenticeship program as defined in s. 446.021(6) or has at least 12,000 hours of on-the-job training in his or her specific trade ~~registered with a registration agency defined in 29 C.F.R. s. 29.2 and demonstrates 4 years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates 6 years' verifiable practical experience in the trade for which he or she is licensed~~; and

(3) ~~(c)~~ Has satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s. 553.841, specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such curriculum or coursework within 6 months after such certification.~~; and~~

~~(d) Has not had a license suspended or revoked within the last 5 years.~~

~~(3) A local government may charge a registration fee for reciprocity, not to exceed $25.~~

Section 7. Paragraph (c) of subsection (14) of section 1001.43, Florida Statutes, is amended to read:

1001.43 Supplemental powers and duties of district school

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board.—The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(14) RECOGNITION OF ACADEMIC AND CAREER ACHIEVEMENT.—

(c) Beginning with the 2023-2024 school year, each district school board shall require each high school within its jurisdiction to host an annual career fair during the school year and establish a process to provide students in grades 11 and 12 the opportunity to meet or interview with potential employers during the career fair. The career fair must be held on the campus of the high school, except that a group of high schools in the district or a group of districts may hold a joint career fair at an alternative location to satisfy the requirement in this paragraph. A joint career fair must be held at a location located within reasonable driving distance for students at all participating schools. The career fair must be held during the school day and may use Florida's online career planning and work-based learning system as part of the career fair activities. Alternatively, district school boards may consult with local workforce development boards, advisory committees, and business groups to determine free or cost-effective methods to provide other career and industry networking opportunities during the school day for secondary students and exposure for elementary and secondary students to a representative variety of industries, businesses, and careers.

District school board policies and procedures may include conducting assemblies or other appropriate public events in which students sign actual or ceremonial documents accepting

scholarships or enrollment. The district school board may encourage holding such events in an assembly or gathering of the entire student body as a means of making academic and career success and recognition visible to all students.

Section 8. Subsection (3) of section 1003.41, Florida Statutes, is amended to read:

1003.41 State academic standards.—

(3) The Commissioner of Education shall, as deemed necessary ~~needed~~, ~~shall~~ develop and submit proposed revisions to the standards for review and comment by Florida educators, school administrators, representatives of the Florida College System institutions and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education and careers, a representative from the Department of Commerce, business and industry leaders for in-demand careers, and the public. The commissioner, after considering reviews and comments, shall submit the proposed revisions to the State Board of Education for adoption.

Section 9. Paragraph (a) of subsection (7) and subsection (10) of section 1003.4282, Florida Statutes, are amended to read:

1003.4282 Requirements for a standard high school diploma.—

(7) CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL CREDIT REQUIREMENTS.—

(a) Participation in career education courses engages students in their high school education, increases academic achievement, enhances employability, and increases postsecondary success. The department shall develop, for approval by the State Board of Education, multiple, additional career education

courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection and allow students to earn credit in both the career education course and courses required for high school graduation under this section and s. 1003.4281.

1. The state board must determine at least biennially whether ~~if~~ sufficient academic standards are covered to warrant the award of academic credit, including satisfaction of graduation, assessment, and state university admissions requirements under this section.

2. Career education courses must:

a. Include workforce and digital literacy skills.

b. Integrate required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related internships or apprenticeships. The department shall negotiate state licenses for material and testing for industry certifications.

The instructional methodology used in these courses must comprise authentic projects, problems, and activities for contextual academic learning and emphasize workplace skills identified under s. 445.06.

3. A student who earns credit upon completion of 1 year of related technical instruction for an apprenticeship program registered with the Department of Education under chapter 446 or preapprenticeship program registered with the Department of

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Education under chapter 446 may use such credit to satisfy the high school graduation credit requirements in paragraph (3)(e) or paragraph (3)(g). The state board shall approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which earned credit may be used pursuant to this subparagraph.

4. The State Board of Education shall, by rule, establish a process that enables a student to receive work-based learning credit or credit in electives for completing a threshold level of demonstrable participation in extracurricular activities associated with career and technical student organizations. Work-based learning credit or credit in electives for extracurricular activities or supervised agricultural experiences may not be limited by grade level.

(10) CAREER AND TECHNICAL EDUCATION CREDIT.—The Department of Education shall convene a workgroup, no later than December 1, 2024, to:

(a) Identify best practices in career and technical education pathways from middle school to high school to aid middle school students in career planning and facilitate their transition to high school programs. The career pathway must be linked to postsecondary programs.

(b) Establish three mathematics pathways for students enrolled in secondary grades by aligning mathematics courses to programs, postsecondary education, and careers. The workgroup shall collaborate to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs, postsecondary education, and

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careers.

Section 10. Section 1004.015, Florida Statutes, is repealed.

Section 11. Paragraph (a) of subsection (3) of section 1004.91, Florida Statutes, is amended to read:

1004.91 Requirements for career education program basic skills.—

(3)(a) The following students may be exempted from this section:

1. An adult student with a disability ~~may be exempted from this section~~.

2. A student who possesses a high school diploma from a private school that is in compliance with s. 1002.42, or, for a student in a home education program or a personalized education program, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 1002.41 or a personalized education program pursuant to the requirements of s. 1002.395.

Section 12. Paragraph (a) of subsection (3) of section 1001.02, Florida Statutes, is amended to read:

1001.02 General powers of State Board of Education.—

(3)(a) The State Board of Education shall adopt a strategic plan that specifies goals and objectives for the state's public schools and Florida College System institutions. The plan shall be formulated in conjunction with plans of the Board of Governors in order to provide for the roles of the universities and Florida College System institutions to be coordinated to best meet state needs and reflect cost-effective use of state

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resources. The strategic plan must clarify the mission statements of each Florida College System institution and the system as a whole and identify degree programs, including baccalaureate degree programs, to be offered at each Florida College System institution in accordance with the objectives provided in this subsection and the coordinated 5-year plan pursuant to paragraph (2)(v). The strategic plan must cover a period of 5 years, with modification of the program lists after 2 years. Development of each 5-year plan must be coordinated with and initiated after completion of the master plan. The strategic plans must specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state and consider reports and recommendations of the Office of Reimagining Education and Career Help ~~Florida Talent Development Council pursuant to s. 1004.015~~ and the Articulation Coordinating Committee pursuant to s. 1007.01. The state board shall submit a report to the President of the Senate and the Speaker of the House of Representatives upon modification of the plan and as part of its legislative budget request.

Section 13. Paragraph (b) of subsection (5) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

(b) The Board of Governors shall develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The strategic plan must:

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1. Include performance metrics and standards common for all institutions and metrics and standards unique to institutions depending on institutional core missions, including, but not limited to, student admission requirements, retention, graduation, percentage of graduates who have attained employment, percentage of graduates enrolled in continued education, licensure passage, nondegree credential attainment, average wages of employed graduates, average cost per graduate, excess hours, student loan burden and default rates, faculty awards, total annual research expenditures, patents, licenses and royalties, intellectual property, startup companies, annual giving, endowments, and well-known, highly respected national rankings for institutional and program achievements.

2. Consider reports and recommendations of Office of Reimagining Education and Career Help ~~the Florida Talent Development Council under s. 1004.015~~ and the Articulation Coordinating Committee under s. 1007.01, and the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference.

3. Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.

4. Include criteria for designating baccalaureate degree and master’s degree programs at specified universities as high-demand programs of emphasis. Once the criteria are available and applicable to baccalaureate degrees and graduate degrees, the Board of Governors shall adopt the criteria to determine value for and prioritization of degree credentials and degree programs

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established by the Credentials Review Committee under s. 445.004 for designating high-demand programs of emphasis. The Board of Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.

5. Include criteria for nondegree credentials.

Section 14. Paragraph (b) of subsection (5) of section 1004.6495, Florida Statutes, is amended to read:

1004.6495 Florida Postsecondary Comprehensive Transition Program and Florida Center for Students with Unique Abilities.—

(5) CENTER RESPONSIBILITIES.—The Florida Center for Students with Unique Abilities is established within the University of Central Florida. At a minimum, the center shall:

(b) Coordinate, facilitate, and oversee the statewide implementation of this section. At a minimum, the director shall:

1. Consult and collaborate with the National Center and the Coordinating Center, as identified in 20 U.S.C. s. 1140q, regarding guidelines established by the center for the effective implementation of the programs for students with disabilities and for students with intellectual disabilities which align with the federal requirements and with standards, quality indicators, and benchmarks identified by the National Center and the Coordinating Center.

2. ~~Consult and collaborate with the Florida Talent Development Council to identify~~ meaningful credentials for FPCTPs and ~~to~~ engage businesses and stakeholders to promote experiential training and employment opportunities for students

with intellectual disabilities.

3. Establish requirements and timelines for the:

a. Submission and review of an application.

b. Approval or disapproval of an initial or renewal application.

c. Implementation of an FPCTP, which must begin no later than the academic year immediately following the academic year during which the approval is granted.

4. Administer scholarship funds.

5. Administer FPCTP grants. From funds appropriated in the 2016-2017 fiscal year for the FPCTP, $3 million shall be used for such grants. Thereafter, funds appropriated for the FPCTP may only be used for such grants as specifically authorized in the General Appropriations Act.

6. Report on the implementation and administration of this section by planning, advising, and evaluating approved degree, certificate, and nondegree programs and the performance of students and programs pursuant to subsection (8).

Section 15. Paragraph (b) of subsection (9) of section 1009.8962, Florida Statutes, is amended to read:

1009.8962 Linking Industry to Nursing Education (LINE) Fund.—

(9)

(b) Annually, by February 1, each institution awarded grant funds in the previous fiscal year shall submit a report to the Board of Governors or Department of Education, as applicable, that demonstrates the expansion as outlined in the proposal and the use of funds. At minimum, the report must include, by program level, the number of additional nursing education

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students enrolled; if scholarships were awarded using grant funds, the number of students who received scholarships and the average award amount; and the outcomes of students as reported by the Office of Reimagining Education and Career Help pursuant to s. 14.36(3)(m) ~~Florida Talent Development Council pursuant to s. 1004.015(6)~~.

Section 16. This act shall take effect July 1, 2024.

================ 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 career and technical education; amending s. 14.36, F.S.; revising the duties of the Office of Reimagining Education and Career Help; requiring the office, in coordination with specified entities, to publish and disseminate specified career and technical education information by specified dates; amending s. 446.021, F.S.; revising the definition of the term "journeyworker"; amending s. 450.061, F.S.; providing an exemption for minors to work in specified conditions; amending s. 489.117, F.S.; conforming a cross-reference; amending ss. 489.1455 and 489.5335, F.S.; requiring counties and municipalities to recognize certain persons as journeymen for specified occupations if such persons meet specified criteria; deleting provisions authorizing a local government to charge a specified

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registration fee; amending s. 1001.43, F.S.; providing an alternative to career fairs through other career and industry networking opportunities; amending s. 1003.41, F.S.; revising a list of individuals who are required to review and comment on certain revisions to the state academic standards; amending s. 1003.4282, F.S.; revising conditions under which a student may use certain credits to satisfy specific high school graduation requirements; requiring the Department of Education to convene a workgroup by a specified date for specified purposes; repealing s. 1004.015, F.S., relating to the Florida Talent Development Council; amending s. 1004.91, F.S.; authorizing certain students to be exempt from completing an entry-level examination; amending ss. 1001.02, 1001.706, 1004.6495, and 1009.8962, F.S.; conforming provisions to changes made by the act; providing an effective date.

516442

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Simon) recommended the following:

Senate Amendment to Amendment (446798)

Delete line 68
and insert:
information on the Department of Education's website.

By the Appropriations Committee on Education; the Committee on Education Pre-K -12; and Senators Simon and Perry

602-03144-24 2024460c2

A bill to be entitled

An act relating to career and technical education; amending s. 446.021, F.S.; revising the definition of the term "journeyworker"; amending s. 450.061, F.S.; providing an exemption for minors to work in specified conditions; amending s. 489.117, F.S.; conforming a cross-reference; amending ss. 489.1455 and 489.5335, F.S.; requiring counties and municipalities to recognize certain persons as journeymen for specified occupations if such persons meet specified criteria; deleting provisions authorizing a local government to charge a specified registration fee; amending s. 1001.43, F.S.; providing an alternative to career fairs through other career and industry networking opportunities; amending s. 1003.41, F.S.; revising a list of individuals who are required to review and comment on certain revisions to the state academic standards; making technical changes; amending s. 1003.4282, F.S.; revising the requirements for certain credits and certifications to meet specified graduation requirements; specifying the date by which the Department of Education must convene a specified work group; making a technical change; repealing s. 1004.015, F.S., relating to the Florida Talent Development Council; amending s. 1004.91, F.S.; expanding an exemption from a requirement for completion of a career education program basic skills examination; amending ss. 14.36, 1001.02, 1001.706, and 1009.8962, F.S.; conforming provisions to changes

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602-03144-24 2024460c2

made by the act; creating the Career and Technical Education Task Force adjunct to the Department of Commerce; providing the purpose of the task force; providing the membership and duties of the task force; requiring the task force to submit a report and recommendations to certain officials by specified dates; providing for expiration of the task force; providing an effective date.

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

Section 1. Subsection (4) of section 446.021, Florida Statutes, is amended to read:

446.021 Definitions of terms used in ss. 446.011-446.092.—As used in ss. 446.011-446.092, the term:

(4) "Journeyworker" means a person working in an apprenticeable occupation who has successfully completed a registered and state-approved apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation and, if required for the specific industry, has passed the appropriate state-approved industry test.

Section 2. Subsection (2) of section 450.061, Florida Statutes, is amended to read:

450.061 Hazardous occupations prohibited; exemptions.—

(2) A ~~no~~ minor under 18 years of age, regardless of whether such person's disabilities of nonage have been removed, may not ~~shall~~ be employed or permitted or suffered to work in any of the following places of employment or in any of the following

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occupations, provided that ~~the provisions of~~ paragraphs (b), (e), (g), (h), (j), (m), (o), and (q) do ~~shall~~ not apply to the employment of student learners under the conditions prescribed in s. 450.161:

(a) In or around explosive or radioactive materials.

(b) On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet. A minor 16 or 17 years of age may be employed on any residential building construction if:

1. The minor 16 or 17 years of age has earned his or her Occupational Safety and Health Administration 10 certification and is under the direct supervision of a person who:

a. Has earned his or her Occupational Safety and Health Administration 10 certification.

b. Is 21 years of age or older.

c. Has at least 2 years of work experience related to the work he or she is supervising.

2. The minor 16 or 17 years of age is not working on any scaffolding, roof, superstructure, or ladder above 6 feet.

3. The work being performed by the minor 16 or 17 years of age is not in violation of the federal Fair Labor Standards Act of 1938, any Occupational Safety and Health Administration rule, or federal law related to minors in the workplace.

(c) In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.

(d) Any mining occupation.

(e) In the operation of power-driven woodworking machines.

(f) In the operation of power-driven hoisting apparatus.

(g) In the operation of power-driven metal forming, punching, or shearing machines.

(h) Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c).

(i) In the operation of power-driven bakery machinery.

(j) In the operation of power-driven paper products and printing machines.

(k) Manufacturing brick, tile, and like products.

(l) Wrecking or demolition.

(m) Excavation operations.

(n) Logging or sawmilling.

(o) Working on electric apparatus or wiring.

(p) Firefighting.

(q) Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

Section 3. Paragraph (a) of subsection (4) of section 489.117, Florida Statutes, is amended to read:

489.117 Registration; specialty contractors.—

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a person to obtain a license, issued by the local government or

the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455 ~~s. 489.1455(1)~~, or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a state or local license to obtain a permit for such job scopes. For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling when the scope of the project does not include a task for which a state license is required; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of critical state concern under s. 380.05 may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before January 1, 2021.

3. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021.

4. A local government may not require a license as a prerequisite to submit a bid for public works projects if the

work to be performed does not require a license under general law.

Section 4. Section 489.1455, Florida Statutes, is amended to read:

489.1455 Journeyman; reciprocity; standards.—

~~(1)~~ Counties and municipalities must recognize a person as a journeyman ~~are authorized to issue journeyman licenses~~ in the plumbing, pipe fitting, mechanical, or HVAC trades if he or she meets the following requirements:~~.~~

~~(2) An individual who holds a valid, active journeyman license in the plumbing, pipe fitting, mechanical, or HVAC trades issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any county or municipality of this state without taking an additional examination or paying an additional license fee, if he or she:~~

(1) ~~(a)~~ Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;

(2) ~~(b)~~ Has completed a registered and state-approved ~~an~~ apprenticeship program as defined in s. 446.021(6) or has at least 12,000 hours of on-the-job training in his or her specific trade ~~registered with a registration agency defined in 29 C.F.R. s. 29.2 and demonstrates 4 years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates 6 years' verifiable practical experience in the trade for which he or she is licensed~~; and

(3) ~~(c)~~ Has satisfactorily completed specialized and

advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s. 553.841, specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such coursework within 6 months after such certification.~~; and~~

~~(d) Has not had a license suspended or revoked within the last 5 years.~~

~~(3) A local government may charge a registration fee for reciprocity, not to exceed $25.~~

Section 5. Section 489.5335, Florida Statutes, is amended to read:

489.5335 Journeyman; reciprocity; standards.—

~~(1)~~ Counties and municipalities must recognize a person as a journeyman ~~are authorized to issue journeyman licenses~~ in the electrical and alarm system trades if he or she meets the following requirements:~~.~~

~~(2) An individual who holds a valid, active journeyman license in the electrical or alarm system trade issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any other county or municipality of this state without taking an additional examination or paying an additional license fee, if he or she:~~

(1)~~(a)~~ Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;

(2)~~(b)~~ Has completed a registered and state-approved ~~an~~ apprenticeship program as defined in s. 446.021(6) or has at

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least 12,000 hours of on-the-job training in his or her specific trade ~~registered with a registration agency defined in 29 C.F.R. s. 29.2 and demonstrates 4 years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates 6 years' verifiable practical experience in the trade for which he or she is licensed~~; and

(3)~~(c)~~ Has satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s. 553.841, specific to the discipline or, pursuant to authorization by the certifying authority, provides proof of completion of such curriculum or coursework within 6 months after such certification.~~; and~~

~~(d) Has not had a license suspended or revoked within the last 5 years.~~

~~(3) A local government may charge a registration fee for reciprocity, not to exceed $25.~~

Section 6. Paragraph (c) of subsection (14) of section 1001.43, Florida Statutes, is amended to read:

1001.43 Supplemental powers and duties of district school board.—The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(14) RECOGNITION OF ACADEMIC AND CAREER ACHIEVEMENT.—

(c) Beginning with the 2023-2024 school year, each district school board shall require each high school within its jurisdiction to host an annual career fair during the school year and establish a process to provide students in grades 11 and 12 the opportunity to meet or interview with potential

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employers during the career fair. The career fair must be held on the campus of the high school, except that a group of high schools in the district or a group of districts may hold a joint career fair at an alternative location to satisfy the requirement in this paragraph. A joint career fair must be held at a location located within reasonable driving distance for students at all participating schools. The career fair must be held during the school day and may use Florida's online career planning and work-based learning system as part of the career fair activities. Alternatively, district school boards may consult with local workforce development boards, advisory committees, and business groups to determine free or cost-effective methods to provide other career and industry networking opportunities during the school day for secondary students and exposure for elementary and secondary students to a representative variety of industries, businesses, and careers.

District school board policies and procedures may include conducting assemblies or other appropriate public events in which students sign actual or ceremonial documents accepting scholarships or enrollment. The district school board may encourage holding such events in an assembly or gathering of the entire student body as a means of making academic and career success and recognition visible to all students.

Section 7. Subsection (3) of section 1003.41, Florida Statutes, is amended to read:

1003.41 State academic standards.—

(3) The Commissioner of Education shall, as deemed necessary ~~needed~~, ~~shall~~ develop and submit proposed revisions to

the standards for review and comment by Florida educators, school administrators, representatives of the Florida College System institutions and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education and careers, a representative from the Department of Commerce, business and industry leaders for in-demand careers, and the public. The commissioner, after considering reviews and comments, shall submit the proposed revisions to the State Board of Education for adoption.

Section 8. Paragraph (a) of subsection (7) and subsection (10) of section 1003.4282, Florida Statutes, are amended to read:

1003.4282 Requirements for a standard high school diploma.—

(7) CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL CREDIT REQUIREMENTS.—

(a) Participation in career education courses engages students in their high school education, increases academic achievement, enhances employability, and increases postsecondary success. The department shall develop, for approval by the State Board of Education, multiple, additional career education courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection and allow students to earn credit in both the career education course and courses required for high school graduation under this section and s. 1003.4281.

1. The state board must determine at least biennially whether ~~if~~ sufficient academic standards are covered to warrant the award of academic credit, including satisfaction of graduation, assessment, and state university admissions

requirements under this section.

2. Career education courses must:

a. Include workforce and digital literacy skills.

b. Integrate required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related internships or apprenticeships. The department shall negotiate state licenses for material and testing for industry certifications.

The instructional methodology used in these courses must comprise authentic projects, problems, and activities for contextual academic learning and emphasize workplace skills identified under s. 445.06.

3. A student who earns credit upon completion of 1 year of related technical instruction for an apprenticeship program registered with the Department of Education under chapter 446 or preapprenticeship program registered with the Department of Education under chapter 446 may use such credit to satisfy the high school graduation credit requirements in paragraph (3)(e) or paragraph (3)(g). The state board shall approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which earned credit may be used pursuant to this subparagraph.

4. The State Board of Education shall, by rule, establish a process that enables a student to receive work-based learning credit or credit in electives for completing a threshold level

of demonstrable participation in extracurricular activities associated with career and technical student organizations. Work-based learning credit or credit in electives for extracurricular activities or supervised agricultural experiences may not be limited by grade level.

(10) CAREER AND TECHNICAL EDUCATION CREDIT.—The Department of Education shall convene a workgroup, no later than December 1, 2024, to:

(a) Identify best practices in career and technical education pathways from middle school to high school to aid middle school students in career planning and facilitate their transition to high school programs. The career pathway must be linked to postsecondary programs.

(b) Establish three mathematics pathways for students enrolled in secondary grades by aligning mathematics courses to programs, postsecondary education, and careers. The workgroup shall collaborate to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs, postsecondary education, and careers.

Section 9. Section 1004.015, Florida Statutes, is repealed.

Section 10. Paragraph (a) of subsection (3) of section 1004.91, Florida Statutes, is amended to read:

1004.91 Requirements for career education program basic skills.—

(3)(a) The following students may be exempted from this section:

1. An adult student with a disability ~~may be exempted from~~

~~this section~~.

2. A student who possesses a high school diploma from a private school that is in compliance with s. 1002.42, or, for a student in a home education program, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 1002.41.

Section 11. Paragraph (j) of subsection (3) of section 14.36, Florida Statutes, is amended to read:

14.36 Reimagining Education and Career Help Act.—The Reimagining Education and Career Help Act is created to address the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training within and equity and access to a more integrated workforce and education system for all Floridians.

(3) The duties of the office are to:

~~(j) Direct the objectives of the Talent Development Council established in s. 1004.015~~.

Section 12. Paragraph (a) of subsection (3) of section 1001.02, Florida Statutes, is amended to read:

1001.02 General powers of State Board of Education.—

(3)(a) The State Board of Education shall adopt a strategic plan that specifies goals and objectives for the state's public schools and Florida College System institutions. The plan shall be formulated in conjunction with plans of the Board of Governors in order to provide for the roles of the universities and Florida College System institutions to be coordinated to best meet state needs and reflect cost-effective use of state

resources. The strategic plan must clarify the mission statements of each Florida College System institution and the system as a whole and identify degree programs, including baccalaureate degree programs, to be offered at each Florida College System institution in accordance with the objectives provided in this subsection and the coordinated 5-year plan pursuant to paragraph (2)(v). The strategic plan must cover a period of 5 years, with modification of the program lists after 2 years. Development of each 5-year plan must be coordinated with and initiated after completion of the master plan. The strategic plans must specifically include programs and procedures for responding to the educational needs of teachers and students in the public schools of this state and consider reports and recommendations of ~~the Florida Talent Development Council pursuant to s. 1004.015 and~~ the Articulation Coordinating Committee pursuant to s. 1007.01. The state board shall submit a report to the President of the Senate and the Speaker of the House of Representatives upon modification of the plan and as part of its legislative budget request.

Section 13. Paragraph (b) of subsection (5) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

(b) The Board of Governors shall develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The strategic plan must:

1. Include performance metrics and standards common for all

institutions and metrics and standards unique to institutions depending on institutional core missions, including, but not limited to, student admission requirements, retention, graduation, percentage of graduates who have attained employment, percentage of graduates enrolled in continued education, licensure passage, nondegree credential attainment, average wages of employed graduates, average cost per graduate, excess hours, student loan burden and default rates, faculty awards, total annual research expenditures, patents, licenses and royalties, intellectual property, startup companies, annual giving, endowments, and well-known, highly respected national rankings for institutional and program achievements.

2. Consider reports and recommendations of ~~the Florida Talent Development Council under s. 1004.015 and~~ the Articulation Coordinating Committee under s. 1007.01, and the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference.

3. Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.

4. Include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis. Once the criteria are available and applicable to baccalaureate degrees and graduate degrees, the Board of Governors shall adopt the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee under s. 445.004 for designating high-demand programs of emphasis. The Board of

Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.

5. Include criteria for nondegree credentials.

Section 14. Paragraph (b) of subsection (9) of section 1009.8962, Florida Statutes, is amended to read:

1009.8962 Linking Industry to Nursing Education (LINE) Fund.—

(9)

(b) Annually, by February 1, each institution awarded grant funds in the previous fiscal year shall submit a report to the Board of Governors or Department of Education, as applicable, that demonstrates the expansion as outlined in the proposal and the use of funds. At minimum, the report must include, by program level, the number of additional nursing education students enrolled; if scholarships were awarded using grant funds, the number of students who received scholarships and the average award amount~~; and the outcomes of students as reported by the Florida Talent Development Council pursuant to s. 1004.015(6)~~.

Section 15. (1) The Career and Technical Education Task Force, a task force as defined in s. 20.03(5), Florida Statutes, is created adjunct to the Department of Commerce to study the status of career and technical education in each school district within the state. Except as otherwise provided in this section, the task force shall operate in a manner consistent with s. 20.052, Florida Statutes. The department shall provide administrative and staff support relating to the functions of

the task force.

(2) The Governor, the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, the Secretary of Commerce, the Secretary of Corrections, and the Secretary of Juvenile Justice shall each appoint two members to the task force by September 1, 2024. The commissioner shall appoint the chair of the task force.

(3) The task force shall do all of the following:

(a) Compile a list of career and technical education courses offered within each school district. Such data must be broken down by industry, grade level, location, the number of students enrolled in such courses, the number of students who complete such courses, and the total number of students per district enrolled in such courses.

(b) Compile a list of career and technical education courses offered through the Department of Corrections and the Department of Juvenile Justice. Such data must be broken down by location, population, industry course offering, the number of students enrolled in each course, and the number of students who complete such courses.

(c) Identify the total funding provided for the career and technical education courses offered by school districts and analyze whether such funding is uniform across the state or if such funding varies by geography, course, or industry.

(d) Identify the total funding provided for the career and technical education courses offered by the Department of Corrections and the Department of Juvenile Justice.

(e) Compare funding and reimbursement rates and timelines for career and technical education courses to funding and

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reimbursement rates and timelines for traditional K-12 education courses.

(f) Identify any additional funding available for additional career and technical education courses, including federal funding, industry funding, or additional state funding.

(g) Identify how career and technical education courses are advertised to parents and students.

(h) Identify the needs of school districts to expand career and technical education, including what needs could be met by the Legislature.

(i) Identify the number of students who earn an industry certification through career and technical education courses who also find employment in relevant industries.

(j) Review existing postsecondary credits available for K-12 career and technical education course offerings and how this information is advertised to students and parents.

(k) Compare existing career and technical education course offerings with data from the Department of Commerce and industry leaders about in-demand careers and the state's economic needs.

(l) Provide recommendations for changes and expansions to career and technical education course offerings beginning in the 2026-2027 school year.

(m) Provide recommendations for increasing funding, eliminating barriers to expanding career and technical education offerings, and streamlining regulations.

(n) Provide recommendations for improving the marketing of career and technical education offerings to students and parents.

(4) The task force shall submit to the Governor, the

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President of the Senate, the Speaker of the House of Representatives, and the Secretary of Commerce a report of its findings by September 1, 2025. The task force shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Commerce its recommendations by January 1, 2026. This section shall expire upon submission of the recommendations.

Section 16. This act shall take effect July 1, 2024.

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The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Curtis Hierro

Phone

Address 8290 Lake Dr
Street

Email

Doral FL 33166
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:

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Fiscal Comm
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zac Cassidy Phone

Address 6106 Southard St Email
Street

WPB FL 33411
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name George C. Evans

Phone (352) 317-9426

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Street

Email codeg327@gmail.com

Gainesville FL 32609
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:

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2/21/24
Meeting Date

Fiscal Policy
Committee

SB0460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Andy Williams

Phone —

Address —
Street

Email —

Tampa FL 33578
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

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2/22/24
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matthew Crane

Phone 208-550-7597

Address 11524 Citra Cir Apt 202
Street

Email

Windermere FL 34786
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:

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2-22-2024
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Fiscal Policy
Committee

SB 0460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mark Avery

Phone

Address
Street

Email

Ocala FL 34472
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:

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Meeting Date

FISCAL POL
Committee

SB 0460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carl CHILDS

Phone 812-498-4992

Address 8662 S.W 89TH LANE
Street

Email SHIZA1002000@gmal

GAINESVILLE
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:

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Fiscal Policy
Committee

SB 0460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kimberly Hudson

Phone

Address

Email

Street
Williston 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:

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

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2/22/2024
Meeting Date

SB 0460
Bill Number or Topic

CAREER + TECHNICAL EDUCATION
Committee

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Amendment Barcode (if applicable)

Name ARTNUR FRANCO

Phone 407-600-7048

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Street

Email F150FLGUY@AOL.COM

CLERMONT FL. 34715
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilario

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:
Six Action

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

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Meeting Date

Physical Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kevin Lawhorn

Phone 904-735-9169

Address 6794 Deer Springs rd
Street

Email

Keystone heights FL 32656
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:

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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nathan Hoffman

Phone 217-503-7368

Address 215 S Monroe st
Street

Email nathan@aFloridapromise.org

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: Fdn for Florida's Future

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

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Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Theresa King

Phone 850-228-8940

Address POBox 10888 / 200 E College st
Street

Email tking@fbctc.org

Tallahassee FL 32302
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 Building And Construction Trades

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

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2/22/24	SB 460
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name Dr. Rich Templin Phone 850-224-6826

Address 135 S. Monroe Email

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 AFL-CIO

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

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The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brett Farrell

Phone 352-615-4986

Address 504 SW Burch Glen
Street

Email

Fort White FL 32038
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:

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2-22-24
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Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name James Ingle

Phone 901-483-4808

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Street

Email JWCWI@yahoo.com

Gainesville FL 32605
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

The Florida Senate

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SB 460

Bill Number or Topic

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Meeting Date

Finance

Committee

Amendment Barcode (if applicable)

Name Holly Bullard w/FL Policy Institute

Phone

Address 601 N Orange Ave

Street

Orlando FL ~~32~~ 32801

City State Zip

Email Bullard@floridapolicy.org

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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:

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2/22/24
Meeting Date

Fiscal
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laura Munoz

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:
FLSP

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. 2020-2022JointRules.pdf (flsenate.gov)

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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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2/22/24
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashton Mears

Phone 352-843-0248

Address 1319 Thomaswood Drive
Street

Email amears@fhba.com

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 Home Builders Association

☐ 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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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 0460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Leonda Narramore

Phone 863-409-2963

Address 4253 Stafford Dr.
Street

Winter Haven, FL 33880
City State Zip

Email leondanarramore@icloud.com

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:

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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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02.22.24
Meeting Date

SB 460
Bill Number or Topic

Appropriations Committee on education.
Committee

Amendment Barcode (if applicable)

Name Adam Bagby Phone

Address Email

Street

Saint Augustine, FL 32092
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:

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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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2/22/24
Meeting Date

Fiscal Policy
Committee

513 ~~40~~ 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name James Morris

Phone

Address 2890 SE 1st PL
Street

Email

Boynton Beach FL 33435
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

FISCAL POLICY
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name FRANZ DERRA

Phone

Address 4784 Arthur St.
Street

Email

PALM BEACH FL 33418
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jerame Maselli Phone

Address 1111 Keystone Dr Email
Street

Jupiter FL 33458
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:

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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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2-22-24
Meeting Date

460
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name William Soolnik Phone

Address 1732 NE 15th Ave Email
Street

Fort Lauderdale 33305
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2.22.24
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen, FL PTA

Phone 407.855 7604

Address 1747 Orlando Central Pkwy
Street

Email legislation@flpta.org

Orlando, 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:

☐ 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

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/22/24
Meeting Date

SB 460
Bill Number (if applicable)

Topic To enhance vocational and technical education

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Lobbyist

Address 311 E Park Avenue
Street

Phone 850-224-5081

Tallahassee FL 32301
City *State* *Zip*

Email jrees@smithbryanandmyers.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Transfr Inc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

22 Feb 2024
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave
Street

Email cstranburg@afphq.org

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2-22-24
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Blasdel

Phone 9418755037

Address 143 Hourglass Dr
Street

Email jennblasdel@gmail.com

Venice FL 34293
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:

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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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2/22/24
Meeting Date

Fiscal Policy
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 850 TS3 5994

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:

American Fire Sprinkler Assoc. - FL Chapter / FL Refrigeration & AC Contractors Assoc.

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S-001 (08/10/2021)

The Florida Senate

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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name KARI HEBRANK Phone 566-7824

Address 215 S. Monroe St. #500 Email Khebrank@carltonfields.com
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: National Utility Contractors Assoc of FL

☐ 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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2/22/2024
Meeting Date

Fiscal
Committee

460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 405-6844

Address PO Box 880448
Street

Email cbowen@abcfonda.com

Boca FL 33488
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:

Assoc. Builders and Contractors

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/27/2024
Meeting Date

Fiscal Policy
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lorinda Lehning

Phone 863-2213976

Address 5322 Laurel Oak Dr.
Street

Email utterlylorinda@gmail.com

Winter Haven FL 33880
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Laws
Committee

SB 460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Derwin K. Bright

Phone 813 505 0880

Address 2004 E. Seward St
Street

Email bright2762

Tampa FL 33604
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Policy
Committee

383460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brandon perez

Phone (954)336-8374

Address 3704 NW 21st Terrace
Street

Email Brandonperez1442@gmail.com

Gainesville FL 32605
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB460
Bill Number or Topic

Amendment Barcode (if applicable)

Name Justin Peacock

Phone (850) 516-6181

Address 20569 County Rd N 68
Street

Robertsdale AL 36567
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:

☐ 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

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	SB 468
INTRODUCER:	Senator Bradley
SUBJECT:	Court Interpreter Services
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Favorable**
2.	Kolich	Harkness	ACJ	**Favorable**
3.	Davis	Yeatman	FP	**Favorable**

I. Summary:

SB 468 creates an exception to the general rule that state revenues may not be provided to non-indigent people for due process services. Due process services include, but are not limited to, court reporting services, court interpreter and translation services, and expert witness services.

The bill authorizes the State Courts System to spend state revenues to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also repeals the requirement that the trial court administrator recover the cost of court interpreter services.

The bill will not have a significant fiscal impact to the State Courts System. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Current Requirements for Providing a Language Interpreter

Florida courts are required to appoint a spoken language interpreter for non-English speaking and limited-English-proficient people in certain cases in order to comply with Title VI of the Civil Rights Act of 1964. Under current law, a spoken language interpreter is appointed in criminal and juvenile delinquency cases for non-English-speaking and limited-English-proficient

people.[1] In all other cases, the court appoints an interpreter for non-English-speaking and limited-English-proficient litigants only when the court determines that:

- The litigant's inability to comprehend English deprives the litigant of an understanding of the court proceedings;
- A fundamental interest is at stake (such as in a civil commitment, termination of parental rights, paternity, or dependency proceeding); and
- No alternative to the appointment of an interpreter exists.[2]

If a judge determines that a witness cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood, an interpreter will be appointed. This standard is not limited to people who speak a language other than English, but also applies to the language and descriptions of any person, including a child or person who is mentally or developmentally disabled, who cannot be reasonably understood, or who cannot understand questioning without the aid of an interpreter.[3]

Current law, however, provides that state-funded court interpreting services may not be provided to someone unless he or she is indigent.[4] Additionally, current law requires the trial court administrator to recover state-funded court interpreting services from litigants who have the present ability to pay. The rate of compensation for interpreting services is the actual cost of the interpreting services plus the cost of the recovery. The amounts recovered are deposited into the Administrative Trust Fund with the state courts system.[5]

U.S. Department of Justice

In 2010, the U. S. Department of Justice, Civil Rights Division, (Department) issued a letter to state court chief justices and state court administrators providing clarity to state courts regarding their obligation to provide language access services to parties or witnesses with limited English proficiency. The Department noted that denying people with limited English proficiency meaningful access to the courts could place state courts in violation of civil rights requirements, particularly Title VI of the Civil Rights Act of 1964. Among the policies noted that impede compliance were:

- Limiting the types of proceedings for which qualified interpreter services are provided by the court.
- Charging interpreter costs to parties.
- Restricting language services to courtrooms.
- Failing to ensure effective communication with court-appointed or supervised personnel.[6]

[1] Fla. R. Gen. Prac. & Jud. Admin. 2.560.
[2] *Id*.
[3] Section 90.606, F.S.
[4] Section 29.0185, F.S.
[5] Section 29.0195, F.S.
[6] *Department of Justice Guidance Letter Regarding the Obligation to Provide Language Access*, (Aug. 17, 2010) https://www.justice.gov/file/1250731/download as provided in the Office of the State Courts Administrator Bill Analysis in note 7.

Representatives of the Department are monitoring Florida's activities for compliance and progress in this area.[7]

State Court Commission on Trial Court Performance and Accountability

Additionally, the state Commission on Trial Court Performance and Accountability has been evaluating the state trial courts' ability to expand interpreting services without charging court participants and without regard to their financial status. The Commission recommended an initial expansion of court interpreter services, without cost and regardless of someone's indigency status in limited areas. The Florida Supreme Court approved the report.[8]

III. Effect of Proposed Changes:

The bill amends s. 29.0185, F.S., to create an exception to the general prohibition against providing state-funded due process services to non-indigent persons. The bill authorizes the use of state revenues by the State Courts System to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also amends s. 29.0195, F.S., to repeal the requirement that the trial court administrator recover the costs of court interpreter services, which are deposited into the Administrative Trust Fund.

These changes will help bring Florida law into compliance with the Department of Justice's guidance letter regarding the obligation of state courts to provide language access services under Title VI of the Civil Rights Act of 1964.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[7] Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461.
[8] *Id*.

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 does not have a fiscal impact to the State Court System in excess of its annual appropriation. The Office of the State Courts Administrator (OSCA) estimates that there will be additional demand on full-time equivalent or contract interpreters in the judicial circuits to the extent that court interpreting services will be expanded.[9] However, the bill limits payment for these services to non-indigent individuals to the funds available in the fiscal year appropriation. In Fiscal Year 2022-2023, the trial courts were appropriated $21,663,353 in due process costs. Of these funds, $1,773,269 were reverted.

While the bill eliminates the cost-recovery provision for court interpreting services, the State Court System thus far has only collected $3,820 for court interpreting-related costs in Fiscal Year 2023-24. The bill's impact on the Administrative Trust Fund would likely be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 29.0185 and 29.0195.

[9] Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461.

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 Bradley

6-00470-24 2024468__

A bill to be entitled

An act relating to court interpreter services; amending s. 29.0185, F.S.; authorizing the state courts system to use state revenues, if available, to provide court-appointed interpreting services to nonindigent individuals; requiring such services to be provided as prescribed by the Supreme Court; amending s. 29.0195, F.S.; repealing the cost recovery requirement for court-appointed interpreting services; providing an exception for translation services; providing an effective date.

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

Section 1. Section 29.0185, Florida Statutes, is amended to read:

29.0185 Provision of state-funded due process services to individuals.—

(1) Due process services may not be provided with state revenues to an individual unless the individual on whose behalf the due process services are being provided is eligible for court-appointed counsel under s. 27.40, based upon a determination of indigency under s. 27.52, regardless of whether such counsel is appointed or the individual on whose behalf the due process services are being provided is eligible for court-appointed counsel under s. 27.40 and has been determined indigent for costs pursuant to s. 27.52.

(2) Notwithstanding subsection (1), state revenues may be used by the state courts system to provide court-appointed

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6-00470-24 2024468__

interpreting services to nonindigent individuals if funds are available in the fiscal year appropriation for due process services and if interpreting services are provided as prescribed by the Supreme Court.

Section 2. Section 29.0195, Florida Statutes, is amended to read:

29.0195 Recovery of expenditures for state-funded services.—

(1) The trial court administrator of each circuit shall recover expenditures for state-funded services when those services have been furnished to a user of the state courts ~~court~~ system who possesses the present ability to pay. The rate of compensation for such services is ~~shall be~~ the actual cost of the services, including the cost of recovery. The trial court administrator shall deposit moneys recovered under this section in the Administrative Trust Fund within the state courts system. The trial court administrator shall recover the costs of court reporter services and transcription; translations ~~court interpreter services, including translation~~; and any other service for which state funds were used to provide a product or service within the circuit.

(2) This section does not authorize cost recovery for court-appointed interpreting services, except translations, or cost recovery from entities described in ss. 29.005-29.007.

Section 3. This act shall take effect upon becoming a law.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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February 22, 2024
Meeting Date

Committee on Fiscal Policy
Committee

SB 468
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tashiba Robinson, Chief of Legislative Affairs

Phone 850-922-5692

Address Office of the State Courts Administrator, 500 S. Duval Street
Street

Email robinsont@flcourts.org

Tallahassee — *City*
FL — *State*
32399 — *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:
State Courts System

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 484
INTRODUCER:	Judiciary Committee and Senator Bradley
SUBJECT:	Flood Disclosure in the Sale of Real Property
DATE:	Feburary 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	**Fav/CS**
2.	Bond	Yeatman	FP	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 484 requires the seller of any residential real property to furnish to the buyer, at or before signing the contract for purchase of the property, a form disclosure regarding flood risks. The form notes that homeowners insurance does not cover flood damage and that the buyer should inquire about flood insurance. The form then asks if the seller is aware of damage from flooding, whether the seller has filed a flood-related claim, whether the seller has ever received federal assistance for flood damage to the property, and whether the seller has flood insurance.

The bill is effective July 1, 2024.

II. Present Situation:

Disclosure of Known Defects

As to sales of real property, Florida historically followed the legal theory of *Caveat Emptor* ("let the buyer beware"). Under this theory, the seller has no duty to disclose defects in the property and the buyer takes the property "as-is." One court stated that "there is no duty to disclose [a latent defect] when parties are dealing at arms length."[1]

The law changed in 1985 when the Florida Supreme Court ruled that "where the seller of a home knows of facts materially affecting the value of the property which are not readily observable

[1] *Banks v. Salina*, 413 So. 2d 851, 852 (Fla. 4th DCA 1982).

and are not known to the buyer, the seller is under a duty to disclose them to the buyer."[2] This duty applies even where the buyer has agreed to purchase residential property "as-is."[3]

Notably, the case law disclosure requirement only applies to facts that are not "readily observable" to the buyer. In the context of flood disclosures, the appellate courts are split as to whether a tendency to flood is readily observable. In one case, the buyers bought a home in the East Everglades area of Miami-Dade County.[4] When they viewed the home during the dry season, the home was acceptable. The sellers did not disclose that the land on which the home sat, but not the home itself, flooded annually in the rainy season, a fact the seller knew from previous experience. The flooding, according to the court, was so severe that "snakes and even alligators (two at least), have gathered at [the] property (presumably on an elevated portion) to escape the waters."[5] The court found that seasonal flooding of the neighborhood was common knowledge and information that was readily available to the buyers had they exercised "diligent attention."[6] The lawsuit against the seller was dismissed.

In another case, the buyers sued because the seller failed to disclose that the property was in the Coastal Barrier Resource Area (CBRA), and thus ineligible for flood insurance. The trial court found the information regarding the CBRA was publicly available, and dismissed the case. The appellate court, however, ruled for the buyers.[7]

The duty to disclose latent defects will generally not apply to an as-is contract for non-residential property. An appellate court stated Florida courts will continue to apply the doctrine of caveat emptor to an "as-is" contract for non-residential property unless one of the following exceptions apply:

- Where some artifice or trick has been employed to prevent the purchaser from making independent inquiry;
- Where the purchaser does not have equal opportunity to become apprised of the fact; and
- Where a party undertakes to disclose facts and fails to disclose the whole truth.[8]

Specific Disclosure Requirements

Numerous laws have created specific legal disclosure requirements for a seller that are in addition to the disclosure required by case law, including:

- Associations -- A seller of property in a condominium, cooperative, or homeowners association must make extensive specific disclosures of information related to the association.[9]
- Coastal -- A sale of a property located partially or totally seaward of the coastal construction control line requires a written disclosure statement at time of contract. Also, the seller must

[2] *Johnson v. Davis*, 480 So. 2d 625, 629 (Fla. 1985).
[3] *Rayner v. Wise Realty Co. of Tallahassee*, 504 So. 2d 1361 (Fla. 1st DCA 1987).
[4] *Nelson v. Wiggs*, 699 So. 2d 258 (Fla. 3rd DCA 1997).
[5] *Id.* at 259.
[6] *Id.* at 260.
[7] *Newbern v. Mansbach*, 777 So.2d 1044 (Fla. 1st DCA 2001).
[8] *Florida Holding 4800, LLC v. Lauderhill Mall Investment, LLC*, 317 So.3d 121, 124 (Fla. 4th DCA 2021).
[9] See, ss. 718.503 (condominiums), 719.503 (cooperatives), and 720.401 (homeowners association), F.S.

furnish the buyer with a survey or affidavit showing the line, although the buyer may waive this requirement.[10]

- Code enforcement -- If a code enforcement proceeding is pending at the time of sale, the seller must disclose it to the buyer.[11]
- Lead paint -- Federal law requires all sellers or landlords of residential real property built before 1978 to give the buyer or tenant a federally produced form disclosure. The contract or lease must allow for a 10-day inspection period.[12]
- Property tax -- The seller must disclose that a transfer of ownership may lead to an increased property tax assessment related to the Save Our Homes Amendment.[13]
- Radon gas -- A specific disclosure relating to the risks of radon gas must be made in writing in connection with the sale of any building.[14]
- Sewer lines -- The seller must disclose known defects in the property's sanitary sewer lateral line.[15]
- Sinkhole damage -- The seller of real property upon which a sinkhole claim has been made by the seller and paid by the insurer must disclose to the buyer of such property, before the closing, that a claim has been paid and whether or not the full amount of the proceeds was used to repair the sinkhole damage.[16]
- Subsurface rights -- The seller must provide a prospective purchaser of residential property with a disclosure summary if the seller or an affiliated or related entity has previously severed or retained or will sever or retain any of the subsurface rights or right of entry.[17]

---

[10] Section 161.57, F.S. The written disclosure is this statement: "The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shoreline of the property being purchased."

[11] Section 162.06(5), F.S.

[12] 24 CFR Part 35 and 40 CFR Part 745. See also United States Environmental Protection Agency, Lead-Based Paint Disclosure Rule (updated Aug. 7, 2023), https://www.epa.gov/lead/lead-based-paint-disclosure-rule-section-1018-title-x.

[13] Section 689.261, F.S. The written disclosure is this statement: "BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION."

[14] Section 404.056(5), F.S. The disclosure is this statement: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

[15] Section 689.301, F.S.

[16] Section 627.7073(2)(c), F.S.

[17] Section 689.29, F.S. The written disclosure is: "SUBSURFACE RIGHTS HAVE BEEN OR WILL BE SEVERED FROM THE TITLE TO REAL PROPERTY BY CONVEYANCE (DEED) OF THE SUBSURFACE RIGHTS FROM THE SELLER OR AN AFFILIATED OR RELATED ENTITY OR BY RESERVATION OF THE SUBSURFACE RIGHTS BY THE SELLER OR AN AFFILIATED OR RELATED ENTITY. WHEN SUBSURFACE RIGHTS ARE SEVERED FROM THE PROPERTY, THE OWNER OF THOSE RIGHTS MAY HAVE THE PERPETUAL RIGHT TO DRILL, MINE, EXPLORE, OR REMOVE ANY OF THE SUBSURFACE RESOURCES ON OR FROM THE PROPERTY EITHER DIRECTLY FROM THE SURFACE OF THE PROPERTY OR FROM A NEARBY LOCATION. SUBSURFACE RIGHTS MAY HAVE A MONETARY VALUE."

Correspondingly, statutes provide that certain disclosures are not required, including:

- That an occupant is or has been infected with HIV or AIDS.[18]
- That the property was or may have been the site of a homicide, suicide, or other death.[19]

Inability of Buyers to Access Federal Data on Flood-Prone Homes.

The Federal Emergency Management Agency (FEMA) responds to emergencies caused by natural disasters including flooding. Like all federal agencies, they keep records related to their regulatory function. One form of data held by FEMA is properties categorized as a "severe repetitive loss property." That designation covers homes that have flooded twice, with damage totaling the value of the property, or flooded four times with at least $5,000 of damage each time. There are about 45,000 of these properties in the U.S., as of the end of 2022, with about 3,100 in Florida alone, according to FEMA data. Florida added about 120 of those homes from 2021 to 2022. FEMA's policy is to share past flood history only with a property owner that holds an active flood insurance policy on a property, so prospective buyers may know the details of their property's flood history only after they've closed the deal.[20]

III. Effect of Proposed Changes:

The bill creates a form that a seller of residential property must furnish to a buyer before or at the time of contract regarding flooding. The form defines "flooding" to mean a general or temporary condition of partial or complete inundation of the property caused by any of the following:

- The overflow of inland or tidal waters;
- The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch; or
- Sustained periods of standing water resulting from rainfall.

The form informs a buyer that homeowner's insurance does not cover flood damage, and encourages the buyer to discuss flood insurance with the buyer's insurance agent. The form requires the seller to answer 4 questions:

- Is the seller aware of damage to the property caused by flooding during the time the seller has owned the property?
- Has the seller filed a flood-related insurance claim related to the property?
- Has the seller has ever received federal assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency?
- Does the seller maintain flood insurance on the property?

The bill is effective July 1, 2024.

[18] Section 689.25(1)(a), F.S.
[19] Section 689.25(1)(b), F.S.
[20] Alex Harris, *Thousands of Florida homes flood repeatedly. You're not allowed to know which ones.* MIAMI HERALD (Jan. 14, 2024), https://www.wusf.org/politics-issues/2024-01-14/thousands-of-florida-homes-flood-repeatedly-youre-not-allowed-to-know-which-ones.

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 apparent.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill imposes a minimal paperwork requirement on sellers of residential real property.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 689.302 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 by Judiciary on February 5, 2024:
The amendment significantly narrowed and simplified the bill. Specifically, by the amendment:

- The bill is limited to residential sales, instead of all sales.
- The open-ended questions requiring written answers are replaced with 4 check-box-type questions.
- In the definition of "flooding" the reference to "excessive rainfall" is changed to the more accurate "sustained periods of standing water resulting from rainfall."
- The requirements to disclose the flood zone of the property and whether the seller has a flood elevation certificate are removed.

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 Judiciary; and Senator Bradley

590-02907-24 2024484c1

A bill to be entitled

An act relating to flood disclosure in the sale of real property; creating s. 689.302, F.S.; requiring a seller of residential real property to provide specified information to a prospective purchaser at or before the sales contract is executed; specifying how such information must be disclosed; providing an effective date.

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

Section 1. Section 689.302, Florida Statutes, is created to read:

689.302 Disclosure of flood risks to prospective purchaser.—A seller must complete and provide a flood disclosure to a purchaser of residential real property at or before the time the sales contract is executed. The flood disclosure must be made in the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners' insurance policies do not include coverage for damage resulting from floods. Buyer is encouraged to discuss the need to purchase separate flood insurance coverage with Buyer's insurance agent.

(1) Seller is .... is not .... aware of damage to the property caused by flooding during Seller's ownership of the property.

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590-02907-24 2024484c1

(2) Seller has .... has not .... filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

(3) Seller has .... has not .... received federal assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

(4) Seller does .... does not .... maintain flood insurance on the property.

(5) For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

(c) Sustained periods of standing water resulting from rainfall.

Section 2. This act shall take effect October 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

484
Bill Number or Topic

Amendment Barcode (if applicable)

Name Steve Schale

Phone 850-222-8900

Address 204 South Monroe St
Street

Email steve@tapfla.com

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:
Environmental Defense Fund

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

FP
Committee

SB 484
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim Dinkins 1000 Friends of FL

Phone 850 273-5055

Address
Street

Email Kdinkins@1000fof.org

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: 1000 Friends of FL

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2.22.24
Meeting Date

FISCAL POLICY
Committee

484
Bill Number or Topic

Amendment Barcode (if applicable)

Name Trey Goldman

Phone 850-224-1400

Address 200 S Monroe St.
Street

Email treyg@floridarealtors.org

Tallahassee FL 32301
City *State* *Zip*

Reset Form

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 Realtors

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

Fiscal Policy
Committee

484
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth Alvi (Audubon Florida)

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Address 308 N. Monroe
Street

Email beth.alvi@audubon.org

Tallahassee FI 32312
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:
Audubon 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/21
Meeting Date

Fiscal
Committee

Flood Insurance
SB 0491
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kate Wesner

Phone 561.722-3659

Address 154 Cat Rock Lane
Street
Jupiter, FL 33458
City State Zip

Email kate@floodcoalition.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:
American Flood Coalition

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	SB 558
INTRODUCER:	Senator Rouson
SUBJECT:	Homeless Service Professionals
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	**Favorable**
2.	Sneed	McKnight	AHS	**Favorable**
3.	Rao	Yeatman	FP	**Favorable**

I. Summary:

SB 558 aims to address the ongoing shortage of professionals in the field of homeless services by creating a process for former homeless individuals to become certified as a "person with lived experience" to provide support services to individuals who are currently experiencing homelessness. The bill requires an individual seeking certification to complete a background screening.

The bill requires a Continuum of Care lead agency (CoC) serving the homeless to provide documentation of the homeless services an individual received from the CoC to the Department of Children and Families (DCF) when requesting a background check of the applicant.

The bill further requires the DCF to ensure an adequate background screening of an applicant. The bill makes an applicant ineligible for certification under certain circumstances.

The bill has an insignificant, indeterminate negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Homelessness

Homelessness is defined in several ways, but a person is commonly considered homeless if he or she stays in a homeless shelter, lives in transitional housing, or sleeps in a place not meant for

human habitation.[1] To receive federally funded homelessness services, a person is considered homeless if he or she:[2]

- Is living in a place not meant for human habitation, in emergency shelter, in transitional housing, or exiting an institution where they temporarily resided.[3]
- Will imminently lose a primary nighttime residence within 14 days and lacks resources or support networks to remain in permanent housing.[4]
- Is part of a family with children or an unaccompanied youth who is unstably housed and likely to continue in that state.
- Is fleeing or attempting to flee from domestic violence, has no other residence, and lacks the resources or support networks to obtain permanent housing.

Annually, the United States Department of Housing and Urban Development (HUD) releases what is known as a point-in-time snapshot (PIT) or a count of the number of individuals who experience homeless on a single night.[5] Based on the 2023 PIT, roughly 653,100 people in America experienced homelessness on a single night.[6] Sixty percent experienced sheltered homelessness (i.e., living in emergency shelter, transitional housing, or a safe haven program) whereas 40 percent were unsheltered.[7] From 2022 to 2023, the number of individuals experiencing homelessness increased by 12 percent, or roughly 70,650 additional individuals.[8] This is the highest PIT count of persons experiencing homelessness since reporting began in 2007.[9]

In a 2023 PIT count of Florida's homeless population, an estimated 30,809 individuals were experiencing homelessness, with 15,706 considered unsheltered homeless (i.e., living outside in a car, park, or another place not meant for human habitation).[10] The 2023 PIT count represents a 34 percent increase from the 11,746 individuals who were experiencing homelessness in 2022.[11] Additionally, the highest number of individuals who experienced homelessness in 2023 were persons aged 55-64, totaling 5,861.[12]

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[1] Center for Disease Control and Prevention, *About Homelessness,* available at: https://www.cdc.gov/orr/science/homelessness/about.html (last visited Jan. 3, 2024).
[2] 24 C.F.R. 578.3
[3] This includes a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; a supervised publicly or privately operated shelter designed to provide temporary living arrangement; or exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
[4] Provided that the primary nighttime residence will be lost within 14 days of the date of application for homeless assistance; no subsequent residence has been identified; and the individual lacks the resources or support networks.
[5] U.S. Department of Housing and Urban Development, *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress,* available at: (last visited Jan. 2, 2024).
[6] *Id*.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] Florida Department of Children and Families, Florida's Council on Homelessness, *2023 Annual Report,* available at: https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf (last visited Jan. 2, 2024).
[11] *Id.*
[12] *Id.*

Being homeless causes negative effects on an individual's physical and mental health.[13] Homeless individuals have higher rates of mortality, mental illness, communicable diseases, sexually transmitted diseases, and substance abuse.[14] Both federal and state services and programs provide support to homeless individuals that attempt to address the associated effects of homelessness.[15]

Federal – U.S. Department of Housing and Urban Development

In recent years, the federal government has recognized the benefit of working with individuals with lived experiences because such individuals can contribute insight from their personal experience and better inform public policy. Engaging individuals with lived experiences in policy considerations can also help policymakers better understand vulnerable populations and how to best serve them by learning and determining unintended consequences of current or proposed policy and how it can be adjusted to better benefit the public.[16]

The United States Department of Housing and Urban Development (HUD) is responsible for implementing national policies that address the nation's homelessness and housing needs.[17] HUD administers programs, such as subsidized housing for low-income families and services for individuals experiencing homelessness.[18]

HUD prioritizes working with people who have received supports and services from HUD (lived experience) to better inform policy and achieve housing justice.[19] HUD utilizes the knowledge and information provided by its customers to create effective policy and programs.[20] For example, HUD has involved persons with lived experience in developed training materials, policy, and other resources for providers who serve homeless populations.[21]

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[13] Jessica Richards, Randall Kuhn, *Unsheltered Homelessness and Health: A Literature Review*, https://doi.org/10.1016/j.focus.2022.100043 (last visited Jan. 2, 2024).
[14] *Id.*
[15] U.S. Department of Health and Human Services, *Homelessness*, available at: https://www.hhs.gov/programs/social-services/homelessness/index.html (last visited 1/02/24).
[16] U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Methods and Emerging Strategies to Engage People with Lived Experience*, available at: https://aspe.hhs.gov/sites/default/files/documents/47f62cae96710d1fa13b0f590f2d1b03/lived-experience-brief.pdf (last visited Dec. 14, 2023).
[17] U.S. Department of Housing and Urban Development, *Questions and Answers about HUD*, available at: https://www.hud.gov/about/qaintro (last visited Dec. 28, 2023).
[18] *Id.*
[19] *Id.*
[20] U.S. Department of Housing & Urban Development, *Fiscal Year 2022-2026 Strategic Plan*, available at: https://www.hud.gov/sites/dfiles/CFO/documents/FY2022-2026HUDStrategicPlan.pdf (last visited Dec. 24, 2023).
[21] U.S. Department of Housing and Urban Development, HUD Exchange, *Centering Lived Experience*, available at: https://www.hudexchange.info/programs/coc/centering-lived-experience/ (last visited Jan. 4, 2024); U.S. Department of Housing and Urban Development, HUD Exchange, *CoC Program Special NOFO Digest: Inclusion of People with Lived Experience and Expertise of Homelessness*, available at: https://www.hudexchange.info/programs/e-snaps/coc-supplemental-nofo-to-address-unsheltered-rural-homelessness/coc-program-special-nofo-digest-inclusion-of-people-with-lived-experience-and-expertise-of-homelessness/ (last visited Jan. 4, 2024).

Florida

State Office on Homelessness

The State Office on Homelessness (State Office) within the Department of Children and Families (DCF) was created in 2001 as a central point of contact within state government on homelessness.[22] Section 420.622, F.S., requires the State Office to coordinate resources and programs across all levels of government and with private providers that serve the homeless pursuant to policies set by the Council on Homelessness and available funding.[23]

The inter-agency Council on Homelessness (Council) is a 19-member council[24] required to develop policy and advise the State Office on how to reduce homelessness statewide. The Council is statutorily required to submit an annual report to the Governor, Legislature, and the DCF's Secretary that summarizes the extent of homelessness in Florida and recommendations for ending homelessness. [25]

The Council's 2023 report recognized the strong investments made during the 2023 Legislative session that increased funding for affordable housing and recommended a holistic approach to homelessness prevention by coordinating between government, nonprofits, and communities to implement comprehensive strategies to address underlying causes of homelessness.[26]

Continuums of Care

Continuums of Care (CoC) groups organize to coordinate, plan, and pursue ending homelessness in designated areas throughout Florida.[27] Section 420.621(1), F.S., requires CoCs to be composed of representatives from certain organizations, including, but not limited to:

- Nonprofit homeless providers,
- Victim services providers,

[22] Ch. 2001-98, Laws of Fla.
[23] Section 420.622(3), F.S.
[24] The individuals and agencies included in the Council of Homelessness are: the Secretary of Children and Families, or his or her designee; the Secretary of Economic Opportunity, or his or her designee, who shall advise the council on issues related to rural development; the State Surgeon General, or his or her designee; the Executive Director of Veterans' Affairs, or his or her designee; the Secretary of Corrections, or his or her designee; the Secretary of Health Care Administration, or his or her designee; the Commissioner of Education, or his or her designee; the Executive Director of CareerSource Florida, Inc., or his or her designee; one representative of the Florida Association of Counties; one representative of the Florida League of Cities; one representative of the Florida Supportive Housing Coalition; one representative of the Florida Housing Coalition; the Executive Director of the Florida Housing Finance Corporation, or his or her designee; one representative of the Florida Coalition for the Homeless; the secretary of the Department of Elder Affairs, or his or her designee; and four members appointed by the Governor.
[25] Section 420.622, F.S.
[26] The Department of Children and Families, *Florida's Council on Homelessness Annual Report,* available at: https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf (last visited Jan. 3, 2024).
[27] Section 420.621, F.S. The Office of Economic Self-Sufficiency (Office) within the Department of Children and Families employs a Continuum of Care (CoC) model to provide services for individuals experiencing homelessness. Local CoCs are organizations composed of representatives of nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, etc. The Office designates local CoC entities to serve as lead agencies for homeless services throughout Florida. The DCF, *Homelessness,* available at: https://www.myflfamilies.com/services/public-assistance/homelessness (last visited Dec. 28, 2023).

- Faith-based organizations,
- Governments,
- Businesses,
- Advocates,
- Public housing agencies,
- School districts,
- Social service providers,
- Mental health agencies,
- Hospitals,
- Universities,
- Affordable housing developers,
- Law enforcement, and
- Organizations that serve homeless and formerly homeless persons.[28]

The purpose of a CoC is to coordinate community efforts to prevent and end homelessness in a catchment area designated by the State Office. Florida's designated catchment areas must be consistent with the CoC catchment areas recognized by HUD for the purpose of awarding federal homeless assistance grant funding.[29] The State Office recognizes one CoC lead agency for each designated catchment area.[30]

The following table lists Florida's CoC lead agencies and the counties served by each.[31]

CoC Lead Agency	Counties Served
Opening Doors of NWFL	Escambia and Santa Rosa
Homelessness & Housing Alliance	Okaloosa and Walton
Doorways of Northwest Florida	Bay, Calhoun, Gulf, Holmes, Jackson, and Washington
Big Bend Continuum of Care	Franklin, Gadsen, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla
United Way of Suwannee Valley	Columbia, Hamilton, Lafayette, and Suwannee
United Way of North Central Florida	Alachua, Bradford, Gilchrist, Levy, and Putnam
Changing Homelessness	Clay, Duval, and Nassau
Volusia/Flagler Coalition for the Homeless	Flagler and Volusia
Flagler Hospital – St. Augustine	St. Johns
Ocala/Marion Joint Office on Homelessness	Marion
Mid Florida Homeless Coalition	Citrus, Hernando, Lake, and Sumter
Coalition for the Homeless of Pasco County	Pasco

[28] Section 420.621(1), F.S.
[29] Section 420.6225(3), F.S.
[30] Section 420.6225(4), F.S.
[31] Florida Department of Children and Families, *Continuums of Care and Local Providers of Service*, available at: https://www.myflfamilies.com/continuums-care-and-local-providers-service (last visited Jan. 6, 2024).

CoC Lead Agency	Counties Served
Homeless Services Network of Central Florida	Orange, Osceola, and Seminole
Tampa Hillsborough Homeless Initiative	Hillsborough
Homeless Coalition of Polk County	Polk
Brevard Homeless Coalition	Brevard
Treasure Coast Homeless Services Council	Indian River, Martin, and St Lucie
Heartland Coalition for the Homeless	DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee
Big Bend Continuum of Care	Marion
United Way of North Central Florida	Pasco
Gulf Coast Partnership	Charlotte
Lee County Human & Veteran Services	Lee
Hunter & Homeless Coalition of Collier County	Collier
Palm Beach County Human & Veteran Services	Palm Beach
Broward Homeless Initiative Partnership	Broward
Monroe County Homeless Services Continuum of Care	Monroe
Miami-Dade County Homeless Trust	Miami-Dade
Manatee-Sarasota Suncoast Partnership	Manatee and Sarasota

Each CoC must create a continuum of care plan to implement an effective and efficient housing crisis response system to prevent and end homelessness in its designated catchment area. A continuum of care plan must include all of the following: [32]

- Outreach to unsheltered individuals and families to link them with appropriate housing interventions.
- A coordinated entry system that is compliant with federal requirements and is designed to coordinate intake, utilize common assessment tools, prioritize households for housing interventions, and refer households to the appropriate housing intervention.
- Emergency shelter, designed to provide safe temporary shelter while the household is in the process of obtaining permanent housing.
- Supportive services, designed to maximize housing stability once the household is in permanent housing.
- Permanent supportive housing, designed to provide long-term affordable housing and support services to persons with disabilities who are moving out of homelessness.
- Rapid ReHousing, as specified in s. 420.6265, F.S.
- Permanent housing, including links to affordable housing, subsidized housing, long-term rental assistance, housing vouchers, and mainstream private sector housing.
- An ongoing planning mechanism to end homelessness for all subpopulations of persons experiencing homelessness.

[32] Section 420.6225(5), F.S.

The CoCs receive state and federal funding through the DCF. State funding is authorized for challenge grants[33] and staffing grants through the General Appropriations Act. Staffing grant funds are disseminated evenly among the CoCs to assist with their operating and staffing costs and to help build capacity to coordinate care, carry out continuum planning and develop local and federal funding opportunities to end homelessness.

There are two main federal programs which distribute federal homelessness grant funding: the Emergency Solutions Grants (ESG) program and the Continuum of Care (CoC) program. The ESG program distributes grant funds primarily for emergency sheltering of the homeless. The CoC program distributes grant funds to assist with the longer-term housing and service needs of the homeless.

Background Screening and Disqualifying Offenses for Employment

Florida law requires background screening of certain prospective employees to ensure the protection of vulnerable persons.[34] Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a background screening to his or her employer.[35]

Chapter 435, F.S., outlines the required background screening requirements. There are two levels of background screening that may be required by law:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website.[36] It may also include criminal records checks through local law enforcement agencies.
- Level 2 background screening includes, at a minimum, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation. It may also include local criminal records checks through local law enforcement agencies.[37]

For both screening levels, an employer must submit the necessary screening information to the FDLE within five working days after receiving it.[38] The FDLE then performs a state and federal criminal history record check for any disqualifying offenses.[39] If an individual has a disqualifying offense, he or she is disqualified from employment unless an exemption is received.

[33] Section 420.624 (6), F.S.
[34] Chapter 435, F.S.
[35] Section 435.05(1)(a), F.S.
[36] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. See U.S. Department of Justice, Dru Sjodin, National Sex Offender Public Website, available at: https://www.nsopw.gov/ (last visited on Jan. 6, 2024).
[37] Section 435.04, F.S.
[38] Section 435.05(1)(b)-(c), F.S.
[39] *Id.*

The screening employer[40] ensures that the applicant has good moral character by reviewing the completed background screening and checking for disqualifying offenses. An applicant is disqualified from employment if he or she has been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses under Florida law, or similar law of another jurisdiction:[41]

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in s. 435.04(2), F.S.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.

[40] Section 435.02(3), F.S., defines employer as any person or entity required by law to conduct screenings of employees pursuant to Ch. 435, F.S.
[41] Section 435.04(2), F.S.

- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

Exemption from Disqualification

If an individual is disqualified due to one or more of the disqualifying offenses listed above, s. 435.07, F.S., allows the DCF to exempt the applicant from an employment disqualification under certain circumstances:[42]

[42] Section 435.07(1), F.S.

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or
- The applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows an individual to be employed despite the disqualifying offense. However, an individual who is considered a sexual predator,[43] career offender,[44] or registered sexual offender[45] cannot be exempted from a disqualification.[46]

III. Effect of Proposed Changes:

Section 1 amends s. 420.621, F.S., to define a "person with lived experience" to conform with changes made by the bill that creates a process for an individual who has experienced homelessness to seek certification as a person with lived experience and provide support to individuals currently experiencing homelessness.

Section 2 creates s. 420.6241, F.S., to allow a former homeless individual to seek certification as a person with lived experience and provide homeless services to an individual currently experiencing homelessness.

The bill makes legislative findings that persons who have experienced homelessness can provide effective support services to a person currently experiencing homelessness because of their shared experiences. Currently, such persons may be prevented from providing services because of their criminal history.

The bill allows a former homeless individual to seek certification as a person with lived experience if that person received homeless services from a Continuum of Care lead agency (CoC). The bill requires the CoC that served the individual to include documentation to the Department of Children and Families (DCF) of the homeless services provided to the individual when requesting a background check of the applicant.

The bill creates background screening requirements for applicant's seeking certification and requires the DCF to ensure an applicant's background screening follows these requirements. Specifically, the background screening must ensure the applicant has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for:

- Any felony during the previous 3 years.
- Any offense prohibited under any of the following laws of Florida or similar laws of another jurisdiction:

[43] Section 775.21, F.S
[44] Section 775.261, F.S.
[45] Section 943.0435, F.S.
[46] Section 435.07(4)(b), F.S.

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, F.S., relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, F.S., relating to abuse, neglect, or exploitation of vulnerable adults.
- Any offense that constitutes domestic violence as defined in s. 741.28.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Section 794.08, F.S., relating to female genital mutilation.
- Section 796.07, F.S., relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s.943.0583.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary, if the offense was a felony of the first degree.
- Section 810.14, F.S., relating to voyeurism, if the offense was a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense was a felony.
- Section 812.13, F.S., relating to robbery.
- Section 812.131, F.S., relating to robbery by sudden snatching.

- Section 812.133, F.S., relating to carjacking.
- Section 812.135, F.S., relating to home-invasion robbery.
- Section 817.034, F.S., relating to communications fraud, if the offense was a felony of the first degree.
- Section 817.234, F.S., relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
- Section 817.50, F.S., relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, F.S., relating to patient brokering.
- Section 817.568, F.S., relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.
- Section 825.103, F.S., relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 831.30, F.S., relating to fraud in obtaining medicinal drugs.
- Section 831.31, F.S., relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates of correctional institutions.
- Chapter 847, F.S., relating to obscenity.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.
- Section 895.03, F.S., relating to racketeering and collection of unlawful debts.
- Section 896.101, F.S., relating to the Florida Money Laundering Act.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate, resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional institution.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to introduction of contraband into a detention facility.

The bill allows an applicant that is disqualified due to any of the listed offenses above to apply to the DCF for an exemption pursuant to s. 435.07, F.S. The bill requires the DCF to accept or reject the exemption within 90 days after receiving the application.

Section 3 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an insignificant negative fiscal impact on state government due to the potential increase in background screenings being conducted, and exemptions from disqualifications requested. The cost of the background screenings can be absorbed by the Continuum of Care lead agency and the Department of Children and Families.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 420. 621 of the Florida Statutes.

This bill creates section 420.6241 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 Rouson

16-00522-24 2024558__

A bill to be entitled

An act relating to homeless service professionals; amending s. 420.621, F.S.; defining the term "person with lived experience"; creating s. 420.6241, F.S.; providing legislative findings and intent; providing qualifications for certification as a person with lived experience; requiring the Department of Children and Families to conduct background screening; specifying disqualifying offenses for a person applying for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department; providing an effective date.

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

Section 1. Present subsection (6) of section 420.621, Florida Statutes, is redesignated as subsection (7), and a new subsection (6) is added to that section, to read:

420.621 Definitions.—As used in ss. 420.621-420.628, the term:

(6) "Person with lived experience" means any person with current or past experience of homelessness as defined in 24 C.F.R. s. 578.3, including individuals who have accessed or sought homeless services while fleeing domestic violence.

Section 2. Section 420.6241, Florida Statutes, is created to read:

420.6241 Person with lived experience.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that the

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

16-00522-24 2024558__

ability to provide adequate homeless services is limited due to a shortage of professionals and paraprofessionals in the field. Persons with the lived experience of homelessness are qualified to provide effective support services because they share common life experiences with the people they assist. A person with lived experience may have a criminal history that prevents him or her from meeting background screening requirements.

(2) QUALIFICATIONS.—A person may seek certification as a person with lived experience if he or she has received homeless services. A Continuum of Care lead agency serving the homeless will include documentation of the homeless services received when requesting a background check of the applicant.

(3) DUTIES OF THE DEPARTMENT.—The department shall ensure that an applicant's background screening required for achieving certification is conducted as provided in subsection (4).

(4) BACKGROUND SCREENING.—

(a) The background screening conducted under this subsection must ensure that the qualified applicant, during the previous 3 years, has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony.

(b) The background screening conducted under this subsection must ensure that the qualified applicant has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense

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

prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.

13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.

25. Chapter 800, relating to lewdness and indecent exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense was a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense was a felony.

29. Section 810.145, relating to video voyeurism, if the offense was a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.

35. Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.

36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and

control, if the offense was a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate, resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

(5) EXEMPTION REQUESTS.—An applicant who desires to become a certified person with lived experience but is disqualified under subsection (4) may apply to the department for an exemption from disqualification pursuant to s. 435.07, as applicable. The department shall accept or reject an application for exemption within 90 days after receiving the application.

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

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2-22-24
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD
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558
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bryan Cherry Phone (850) 544-5673

Address 110 E. College Ave. STE 10 Email bryan@pinpointresults
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:
FL. Coalition to End Homelessness

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 592
INTRODUCER:	Fiscal Policy Committee; Governmental Oversight and Accountability Committee and Senator Burgess
SUBJECT:	Historical Preservation Programs
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVaney	GO	**Fav/CS**
2.	Wells	Jerrett	ATD	**Favorable**
3.	Limones-Borja	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 592 creates a partnership between the Department of State (DOS) and the Florida African American Heritage Preservation Network (FAAHPN). Subject to legislative funding, the DOS and the FAAHPN will preserve Florida's black and African-American history by supporting museums, galleries, and archives, and by providing technology, training, and other technical assistance. The bill requires the FAAHPN to submit a list of member museums to the DOS. The DOS must then independently verify that such museums are members of the FAAHPN. This is for purposes of providing funding to support the museums. Additional eligible expenditures, such as internships and living history presentations, will be determined jointly by the DOS and the FAAHPN.

The bill takes effect July 1, 2024.

II. Present Situation:

Florida African American Heritage Preservation Network

The Florida African American Heritage Preservation Network (FAAHPN) is a professional association organized in 2001 by the John Gilmore Riley Center Museum. The FAAHPN serves as an informational and technical assistance resource in response to a growing interest in

preserving Florida's African American culture, that of the African Diaspora and that of other related ethnically diverse historic resources globally.[1] The FAAHPN provides the following:

- Technical assistance to museum and historic preservation professionals;
- Content development and management;
- Enhancement of organizational resource allocation;
- Professional development for staff, board members, and volunteers;
- Information technology upgrades through hardware and software integration;
- Grant, fundraising and private-funding development training;
- Archival research and digitization;
- Consultation for obtaining historic designation; and
- Creation of living history exhibits and educational products.[2]

The following is the history of state funds requested by the Network by fiscal year. The state funds actually appropriated to the Network are reflected in the final row:

Spending Category	Description	2020-2021[3]	2021-2022[4]	2022-2023[5]	2023-2024[6]
Executive Director Salary and Benefits	Contract fees to oversee and provide ongoing administrative and technical assistance to network museums.	$73, 000	$58, 200	$116, 400	$116, 400
Expense/ Equipment/Travel/ Supplies/ Other	Office needs, network field meeting costs for workshops, and on-site technical assistance.	$7,250	$5,400	$10,000	$10,000
Consultants/ Contracted Services/Study	Technicians, specific subject/skill consultants	$57,750	$28,800	$26,000	$56,000
Salary and Benefits for others	Network interns; stipends paid and expense	$95,150	$72,800	$142,600	$145,600

[1] The Blanchard House Museum, *The Network*, http://www.blanchardhousemuseum.org/network.html (last visited Jan. 16, 2024).
[2] The Florida African American Heritage Preservation Network, *About FAAHPN*, http://faahpn.com/about-faahpn/ (last visited Jan. 17, 2024).
[3] The Florida Senate, *Local Funding Initiative Request Fiscal Year 2020-2021*, https://flsenate.gov/PublishedContent/Session/FiscalYear/FY2020-21/LocalFundingInitiativeRequests/FY2020-21_S1360.PDF (last visited Jan. 17, 2024).
[4] The Florida Senate, *Local Funding Initiative Request Fiscal Year 2021-2022*, https://flsenate.gov/PublishedContent/Session/FiscalYear/FY2021-22/LocalFundingInitiativeRequests/FY2021-22_S1553.PDF (last visited Jan. 17, 2024).
[5] The Florida Senate, *Local Funding Initiative Request Fiscal Year 2022-2023*, https://flsenate.gov/PublishedContent/Session/FiscalYear/FY2022-23/LocalFundingInitiativeRequests/FY2022-23_S1931.PDF (last visited Jan. 17, 2024).
[6] The Florida Senate, *Local Funding Initiative Request Fiscal Year 2023-2024*, https://flsenate.gov/PublishedContent/Session/FiscalYear/FY2023-24/LocalFundingInitiativeRequests/FY2023-24_S1790.PDF (last visited Jan. 17, 2024).

Spending Category	Description	2020-2021[3]	2021-2022[4]	2022-2023[5]	2023-2024[6]
	allowances to regular docents and volunteer FAAHPN Museum Directors.				
Expense/Equipment /Travel/Supplies/ Other	Grants; exhibits/ tech/events/ collections; additional $25,000 increase to fulfill requests for the installation of state historic markers at eligible museum locations and increase in fund allowances resulting from two new network museums.	$254,850	$207,200	$400,000	$414,400
Consultants/ Contracted Services/Study	Research; public relations; communications; and marketing	$12,000	$27,600	$25,000	$57,600
Total State Funds Requested		$500,000	$400,000	$720,000	$800,000
Total State Funds Received		$325,000	$720,000	$800,000	$800,000

Florida Historical Resources Act

Chapter 267, F.S., is referred to as the "Florida Historical Resources Act."[7] This chapter gives the Division of Historical Resources authority to adopt rules to implement the duties provided for in ch. 267, F.S.[8] The chapter establishes programs and policies to encourage preservation of historic resources for the public benefit. Major goals of Florida's historic preservation program are to identify, register, protect, and preserve significant historical resources which belong to the public.[9]

Division of Historical Resources

The Department of State's (DOS) Division of Historical Resources (Division) is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs. The Division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.[10]

[7] Section 267.011, F.S.
[8] Section 267.031, F.S.
[9] Department of State, Florida Division of Historical Resources, *Laws*, https://dos.fl.gov/historical/archaeology/underwater/laws/#:~:text=Florida%20Historical%20Resources%20Act,land%20and%20in%20the%20water (last visited Jan. 14, 2024).
[10] Florida Department of State, Florida Division of Historical Resources, *About*, https://dos.myflorida.com/historical/about/ (last visited Jan. 14, 2024).

The Division is comprised of the following Bureaus:
- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.[11]

Department of State

The DOS, created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Arts and Culture, and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor, and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian of state records.[12] The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.[13]

III. Effect of Proposed Changes:

Section 1 creates a partnership between the DOS and the FAAHPN. Subject to legislative funding, the DOS and the FAAHPN will preserve the history, culture, and contributions of Florida's black and African-American residents. The preservation efforts must include, but are not limited to the following:
- Providing funding to support member museums and affiliates and the institutions served;
- Supporting galleries and archives;
- Providing funding in the following areas:
  - Technology;
  - Equipment acquisition; and
  - Content and exhibit development, fabrication, and installation;
- Preserving documents and artifacts;
- Providing processional and resource development services such as conferences and workshops; and
- Providing funding for training and technical assistance.

The section requires the FAAHPN to submit a list of member museums to the DOS. The DOS must then independently verify that such museums are members of the FAAHPN. This is for purposes of providing funding to support the museums.

The DOS and the FAAHPN will determine other eligible expenditure's related to the goal and mission of the partnership.

Section 2 provides that the bill will take effect on July 1, 2024.

[11] *Id.*
[12] Section 20.10(1), F.S.
[13] Section 15.01(1), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

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. The bill directs the Department of State to contract with the FAAHPN if funds are appropriated for that purpose. However, it should be noted that the Legislature, when making the appropriation, may direct the expenditure differently than described in this bill.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures because no funds are appropriated in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If the intent of this bill is to establish "an appropriation that is specifically authorized by statute," the language in the bill ("subject to the appropriation of funds by the Legislature…") may be deficient. The State Constitution provides "no money shall be drawn from the treasury except in pursuance of appropriation made by law."[14] Section 216.011(1)(c), F.S., defines "appropriation" to mean "a legal authorization to make expenditures for specific purposes within the amounts authorized by law." Thus, an appropriation is the legal authority granted by the legislature to draw money from the treasury.

In its simplest form, the bill requires the Department of State to contract with the Florida African American Heritage Preservation Network to conduct certain tasks *if* the department is appropriated funds for this purpose. This language recognizes that the Legislature must take another legislative action to authorize the drawing for funds, which could be done without the authority granted in this bill. The language of the bill is akin to proviso that would typically attach to a legislative appropriation included in the General Appropriations Act.

VIII. Statutes Affected:

This bill creates section 267.0724 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 Fiscal Policy on February 22, 2024:
The committee substitute requires the FAAHPN to submit a list of member museums to the DOS. The DOS must then independently verify that such museums are members of the FAAHPN. This is for purposes of providing funding to support the museums.

CS by Governmental Oversight and Accountability on January 22, 2024:
The committee substitute clarifies that the term "department" on line 18 is referring to the Department of State.

B. Amendments:

None.

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

[14] Art. VII, s. 1(1)(c), State Constitution.

613796

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete lines 30 - 32
and insert:
training and technical assistance. The Florida African American Heritage Preservation Network shall submit a list of member museums to the department, and the department shall independently verify that such museums are members of the Florida African American Heritage Preservation Network. The department and the

613796

11
12 ================ T I T L E A M E N D M E N T ================
13 And the title is amended as follows:
14 Delete line 7
15 and insert:
16 through the partnership; requiring the network to
17 submit a list of member museums to the department;
18 requiring the department to independently verify that
19 such museums are members of the network; requiring the
20 department and

By the Committee on Governmental Oversight and Accountability; and Senator Burgess

585-02364-24 2024592c1

A bill to be entitled

An act relating to historical preservation programs; creating s. 267.0724, F.S.; requiring the Department of State to partner with the Florida African American Heritage Preservation Network for a specified purpose; specifying preservation efforts that may be undertaken through the partnership; requiring the department and the network to determine other eligible expenditures necessary to further the partnership's mission and goals; providing an effective date.

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

Section 1. Section 267.0724, Florida Statutes, is created to read:

267.0724 Florida African American Heritage Preservation Network.—Subject to the appropriation of funds by the Legislature, the Department of State shall, in accordance with s. 267.071, partner with the Florida African American Heritage Preservation Network to preserve the history, culture, and contributions of Florida's black and African-American residents. Such preservation efforts must include, but are not limited to, providing funding to support member museums and affiliates and institutions served; supporting galleries and archives; providing funding in the areas of technology, equipment acquisition, content and exhibit development, fabrication, and installation; preserving documents and artifacts; providing professional and resource development services, including conducting conferences and workshops; and providing funding for

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Florida Senate - 2024 CS for SB 592

585-02364-24 2024592c1

training, tourism, and marketing to promote visitation to and viewership of Florida's black and African-American history museums, places, and other spaces. The department and the Florida African American Heritage Preservation Network shall determine other eligible expenditures related to the partnership's stated mission and goals, which may include providing funding for an internship, field training sessions, virtual communication methods to maintain connectivity among the museums, traveling exhibits, and living history presentations.

Section 2. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

Fiscal/Senate
Committee

CS/SB 592
Bill Number or Topic

Amendment Barcode (if applicable)

Name Althemese BARNES

Phone 850.766.4266

Address 419 E. Jefferson
Street

Email abarnes3619@gmail.com

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:

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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 638
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Grall
SUBJECT:	Lethality Assessments
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Fav/CS**
3.	Wyant	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 638 amends s. 741.29, F.S., to require law enforcement officers who investigate an alleged incident of domestic violence to administer a lethality assessment if the allegation is against an intimate partner, regardless of whether an arrest is made.

The Department of Law Enforcement (FDLE) must consult with the Department of Children and Families (DCF) and at least one domestic violence advocacy organization, and may consult with the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Partnership to End Domestic Violence to develop policies, procedures, and training necessary for implementation of a statewide evidence-based lethality assessment. Such policies, procedures, and training must establish how to determine whether a victim and aggressor are intimate partners and establish a statewide process for referring a victim to a certified domestic violence center.

The bill requires the FDLE to monitor evidence-based standards relating to administering a lethality assessment or the lethality assessment form and report to the President of the Senate and the Speaker of the House of Representatives under certain circumstances.

The bill requires the Criminal Justice Standards and Training Commission to require by rule that all law enforcement receive instruction on the policies and procedures for administering a lethality assessment through basic training or as part of the required instruction for continued

employment. A law enforcement officer may not administer a lethality assessment to a victim if the officer has not received training. Law enforcement officers must be trained by October 1, 2026. An officer's employing agency must place the officer's certification on inactive status which remains until the officer completes the training.

The bill provides that the FDLE must adopt a statewide lethality assessment form that includes a series of specified questions. The approved form and training on how to administer the assessment must be accessible to a law enforcement officer in an online format.

The bill requires a law enforcement officer to advise the victim of the results of the assessment and refer the victim to the nearest locally certified domestic violence center if the victim's responses meet the criteria for referral.

If a victim does not, or is unable to, provide information to a law enforcement officer sufficient to allow the officer to administer a lethality assessment, the officer must document the lack of an assessment in the written police report and refer the victim to the nearest locally certified domestic violence center. An officer may not include in a probable cause statement, written police report, or incident report the domestic violence center to which a victim was referred.

The bill requires a notation of the score of a lethality assessment, if administered, to be included in a written police report, given to the officer's supervisor, and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled.

The bill may have a negative workload impact on the FDLE. See Section V., Fiscal Impact Statement.

The bill is effective on July 1, 2024.

II. Present Situation:

Domestic violence is any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.[1]

Domestic Violence in Florida

In 2020, 106,615 crimes of domestic violence were reported to Florida law enforcement agencies, resulting in 63,217 arrests.[2] Of those 106,615 reported domestic violence offenses, the relationship of the victims to the offenders varied, including:

[1] Section 741.28, F.S.; "Family or household member," means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

[2] Florida Department of Law Enforcement, *Crime in Florida: Florida Uniform Crime Report*, available at: https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence (Last accessed February 23, 2024).

- 20,735 were spousal;[3]
- 29,663 were co-habitants;[4] and
- 20,142 were other.[5]

Domestic Violence Training

Section 943.171, F.S., requires basic skills training in handling domestic violence cases. Every basic skills course required in order for law enforcement officers to obtain initial certification shall include a minimum of six hours of training in handling domestic violence cases and training must include the recognition and determination of the primary aggressor in domestic violence cases and the issues involved in child-to-parent cases.

Domestic Violence Investigations

Section 741.29, F.S., provides domestic violence investigations require an officer who investigates an alleged incident of domestic violence to:

- Assist the victim to obtain medical treatment if such is required;[6]
- Advise the victim that there is a domestic violence center from which the victim may receive services;[7]
- Give the victim immediate notice of the legal rights and remedies available;[8]
- Make a written report, whether or not an arrest is made, that is complete and clearly indicates the alleged offense was an incident of domestic violence. The report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled.[9] Such report must include:
  - A description of physical injuries observed, if any.
  - If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer must include the grounds for not arresting anyone or for arresting two or more parties.
  - A statement which indicates that a copy of the legal rights and remedies notice was given to the victim;
- Obtain a written statement from the victim and witnesses concerning the alleged domestic violence when possible; and

[3] Florida Department of Law Enforcement, *Domestic Violence, Victim to Offender Relationships*, available at: https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/Domestic-Violence-Relationships-Chart.aspx (Last accessed February 23, 2024). Spouse means the victim and offender are married by law or have been previously married. This category included ex-spouses.
[4] *Id.* Co-Habitant means the victim lived with the offender as a married couple without legal marriage. This category includes former co-habitants.
[5] *Id.* Other means the victim and offender had a child together but were never married and never lived together.
[6] Section 741.29 (1), F.S.
[7] Section 741.29 (1), F.S.
[8] Section 741.29 (1), F.S. The Legal Rights and Remedies Notice to Victims must include a general summary of s. 741.30, F.S., the resource listing and phone number for the area domestic violence center, and a copy of the following statement: "If you are a victim of domestic violence, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of minor children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.
[9] Section 741.29 (2), F.S.

- Make an arrest whenever the officer determines probable cause that an act of domestic violence has been committed.[10, 11]

When complaints are received from two or more parties, the officers must evaluate each complaint separately to determine whether there is probable cause for arrest. If the officer has probable cause to believe that two or more persons have committed a crime, or two or more persons make complaints, the officer must attempt to determine who was the primary aggressor.[12] Section 943.171, F.S., requires the training in handling domestic violence cases to include the recognition and determination of the primary aggressor. Arrest is the preferred response only for the primary aggressor and not the preferred response for a person who acts in a reasonable manner to protect or defend oneself or another family or household member.[13]

A law enforcement officer may not be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.[14]

The use of lethality assessments in incidents of Domestic Violence

Effective July 1, 2023, Utah implemented a bill requiring police to perform a lethality assessment for domestic violence calls. Since the law went into effect in Utah, the Director of Public Policy at the Utah Domestic Violence Coalition reported that victim resource providers have seen 80 percent more people statewide reaching out for help.[15]

Maryland is another state that has implemented lethality assessments as a statewide approach. Maryland Network Against Domestic Violence (MNADV) created and implemented the Lethality Assessment Program Maryland Model in 2005.[16] The program was created based on the research conducted and supported by a grant from the National Institute of Justice. The program was developed as a way for first responders to identify victims of intimate partner violence who are at the greatest risk of being killed. The program has been adopted in 31 additional states since the initial implementation in Maryland. Researchers found that although the program did not appear to have a significant effect on reducing the frequency of intimate

[10] Section 741.29(3), F.S.
[11] Section 901.15(7), F.S., provides that a law enforcement officer may arrest a person without a warrant when there is probable cause to believe that the person has committed an act of domestic violence. The decision to arrest does not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas.
[12] Section 741.29(4)(a), F.S.
[13] Section 741.29.(4)(b), F.S.
[14] Section 741.29(5), F.S.
[15] *See* KSL News Radio, *Utah domestic violence victim advocates call for funding amid a surge of demand*, Adam Small, November 7, 2023, available at: https://kslnewsradio.com/2056767/utah-domestic-violence-victim-advocates-call-for-funding/ (Last accessed February 23, 2024).
[16] *See* Maryland Network Against Domestic Violence, *Lethality Assessment Program*. Available at: https://www.mnadv.org/lethality-assessment-program/lap-program-overview-2/ (Last accessed February 23, 2024).

partner violence, at follow-up, it appeared to significantly reduce the severity and frequency of the violence that survivors experience and increased help seeking and safety planning.[17]

Overall, the evaluation concluded that although additional research is needed on the Lethality Assessment Program, it shows promise as an evidence-informed intervention that increases survivors' safety and empowers them to make self-care decisions.[18]

There is no current law in Florida pertaining to the administration of a lethality assessment.

III. Effect of Proposed Changes:

The bill amends s. 741.29, F.S., to require law enforcement officers who investigate an alleged incident of domestic violence to administer a lethality assessment if the allegation is against an intimate partner, regardless of whether an arrest is made.

The FDLE must consult with the DCF and at least one domestic violence advocacy organization, and may consult with the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Partnership to End Domestic Violence to develop the policies, procedures, and training necessary for implementation of a statewide evidence-based lethality assessment. Such policies, procedures, and training must establish how to determine whether a victim and aggressor are intimate partners and establish a statewide process for referring a victim to a certified domestic violence center.

The bill requires the FDLE to monitor evidence-based standards relating to administering a lethality assessment or the lethality assessment form and report to the President of the Senate and the Speaker of the House of Representatives under certain circumstances. The report must include the current policies and procedures for administering a lethality assessment, any proposed statutory changes necessary for statewide implementation, and any proposed changes to the lethality assessment or the lethality assessment form to maintain compliance with evidence-based standards.

The bill requires the Criminal Justice Standards and Training Commission to require by rule that all law enforcement receive instruction on the policies and procedures for administering a lethality assessment through basic training or as part of the required instruction for continued employment. A law enforcement officer may not administer a lethality assessment to a victim if the officer has not received training. Law enforcement officers must be trained by October 1, 2026. An officer's employing agency must place the officer's certification on inactive status which remains until the officer completes the training.

[17] See National Institute of Justice, *How Effective are Lethality Assessment Programs for Addressing Intimate Partner Violence?*, available at: https://nij.ojp.gov/topics/articles/how-effective-are-lethality-assessment-programs-addressing-intimate-partner (Last accessed February 23, 2024).
[18] Inter-University Consortium for Political and Social Research, *Police Departments' Use of Lethality Assessments: An Experimental Evaluation*, Messing, Jill, Campbell, Jacquelyn, Wilson, Janet, Brown, Sheryll, and Patchell, Beverly, January 13, 2016, available at, https://doi.org/10.3886/ICPSR34975.v1 (Last accessed February 23, 2024).

By January 1, 2025, the FDLE must adopt a statewide lethality assessment form that includes specified questions. The form and training on how to administer the assessment must be accessible to a law enforcement officer in an online format.

To administer a lethality assessment, a law enforcement officer must ask the following questions in the same or similar wording and in the same order:

- Did the aggressor ever use a weapon against you or threaten you with a weapon?
- Did the aggressor ever threaten to kill you or your children?
- Do you believe the aggressor will try to kill you?
- Has the aggressor ever choked you or attempted to choke you?
- Does the aggressor have a gun or could the aggressor easily obtain a gun?
- Is the aggressor violently or constantly jealous, or does the aggressor control most of your daily activities?
- Did you leave or separate from the aggressor after you were living together or married?
- Is the aggressor unemployed?
- To the best of your knowledge, has the aggressor ever attempted suicide?
- Do you have a child whom the aggressor believes is not the aggressor's biological child?
- Has the aggressor ever followed, spied on, or left threatening messages for you?
- Is there anything else that worries you about your safety and, if so, what worries you?

The bill requires a law enforcement officer to advise the victim of the results of the assessment and refer the victim to the nearest locally certified domestic violence center if:

- The victim answers affirmatively to any of the first four questions;
- The victim answers negatively to the first four questions but affirmatively to at least four of questions 5 through 11; or
- As a result of the victim's response to question 12, the law enforcement officer believes the victim is in a potentially lethal situation.

If a victim does not, or is unable to, provide information to the officer sufficient to allow the officer to administer a lethality assessment, the bill requires the law enforcement officer to document the lack of a lethality assessment in the written police report and refer the victim to the nearest locally certified domestic violence center. The bill specifies a law enforcement officer may not include in a probable cause statement, written police report, or incident report the domestic violence center to which the victim was referred.

The bill requires a notation of the score of a lethality assessment, if administered, to be included in a written police report, given to the officer's supervisor, and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled.

The bill provides technical changes and reenacts s. 39.06, F.S.

The bill provides an effective date July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may increase the workload for the FDLE. The FDLE requested an Education and Training Specialist position totaling $91,816 to address the estimated workload associated with developing the online training portion.[19] As of December 2023, the FDLE had 2 vacant Education and Training Specialist positions that could be filled to address this workload. The department also cites a $45,000 technology cost to develop the training associated with the lethality assessment form and complete programming changes to the Automated Training Management System (ATMS), which could be absorbed within existing resources.

[19] *See* FDLE, 2024 FDLE Legislative Bill Analysis SB 638, December 6, 2023 (on file with the Senate committee on Criminal Justice).

VI. Technical Deficiencies:

Due to ongoing efforts to combat domestic violence, the specific questions used in a lethality assessment may change. Listing specific questions may limit law enforcement's ability to update the lethality assessment as necessary if evidence-based standards change.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 741.29 of the Florida Statutes.

This bill reenacts section 39.906 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/CS by Fiscal Policy on February 22, 2024:
The committee substitute:

- Removes the annual reporting requirement to the Legislature.
- Requires the department to monitor evidence-based standards relating to lethality assessments and report any changes in evidence-based standards to the Legislature.
- Requires the Criminal Justice Standards and Training Commission to require by rule that all law enforcement officers receive this training as a part of basic recruit training or as part of the required instruction for continued employment.
- Requires an officer's employing agency to place an officer's certification on inactive status if the officer fails to complete training which remains inactive until completed and the employing agency notifies the commission.

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 8, 2024:
The committee substitute:

- Provides that the FDLE may consult with the Florida Sheriff's Association, the Florida Police Chiefs Association, and the Florida Partnership to End Domestic Violence to develop the policies, procedures, and training necessary for implementation of the assessment.
- Specifies that the policies, procedures, and training must establish how to determine whether a victim and aggressor are intimate partners and establishes a statewide process for referring a victim to a certified domestic violence center.
- Requires the FDLE to adopt a statewide lethality assessment form by a specified date and requires the form to be accessible to law enforcement in an online format.
- Requires the FDLE to submit an annual report.
- Changes the date that all law enforcement officers who respond to or investigate crimes of domestic violence must be trained on administering a lethality assessment.

CS by Criminal Justice on January 10, 2024:
The committee substitute:

- Revises the questions provided for a lethality assessment.
- Provides for the law enforcement officer to refer the victim to the nearest locally certified domestic violence center if certain criteria is met through the victim's responses.

B. Amendments:

None.

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

611338

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete line 112
and insert:
(a) The department must monitor evidence-based standards relating to administering a lethality assessment or the lethality assessment form. If the department identifies changes in such evidence-based standards, the

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

611338

And the title is amended as follows:

Delete line 22

and insert:

to the Legislature upon certain circumstances; requiring

345950

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Grall) recommended the following:

Senate Amendment (with title amendment)

Delete lines 120 - 125
and insert:
(b) The Criminal Justice Standards and Training Commission shall require by rule that all law enforcement officers receive instruction on the policies and procedures for administering a lethality assessment as part of basic recruit training or as part of the required instruction for continued employment. A law enforcement officer may not administer a lethality assessment to

345950

a victim if the officer has not received training on administering a lethality assessment. All of the following requirements for training on administering a lethality assessment must be met by October 1, 2026:

1. Commission-approved basic recruit training programs required by s. 943.13(9) and continuing training or education required by s. 943.135 must incorporate the training required by this subsection.

2. All law enforcement officers must successfully complete the training required by this subsection, including officers who received an exemption from completing the commission-approved basic recruit training program under s. 943.131, as part of their basic recruit training or the continued training or education required under s. 943.135(1), as applicable. An officer's employing agency must place the officer's certification on inactive status if the officer fails to complete the training required under this subsection. The officer's certification will remain inactive until the officer completes the training and the officer's employing agency notifies the commission that he or she has completed the training.

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

And the title is amended as follows:

Delete lines 22 - 27

and insert:

to the Legislature by a specified date; requiring the Criminal Justice Standards and Training Commission to require by rule that law enforcement officers receive

345950

instruction on the policies and procedures for administering a lethality assessment as part of basic recruit training or required instruction for continued employment; prohibiting a law enforcement officer from administering a lethality assessment if he or she has not received specified training; requiring that basic recruit training programs and continuing training or education requirements incorporate such training, and that all law enforcement officers successfully complete such training, by a specified date; requiring law enforcement agencies to place officers' certification on inactive status if they fail to timely complete the required training; providing that such officers' certification remains inactive until they complete the training and their employing agency notifies the commission of such completion; requiring law

By the Appropriations Committee on Criminal and Civil Justice; the Committee on Criminal Justice; and Senator Grall

A bill to be entitled

An act relating to lethality assessments; amending s. 741.29, F.S.; requiring law enforcement officers who investigate an alleged incident of domestic violence to administer a lethality assessment under certain circumstances; requiring the Department of Law Enforcement to consult with specified entities, and authorizing the department to consult with other specified entities, to develop certain policies, procedures, and training necessary for the implementation of a statewide evidence-based lethality assessment; requiring such policies, procedures, and training to establish how to determine whether a victim and aggressor are intimate partners and establish a statewide process for referring a victim to a certified domestic violence center; requiring the department to adopt a statewide lethality assessment form by a specified date; requiring that training on administering lethality assessments be available to law enforcement officers in an online format; requiring the department to submit a specified report to the Legislature by a specified date; requiring certain law enforcement officers to be trained on the policies and procedures for administering a lethality assessment; prohibiting a law enforcement officer from administering a lethality assessment if he or she has not received specified training; requiring law enforcement officers administering a lethality assessment to ask a victim specified questions;

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

requiring law enforcement officers to advise the victim of the results of the lethality assessment and refer the victim to certain domestic violence centers if certain conditions are met; requiring law enforcement officers to document in the written police report a victim's refusal or inability to provide information necessary for the lethality assessment; prohibiting law enforcement officers from disclosing in certain statements and reports the domestic violence center to which the victim was referred; requiring that written police reports for domestic violence incidents include the results of the lethality assessment, if one was administered; making technical changes; reenacting s. 39.906, F.S., relating to referral to domestic violence centers and notice of rights, to incorporate the amendment made to s. 741.29, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 741.29, Florida Statutes, is amended to read:

741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.—

(1) Any law enforcement officer who investigates an alleged incident of domestic violence shall:

(a) Assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the

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

officer responds;~~. Any law enforcement officer who investigates an alleged incident of domestic violence shall~~

(b) Advise the victim of such violence that there is a domestic violence center from which the victim may receive services;~~.~~

(c) Administer a lethality assessment consistent with the requirements established in subsection (2) if the allegation of domestic violence is against an intimate partner, regardless of whether an arrest is made; and

(d) ~~The law enforcement officer shall~~ Give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout this ~~the~~ state. The notice must ~~shall~~ include:

1.~~(a)~~ The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Families; and

2.~~(b)~~ A copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from

further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(2) The department shall consult with the Department of Children and Families and at least one domestic violence advocacy organization and may consult with the Florida Sheriffs Association, the Florida Police Chiefs Association, and the Florida Partnership to End Domestic Violence to develop the policies, procedures, and training necessary for implementation of a statewide evidence-based lethality assessment. Such policies, procedures, and training must establish how to determine whether a victim and aggressor are intimate partners and establish a statewide process for referring a victim to a certified domestic violence center. By January 1, 2025, the department must adopt a statewide lethality assessment form that includes all the information in paragraph (c). Training on how to administer a lethality assessment and the approved lethality assessment form must be accessible to a law enforcement officer in an online format.

(a) By January 1, 2025, and annually thereafter, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives which must include the current policies and procedures for administering a lethality assessment, any proposed statutory changes necessary

for statewide implementation, and any proposed changes to the lethality assessment or the lethality assessment form to maintain compliance with evidence-based standards.

(b) By October 1, 2026, all law enforcement officers who respond to or investigate crimes of domestic violence must be trained on the policies and procedures for administering a lethality assessment. A law enforcement officer may not administer a lethality assessment to a victim if the officer has not received training on administering a lethality assessment.

(c) To administer a lethality assessment, a law enforcement officer shall ask the victim, in the same or similar wording and in the same order, all of the following questions:

1. Did the aggressor ever use a weapon against you or threaten you with a weapon?

2. Did the aggressor ever threaten to kill you or your children?

3. Do you believe the aggressor will try to kill you?

4. Has the aggressor ever choked you or attempted to choke you?

5. Does the aggressor have a gun or could the aggressor easily obtain a gun?

6. Is the aggressor violently or constantly jealous, or does the aggressor control most of your daily activities?

7. Did you leave or separate from the aggressor after you were living together or married?

8. Is the aggressor unemployed?

9. To the best of your knowledge, has the aggressor ever attempted suicide?

10. Do you have a child whom the aggressor believes is not

the aggressor's biological child?

11. Has the aggressor ever followed, spied on, or left threatening messages for you?

12. Is there anything else that worries you about your safety and, if so, what worries you?

(d) A law enforcement officer shall advise a victim of the results of the assessment and refer the victim to the nearest locally certified domestic violence center if:

1. The victim answers affirmatively to any of the questions provided in subparagraphs (c)1.-4.;

2. The victim answers negatively to the questions provided in subparagraphs (c)1.-4., but affirmatively to at least four of the questions provided in subparagraphs (c)5.-11.; or

3. As a result of the victim's response to subparagraph (c)12., the law enforcement officer believes the victim is in a potentially lethal situation.

(e) If a victim does not, or is unable to, provide information to a law enforcement officer sufficient to allow the law enforcement officer to administer a lethality assessment, the law enforcement officer must document the lack of a lethality assessment in the written police report required in subsection (3) and refer the victim to the nearest locally certified domestic violence center.

(f) A law enforcement officer may not include in a probable cause statement, written police report, or incident report the domestic violence center to which a victim was referred.

(3) ~~(2)~~ When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest

policy provided in s. 901.15(7), and as developed in accordance with subsections (4), (5), and (6) ~~(3), (4), and (5)~~. Regardless of whether ~~or not~~ an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence. Such report must ~~shall~~ be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. Such report must include all of the following:

(a) A description of physical injuries observed, if any.

(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, ~~the officer shall include in the report~~ the grounds for not arresting anyone or for arresting two or more parties.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

(d) A notation of the score of a lethality assessment, if one was administered pursuant to paragraph (1)(c).

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure

under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.

(4) ~~(3)~~ Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(5)(a) ~~(4)(a)~~ When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer must ~~shall~~ try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

(6) ~~(5)~~ A ~~No~~ law enforcement officer may not ~~shall~~ be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the

incident.

(7) ~~(6)~~ A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of domestic violence as defined in s. 741.28, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.

Section 2. For the purpose of incorporating the amendment made by this act to section 741.29, Florida Statutes, in a reference thereto, section 39.906, Florida Statutes, is reenacted to read:

39.906 Referral to centers and notice of rights.—Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available in accordance with the provisions of s. 741.29.

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 644
INTRODUCER:	Appropriations Committee on Health and Human Services and Senator Simon
SUBJECT:	Rural Hospitals
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.	Barr	McKnight	AHS	**Fav/CS**
3.	Looke	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 644 creates a new hospital designation type "rural emergency hospital" (REH) and defines requirements for a rural or critical access hospital to apply to the Agency for Health Care Administration (AHCA) for that designation.

The bill clarifies that an REH is subject to the requirements to provide emergency services and care for any emergency medical condition in accordance with current law.

Additionally, the bill extends the licensure expiration date for rural hospitals licensed in fiscal years 2010-2011 or 2011-2012 from June 30, 2025, to June 30, 2031.

The bill has an indeterminate fiscal impact on the AHCA which can be absorbed with existing resources. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Rural Hospitals

A rural hospital is an acute care hospital that has 100 or fewer beds, an emergency room, and is one of the following:

- The sole provider within a county with a population density of up to 100 persons per square mile;
- An acute care hospital, in a county with a population density of up to 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;
- A hospital supported by a tax district or sub-district whose boundaries encompass a population of up to 100 persons per square mile;
- A hospital classified as a sole community hospital under 42 C.F.R. s. 412.92, regardless of the number of licensed beds;
- A hospital with a service area[1] that has a population of up to 100 persons per square mile; or
- A hospital designated as a critical access hospital, as defined in s. 408.07, F.S.[2]

As of January 17, 2024, there are 22 licensed rural hospitals in Florida.[3]

Closure of Rural Hospitals

Around the country between 2010 and 2021 a total of 136 rural hospitals have closed. In 2020 alone, a record 19 rural hospitals shuttered.[4] Rural hospitals naturally face challenges due to low patient volumes, which can make it challenging to maintain fixed-operating costs and meet performance measures, and the fact that many of the patients treated in rural hospitals are older, sicker, and poorer when compared with the national average.[5] In addition to the patient-side issues, rural hospitals also suffer from above average staffing shortages with only 10 percent of physicians in the U.S. practicing in rural areas despite 20 percent of the population residing in those areas.[6] These issues were compounded and exacerbated by the COVID-19 pandemic which increased the severity of staffing shortages, increased costs, and worsened health outcomes.

In Florida, between 2010 and present, three rural hospitals closed: Healthmark Regional Medical Center in Defuniak Springs, Regional General Hospital in Williston, and Shands Lake Shore Regional Medical Center in Lake City.[7]

Rural Emergency Hospitals

To respond to the number of rural hospital closures, the federal Consolidated Appropriations Act of 2021 created a new Medicare provider type designated as a rural emergency hospital (REH).[8] Federal rule defines a this newly-created type of hospital as an entity that operates for the

[1] The term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the agency.
[2] Section 395.602(2)(b), F.S.
[3] Florida Health Finder search, Class 1 Hospital Rural. Search tool available at https://quality.healthfinder.fl.gov/, (last visited Jan. 17, 2024).
[4] Rural Hospital Closures Threaten Access – Solutions to Preserve Care in Local Communities, The American hospital, September 2022, available at https://www.aha.org/system/files/media/file/2022/09/rural-hospital-closures-threaten-access-report.pdf, (last visited Jan. 17, 2024).
[5] *Id.*
[6] *Id.*
[7] Supra n. 3
[8] 42 USC s. 1395x(kkk).

purpose of providing emergency department services, observational care, and other outpatient medical and health services specified by the Secretary in which the annual per-patient average length of stay does not exceed 24 hours.[9] Only rural hospitals with 50 or fewer beds and critical access hospitals that were enrolled and certified to participate in Medicare on or before December 7, 2020, qualify for certification as a REH.[10]

REHs are required to be licensed by the state in which they are located, maintain a Medicare provider agreement with the federal Centers for Medicare & Medicaid Services (CMS), and meet the other conditions of participation established in 42 CFR s. 485.5 through 42 CFR s. 485.546. These conditions of participation establish requirements related to governance, services offered, staffing, physical environment, and emergency preparedness, among others.[11] Some of the requirements provide that the REH must:

- Have an organized medical staff that operates under bylaws approved by the governing body of the REH and which is responsible for the quality of medical care provided to patients in the REH. The medical staff must be composed of medical or osteopathic doctors and may include other categories of physicians. Additionally, an REH may supplement the care provided through the use telemedicine services provided by a distant-site hospital as long as the distant-site hospital meets specified requirements.[12]
- Have an organized nursing service that is available to provide 24-hour care to patients of the REH.[13]
- Provide emergency, laboratory, radiological, pharmaceutical, and outpatient medical and health services as detailed in the rule.[14]
- Have an infection control program and a quality assessment and performance improvement program.

An REH is eligible for payment through the Medicare program for services at an amount that is equal to the amount that would be paid to a hospital for providing the equivalent outpatient service increased by five percent.[15] Additionally, an REH will receive a monthly facility payment of $272,866 from the Medicare program until October 1, 2024, after which the amount will be $267,408.68. In future years, the payment will increase by the hospital market basket percentage.[16]

Currently, 15 states authorize REHs including Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Montana, Nebraska, Nevada, New Mexico, New York, Oklahoma, South Dakota, Texas, and West Virginia.[17]

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[9] 42 CFR s. 485.502
[10] Rural Emergency Hospitals, Centers for Medicare and Medicaid Services, available at https://www.cms.gov/medicare/health-safety-standards/guidance-for-laws-regulations/hospitals/rural-emergency-hospitals, (last visited Jan. 18, 2024).
[11] *Id.*
[12] 42 CFR s. 485.512
[13] 42 CFR s. 485.530
[14] 42 CFR ss. 485.516-485.524
[15] 42 CFR s. 419.92
[16] MLN Fact Sheet, rural Emergency Hospitals, available at https://www.cms.gov/files/document/mln2259384-rural-emergency-hospitals.pdf, (last visited Jan. 18, 2024).
[17] National Conference of State Legislatures, Rural Emergency Hospitals, available at https://www.ncsl.org/health/rural-emergency-hospitals, (last visited Jan. 18, 2024).

Mandated Health Insurance Coverages

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, to submit to the Agency for Health Care Administration and the legislative committees having jurisdiction, a report that assesses the social and financial impacts of the proposed coverage. As of February 1, 2024, Senate Committee on Health Policy staff has not received this report.

Under the federal Patient Protection and Affordable Care Act (ACA), individuals and small businesses can shop for health insurance coverage on the federal marketplace. All non-grandfathered plans[18] must include minimum essential coverage (MEC),[19] including an array of services that includes the 10 essential health benefits (EHBs). These 10 EHBs are further clarified or modified each year through the federal rulemaking process and are open for public comment before taking effect. The 10 general categories for the EHBs are:

- Ambulatory services (outpatient care);
- Emergency services;
- Hospitalization (inpatient care);
- Maternity and newborn care.
- Mental health and substance abuse disorder services;
- Prescription drugs.
- Rehabilitative services and rehabilitative services and devices;
- Laboratory services;
- Preventive care and chronic disease management; and
- Pediatric services, including oral and vision care.[20]

States are free to modify the EHBs offered in their states by adding coverage; however, because of concerns that federal funds would be used on costly mandated coverages that were not part of the required EHBs, the ACA contains a provision requiring that, starting in 2016, the states would have to pay for the cost of the coverage. As a result, the State of Florida may be required to defray the costs of any additional benefits beyond the required EHBs put in place after 2011.[21]

Examples of health insurance benefits mandated under Florida law include:

- Coverage for certain diagnostic and surgical procedures involving bones or joints of the jaw and facial region (s. 627.419(7), F.S.);
- Coverage for bone marrow transplants (s. 627.4236, F.S.);
- Coverage for certain cancer drugs (s. 627.4239, F.S.);

[18] A "grandfathered health plan" are those health plans, both individual and employer plans, that maintain coverage that were in place prior to the passage of the PPACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the PPACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. *See* 26 U.S.C. 7805 and 26 C.F.R. s. 2590.715-1251(a).

[19] To meet the individual responsibility provision of the PPACA statute, a benefit plan or coverage plan must be recognized as providing minimum essential coverage (MEC). Employer based coverage, Medicaid, Medicare, CHIP (i.e.: Florida KidCare), and TriCare would meet this requirement.

[20] 42 U.S.C. s. 18022(b)(1)(A)-(J).

[21] *See* 42 U.S.C. s. 18031(d)(3)(B)(ii).

- Coverage for any service performed in an ambulatory surgical center (s. 627.6616, F.S.);
- Diabetes treatment services (s. 627.6408, F.S.);
- Osteoporosis (s. 627.6409, F.S.);
- Certain coverage for newborn children (s. 627.641, F.S.);
- Child health supervision services (s. 627.6416, F.S.);
- Certain coverages related to mastectomies (s. 627.6417, F.S.);
- Mammograms (s. 627.6418, F.S.); and
- Treatment of cleft lip and cleft palate in children (s. 627.64193, F.S.).

III. Effect of Proposed Changes:

The bill creates s. 395.067, F.S., to establish a rural emergency hospital (REH) designation for rural or critical access hospitals that meet the following criteria:

- Meets federal requirements for an REH under the Consolidated Appropriations Act of 2021 (Pub. L. No. 116-260);
- Has no more than 50 beds;
- Can adequately provide rural emergency services 24 hours a day seven days a week; and
- Is sufficiently staffed and equipped to provide the types of services included in the application.

The bill also provides a definition for "rural emergency services" to include:

- Emergency services and other care that does not require treatment for more than 24 hours, provided in a rural emergency hospital;
- Observation care; and
- Outpatient services specified in regulations adopted by the United States Secretary of Health and Human Services.

The bill amends s. 395.1041, F.S., to require rural emergency hospitals to provide emergency services and care for any emergency medical condition in accordance with current law.

Additionally, the bill repeals one obsolete provision related to licensing of a rural hospital and changes the license expiration date for rural hospitals that were licensed during fiscal years 2010-2011 and 2011-2012 from June 30, 2025, to June 30, 2031.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on rural hospitals that convert to rural emergency hospitals.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on the Agency for Health Care Administration (AHCA) due to requiring the agency to regulate a new facility type. However, the AHCA states existing resources can be used to address this workload.[22]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 395.1041 and 395.602.

The bill creates the following section of the Florida Statutes: 395.607.

[22] Agency for Health Care Administration, 2024 Agency Legislative Bill Analysis, *House Bill 309* (Nov. 11, 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 Appropriations Committee on Health and Human Services on February 8, 2024:
The committee substitute eliminates provisions of the bill related to coverage of rural emergency hospital services by commercial insurance and adds a requirement for rural emergency hospitals to provide emergency services for any emergency medical condition in accordance with current law.

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 Appropriations Committee on Health and Human Services; and Senator Simon

603-03118-24 2024644c1

A bill to be entitled

An act relating to rural emergency hospitals; amending s. 395.1041, F.S.; subjecting rural emergency hospitals to certain requirements for the provision of emergency services and care; amending s. 395.602, F.S.; revising the definition of the term "rural hospital"; creating s. 395.607, F.S.; defining the terms "rural emergency hospital" and "rural emergency services"; authorizing qualifying hospitals to apply to the Agency for Health Care Administration for designation as a rural emergency hospital; specifying requirements for such designation; exempting designated rural emergency hospitals from certain requirements for general hospitals; requiring the agency to suspend or revoke a rural emergency hospital's designation if at any time it fails to meet specified requirements; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 395.1041, Florida Statutes, is amended to read

395.1041 Access to and ensurance of emergency services; transfers; patient rights; diversion programs; reports of controlled substance overdoses.—

(3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF FACILITY OR HEALTH CARE PERSONNEL.—

(a) Every general hospital which has an emergency department and every rural emergency hospital as defined in s.

603-03118-24 2024644c1

395.607 shall provide emergency services and care for any emergency medical condition when:

1. Any person requests emergency services and care; or

2. Emergency services and care are requested on behalf of a person by:

a. An emergency medical services provider who is rendering care to or transporting the person; or

b. Another hospital, when such hospital is seeking a medically necessary transfer, except as otherwise provided in this section.

Section 2. Paragraph (b) of subsection (2) of section 395.602, Florida Statutes, is amended to read:

395.602 Rural hospitals.—

(2) DEFINITIONS.—As used in this part, the term:

(b) "Rural hospital" means an acute care hospital licensed under this chapter, having 100 or fewer licensed beds and an emergency room, which is:

1. The sole provider within a county with a population density of up to 100 persons per square mile;

2. An acute care hospital, in a county with a population density of up to 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;

3. A hospital supported by a tax district or subdistrict whose boundaries encompass a population of up to 100 persons per square mile;

4. A hospital classified as a sole community hospital under 42 C.F.R. s. 412.92, regardless of the number of licensed beds;

5. A hospital with a service area that has a population of up to 100 persons per square mile. As used in this subparagraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Transparency at the agency; or

6. A hospital designated as a critical access hospital, as defined in s. 408.07.

Population densities used in this paragraph must be based upon the most recently completed United States census. ~~A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2021, if the hospital continues to have up to 100 licensed beds and an emergency room.~~ An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this paragraph shall be granted such designation upon application, including supporting documentation, to the agency. A hospital that was licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year shall continue to be a rural hospital from the date of designation through June 30, 2031 ~~2025~~, if the hospital continues to have up to 100 licensed beds and an emergency room.

Section 3. Section 395.607, Florida Statutes, is created to read:

395.607 Rural emergency hospitals.—

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

(a) "Rural emergency hospital" means a rural hospital or critical access hospital as those terms are defined in s. 408.07 designated by the agency as a rural emergency hospital under this section.

(b) "Rural emergency services" means emergency services and other care that does not require treatment for more than 24 hours, on average, provided in a rural emergency hospital; observation care; and, at the election of the hospital, outpatient services specified in regulations adopted by the United States Secretary of Health and Human Services.

(2) A qualifying hospital may apply to the agency for designation as a rural emergency hospital on a form adopted by the agency. The agency may designate a hospital as a rural emergency hospital if it demonstrates that it meets all of the following criteria:

(a) Meets the requirements of the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, and the regulations adopted and guidance issued thereunder.

(b) Has no more than 50 beds.

(c) Can adequately provide rural emergency services in the facility 24 hours a day and seven days a week.

(d) Is sufficiently staffed and equipped to provide rural emergency services of the types indicated by the applicant.

(e) Has a transfer agreement in effect with a Level I or Level II trauma center.

(3) Notwithstanding s. 395.002(12), a rural emergency hospital is not required to offer acute inpatient care or care beyond 24 hours, or to make available treatment facilities for surgery, obstetrical care, or similar services in order to be

deemed a hospital as long as it maintains its designation as a rural emergency hospital, and may be required to make such services available only if it ceases to be designated as a rural emergency hospital.

(4) The agency must suspend or revoke a rural emergency hospital designation if at any time such a hospital fails to meet the requirements of this section.

Section 4. This act shall take effect July 1, 2024.

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

2-22-24

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Committee

The Florida Senate

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Bryan Cherry

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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:

North Walton Doctors Hospital

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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644
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Amendment Barcode (if applicable)

Name DAVID MICA, Jr

Phone

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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:

FL Hospital Assn.

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

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644
Bill Number or Topic

Amendment Barcode (if applicable)

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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 Chamber of Commerce

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 656
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government; Governmental Oversight and Accountability Committee and Senator DiCeglie
SUBJECT:	Continuing Contracts
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McVaney	GO	**Fav/CS**
2.	Davis	Betta	AEG	**Fav/CS**
3.	Harmsen	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 656 amends the definition of "continuing contract" under the Consultants' Competitive Negotiation Act (CCNA) to increase the maximum dollar amount for each individual project and each individual study under the contract for construction projects. The maximum dollar amount for each individual project is increased from $4 million to $7.5 million. Beginning July 1, 2025, and annually thereafter, the Department of Management Services (DMS) must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

The bill makes similar revisions to s. 255.103(4), F.S., (authorizing local governmental entities to use the CCNA selection process), increasing the maximum dollar amount for continuing contracts of local governments from $4 million to $7.5 million. Beginning July 1, 2025, and annually thereafter, the DMS must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

There is an indeterminate fiscal impact on state and local government expenditures relating to the administrative costs of competitive procurement and contract costs paid under a continuing contract. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

The Department of Management Services (DMS) manages projects throughout the state, including new construction, renovations, and consulting services for various public works projects. The Bureau of Building Construction (Bureau), within the DMS, oversees public building construction statewide. The Bureau is also responsible for managing fixed capital outlay funds appropriated by the Legislature and for overseeing the repair and renovation of DMS-managed facilities.[1]

Generally, state projects must be competitively procured. Part I of ch. 287, F.S., provides "a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services" to protect the public by promoting "fair and open competition," thereby reducing the appearance and opportunity for favoritism and misconduct.[2] These competitive procurement provisions apply to an agency, defined as "any of the various state officers, departments, board commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive boards of state government.[3] This definition does not include municipalities and local governments. Additionally, university and college boards of trustees, and the state universities and colleges are specifically excluded from this definition.[4]

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,[5] used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,[6] used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,[7] used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,[8] used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

[1] DMS, *Building Construction*, https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction (last visited Jan. 29, 2024).
[2] Section 287.001, F.S
[3] Section 287.012(1), F.S.
[4] *Id*.
[5] Section 287.057(3)(c), F.S.
[6] Section 287.057(1)(a), F.S.
[7] Section 287.057(1)(b), F.S.
[8] Section 287.057(1)(c), F.S.

For procurement of commodities or contractual services in excess of $35,000, agencies must use a competitive solicitation process.[9] However, specified contractual services and commodities are not subject to competitive solicitation requirements.[10]

State contracts for construction projects that are projected to cost in excess of $200,000 must be competitively bid.[11] A county, municipality, special district, or other political subdivision that seeks to construct or improve a public building must competitively award each project estimated to cost more than $300,000.[12]

The Consultants' Competitive Negotiation Act

In 1973, the Florida Legislature enacted the Consultant's Competitive Negotiation Act (CCNA),[13] s. 287.055, F.S., which requires state and local government agencies to procure the professional services of an architect, engineer, landscape architect, or registered surveyor and mapper using a qualifications-based selection process. The qualifications-based selection requires the selection of providers on the basis of their competency, qualifications, and experience, rather than lowest-price.[14]

The qualifications based selection process of the CCNA contemplates a three-step process:
- Public announcement of the project;
- Competitive selection of the professional firm based on its qualifications; and
- Arms-length competitive negotiations with the most qualified firm or firms.[15]

During the first phase, the public announcement, state and local agencies[16] publicly announce and describe their need for professional services for one of the following:[17]
- A project when the basic construction cost of which is estimated by the agency to exceed $325,000;[18] or
- A planning or study activity for professional services that exceeds $35,000.[19]

The public announcement must provide a general description of the project and describe how the interested consultant firms may apply for consideration.[20]

[9] Section 287.057(1), F.S.
[10] Section 287.057(3)(e), F.S.
[11] Section 255.0525, F.S.
[12] Section 255.20, F.S.
[13] Ch. 73-19, Laws of Fla., codified as s. 287.055, F.S.
[14] Section 287.055(3)-(5), F.S.
[15] *Id*.
[16] An "agency" under the CCNA is defined as "the state, a state agency, a municipality, a political subdivision, a school district or a school board." Section 287.055(2)(b), F.S. *See* Section 1.01(8), F.S., defining "political subdivision" to include "counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."
[17] Section 287.055(3), F.S.
[18] The amount provided in Category Five from the purchasing categories in s. 287.017, F.S.
[19] The amount provide in Category Two from the purchasing categories in s. 287.017, F.S.
[20] Section 287.055(3)(a)1., F.S.

A firm that wishes to provide professional services to an agency must first be certified by the agency as qualified to provide the needed services pursuant to law and the agency's regulations.[21] In determining a firm or individual to be qualified, the agency must consider its capabilities, adequacy of personnel, past record, experience, as well as whether the firm or individual is a certified minority business enterprise.[22]

During the second phase, competitive selection, the agency must evaluate the bidders' current statements of qualifications and performance data.[23] The agency must select and rank at least three firms it deems to be the most highly qualified to perform the required services, based on the following:[24]

- The ability of professional personnel;
- Whether a firm is a certified minority business enterprise;
- Past performance;
- Willingness to meet time and budget requirements;
- Location;
- Recent, current, and projected workloads of the firms; and
- The volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.[25]

During this qualifications phase, the agency cannot request, accept, or consider proposals for the firm's compensation.[26] Compensation is "the amount paid by the agency for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated."[27]

During the third phase, competitive negotiation, the agency negotiates compensation to be paid under the contract with the highest qualified of at least three selected firms.[28] Should the agency be unable to negotiate a satisfactory contract with the top firm at a price the agency determines to be fair, competitive, and reasonable, the agency may progress to negotiations with the second most qualified firm, and if this fails,[29] with the third.[30] If the agency cannot negotiate a satisfactory contract with any of the ranked firms, it must begin the qualifications-based selection process again and continue negotiations until an agreement is reached.[31]

[21] Section 287.055(3)(c) F.S.
[22] Section 287.055(3)(c)-(d), F.S.
[23] Section 287.055(4)(a), F.S.
[24] Section 287.055(4)(b), F.S.
[25] *Id*.
[26] *Id*. The CCNS did not prohibit discussion of compensation in the competitive selection phase until 1988, when the Legislature enacted a provision that allows consideration of compensation only during the competitive negotiation phase. Ch. 88-108, Laws of Fla.
[27] Section 287.055(2) (d), F.S.
[28] Section 287.055(5)(a), F.S.
[29] Section 287.055(5)(b), F.S.
[30] *Id*.
[31] Section 287.055(5)(c), F.S.

Continuing Contracts Under the CCNA

The CCNA expressly allows agencies to use continuing contracts for professional services.[32] A continuing contract is one for professional services entered into in accordance with the CCNA between an agency and a firm whereby the firm provides professional services to the agency for projects that do not exceed specific costs.[33]

Current law allows an agency to use a continuing contract for: construction projects in which the estimated construction cost of each individual project under the contract does not exceed $4 million; for study activity, if the fee for professional services for each individual study under the contract does not exceed $500,000; or for work of a specified nature as outlined in the agency contract, if the contract is for a fixed term or with a termination clause.[34]

The maximum per-project and per-study limits were implemented in 1988[35] at $500,000 and $25,000, respectively, and subsequently increased three times. In 2002, the limits were increased to $1 million and $50,000.[36] In 2009, the limits were increased to $2 million and $200,000;[37] and in 2020, the limits were increased to $4 million and $500,000.[38]

Construction and Program Management Entities

A governmental entity[39] may choose to use a construction management entity or program management entity, which it must select using the CCNA's competitive solicitation process.[40] A construction management entity is responsible for construction project scheduling and coordination in both the preconstruction and construction phases, and is generally responsible for the successful, timely, and economical completion of a construction project.[41] A program management entity is responsible for schedule and cost control, and coordination in the procurement of planning, design, and construction services.[42]

The governmental entity may use a continuing contract[43] to procure the services of a construction management or program management entity for work on construction projects.[44] However, a "continuing contract" entered into subject to ch. 255, F.S., is distinct from that in ch. 287, F.S. Specifically, the governmental entity may only use a continuing contract under ch. 255, F.S., to

[32] Section 287.055(4)(d), F.S.
[33] Section 287.055(2)(g), F.S.
[34] *Id.* An entity may not use a continuing contract for work of a specified nature to exceed the monetary limits placed on construction projects and study activities. Op. Fla. Att'y. Gen. 2013-28 (2013).
[35] Ch. 88-108, Laws of Fla.
[36] Ch. 2002-20, Laws of Fla.
[37] Ch. 2009-227, Laws of Fla.
[38] Ch. 2020-127, Laws of Fla.
[39] Section 255.103(1), F.S. defines the term "governmental entity" to mean "a county, municipality, school district, special district, special district as defined in chapter 189, or political subdivision of the state."
[40] Section 255.103, F.S.
[41] Section 255.103(2), F.S.
[42] Section 255.103(3), F.S.
[43] Section 255.103(4), F.S., defines a continuing contract as "a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract."
[44] Section 255.103(4), F.S.

procure construction management or program management entity services. A continuing contract under ch. 255, F.S., must also be for a defined period of time (whereas ch. 287, F.S., allows continuing contracts without a time limitation in certain circumstances).

The governmental entity may also choose to require that the construction management or program management entity offer a guaranteed maximum price or a guaranteed completion date.[45] If a project includes a grouping of substantially similar construction, rehabilitation, or renovation activities, the governmental entity may require a separate guaranteed maximum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities.[46]

Department of Transportation

Chapter 337, F.S., governs contracts entered into by the Florida Department of Transportation (FDOT). The FDOT has authority to enter into contracts for the construction and maintenance of all State Highway or State Park systems' roads, rest areas, weigh stations, parking areas, supporting facilities, and any associated building.[47] The FDOT must certify as qualified any bidders for a construction contract, road, bridge, or public construction project that exceeds $250,000 in cost.[48] The certification process ensures that the bidders have professional and financial competence by evaluating them "with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification.[49]

Consumer Price Index and Producer Price Index

The Consumer Price Index for all Urban Consumers (CPI-U) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services, as measured by the U.S. Bureau of Labor Statistics.[50] The U.S. Bureau of Labor Statistics issues the CPI monthly, and develops the metric from surveys of businesses' and households' reporting of their costs for food, housing, clothing, medical care, and transportation.[51] While the CPI-U is the most often-cited index, the BLS also publishes several other consumer price indexes, e.g., those based on geographic area, CPI for Urban Wage Earners and Clerical Workers (CPI-W), Chained CPI for all Urban Consumers (C-CPI-U), and an average prices index.[52] The CPI is used as a measure of U.S. consumer inflation, and to escalate Social Security payments, adjust tax brackets, convert nominal dollars to real dollars, and to adjust wages or escalate rents and other payments.[53]

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[45] Section 255.103(2), F.S.
[46] *Id*.
[47] Section 337.11, F.S. *See also*, s. 334.044, F.S.
[48] Section 337.14(1), F.S.
[49] *Id*.
[50] U.S. Bureau of Labor Statistics, *Consumer Price Index: Overview* (Sep. 6, 2023), https://www.bls.gov/opub/hom/cpi/home.htm (last visited Jan. 26, 2024).
[51] *Id*.
[52] U.S. Bureau of Labor Statistics, *Consumer Price Index: Presentation* (Sep. 6, 2023), https://www.bls.gov/opub/hom/cpi/presentation.htm (last visited Jan. 29, 2024).
[53] U.S. Bureau of Labor Statistics, *Consumer Price Index: Concepts* (Sep. 6, 2023), https://www.bls.gov/opub/hom/cpi/concepts.htm (last visited Jan. 29, 2024).

The last five years of the CPI have varied, as reflect in the table below:[54]

Year	Annual Average CPI(-U)	Annual Percent Change (Rate of Inflation)
2019	255.7	1.8%
2020	258.8	1.2%
2021	271.0	4.7%
2022	292.7	8.0%
2023	302.9	3.5%

The Producer Price Index (PPI) is a measurement of the average change in selling prices that are received by domestic producers of goods and services. PPI measures the price change from the seller's perspective, and can be used as a tool for the adjustment of purchase and sales contract prices, an indicator of overall price movement at the producer's level, or a comparison of industry-based price data.[55] The PPI includes indexes based on commodities, including consumer goods, energy, services, transportation and warehousing services, and construction.[56]

The following chart shows the percent change to certain construction input and commodity prices as of October 2023:[57]

[54] Federal Reserve Bank of Minneapolis, *Consumer Price Index, 1913-; Historical Data from the era of the Modern U.S. Consumer Price Index (CPI)* https://www.minneapolisfed.org/about-us/monetary-policy/inflation-calculator/consumer-price-index-1913- (last visited Jan. 29, 2024).
[55] U.S. Bureau of Labor Statistics, *Producer Price Index* (Mar. 16, 2023), https://www.bls.gov/ppi/overview.htm (last visited Jan. 29, 2024).
[56] See, e.g., U.S. Bureau of Labor Statistics, *PPI Detailed Report*, 11 (Nov. 2023), https://www.bls.gov/web/ppi/ppi_dr.pdf (last visited Jan. 29, 2024).
[57] *See* U.S. Bureau of Labor Statistics, *Producer Price Index Detailed Reports for February 2020 and October 2023*, https://www.bls.gov/ppi/detailed-report/#2023 (last visited Jan. 29, 2023).

	1-month	12-month	Since Feb. 2020
Inputs to Industries			
Inputs to construction	-1.2%	-1.1%	33.1%
Inputs to multifamily construction	-0.9%	0.8%	32.4%
Inputs to nonresidential construction	-1.1%	-0.7%	33.6%
Inputs to commercial construction	-0.7%	-0.3%	33.6%
Inputs to healthcare construction	-0.7%	-0.2%	33.4%
Inputs to industrial construction	-0.9%	1.1%	30.7%
Inputs to other nonresidential construction	-1.2%	-0.9%	33.7%
Inputs to maintenance and repair construction	-1.3%	-2.0%	31.8%
Inputs to highway and street construction	-1.2%	0.0%	31.4%
Commodities			
Adhesives and sealants	0.1%	1.8%	28.9%
Concrete products	0.7%	9.7%	30.5%
Construction machinery and equipment	0.0%	6.0%	23.6%
Copper wire and cable	-1.3%	2.7%	24.2%
Crude petroleum	-2.9%	-3.0%	56.9%
Fabricated structural metal products	0.8%	-0.7%	42.3%
Insulation materials	-0.3%	1.6%	31.0%
Iron and Steel	-2.3%	-6.1%	40.79%
Lumber and wood products	-0.3%	-6.5%	22.3%
Natural gas	10.9%	-54.9%	40.8%
Plumbing fixtures and brass fittings	0.5%	1.4%	16.1%
Prepared asphalt, tar roofing, and siding products	0.7%	3.9%	34.4%
Steel mill products	-2.5%	-9.9%	47.0%
Switchgear, switchboard, industrial controls equipment	0.2%	6.3%	32.0%
Unprocessed energy materials	-0.3%	-16.2%	60.2%

III. Effect of Proposed Changes:

The bill revises the maximum dollar amount for continuing contracts for construction projects.

Section 1 amends s. 255.103, F.S., to increase the maximum dollar amount for a continuing contract for construction projects from $4 million to $7.5 million. Beginning July 1, 2025, and annually thereafter, the Department of Management Services (DMS) must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June Consumer Price Index for all Urban Consumers (CPI-U) issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

Section 2 amends s. 287.055, F.S., to increase the maximum dollar amount for a continuing contract for professional services from $4 million to $7.5 million. Beginning July 1, 2025, and annually thereafter, the DMS must adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract based on the June-to-June CPI-U issued by the United States Department of Labor. The DMS must publish the adjusted amount on its website.

Section 3 provides that the bill takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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:

The bill may have an indeterminate, positive fiscal impact on the private sector, especially contractors with capacity for larger (up to $7.5 million projects). The increased maximum dollar amount for continuing contracts for construction projects could allow more projects to be covered under a continuing contract, and would reduce the competitive solicitations a firm would undergo to become qualified under the Consultant's Competitive Negotiation Act (CCNA).

C. Government Sector Impact:

Governmental entities that use continuing contracts incur costs related to the competitive selection and negotiation process. The bill, by increasing the maximum dollar amount for continuing contracts, captures more related services and construction projects, and may reduce the need for solicitations and their related administrative costs. Thus, the bill may have an indeterminate positive fiscal impact on the government sector. However, the increase of the cap for projects grouped under a continuing contract may provide less

oversight on the total project cost, which may result in higher-than-necessary costs to the government.

The Department of Management Services may incur a cost related to the annual calculation of, and posting of the CPI-adjusted contract amount on its website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The chart below illustrates the impact of a CPI growth factor on the maximum cost per project. Column 1 is the current consumer price index percentage change December over December.[58] Column 3 illustrates the maximum thresholds if the current law maximum ($4 million) per project is grown annually by the CPI percentage increase. Column 4 illustrates the maximum thresholds if the maximum is set at $7.5 million beginning July 1, 2024. Likewise, Column 5 illustrates the same assuming the $10 million threshold set in this bill.

Column 1	Column 2	Column 3	Column 4	Column 5
CPI	**Year Beginning July 1**	**Current Law adjusted annually by CPI**	**$7.5 million adjusted annually by CPI**	**$10 million adjusted annually by CPI**
	2020	4,000,000		
1.3%	2021	4,052,000		
4.7%	2022	4,242,444		
8.0%	2023	4,581,840		
4.1%	2024	4,769,695	7,500,000	10,000,000
2.7%	2025	4,898,477	7,702,500	10,270,000
2.6%	2026	5,025,837	7,902,765	10,537,020
2.3%	2027	5,141,431	8,084,529	10,779,371
2.3%	2028	5,259,684	8,270,473	11,027,297
2.2%	2029	5,375,397	8,452,423	11,269,898
2.1%	2030	5,488,281	8,629,924	11,506,565

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 255.103 and 287.055.

[58] Florida EDR, *National Economic Estimating Conference Long Run Tables—FINAL*, at 11 (Dec. 18, 2023) http://edr.state.fl.us/Content/conferences/useconomic/index.cfm (last visited Jan. 29, 2024).

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 Agriculture, Environment, and General Government on February 13, 2024:
The committee substitute applies the annual CPI adjustment to local governmental entities under s. 255.103, F.S., to make the maximum dollar amount for a project consistent with that calculated for state projects under s. 287.055, F.S.

CS by Governmental Oversight and Accountability on January 29, 2024:
- Decreases the maximum cost of each individual agency project that may be conducted under a continuing contract from $10 million (in the bill) to $7.5 million.
- Clarifies the method used to calculate the CPI-adjusted maximum project cost, and requires the Department of Management Services to post that annually updated number on its website.
- Deletes language applicable to the Department of Transportation's use of continuing contracts for specific services.

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 Appropriations Committee on Agriculture, Environment, and General Government; the Committee on Governmental Oversight and Accountability; and Senator DiCeglie

A bill to be entitled

An act relating to continuing contracts; amending s. 255.103, F.S.; revising the maximum estimated construction cost of construction projects for which a governmental entity may enter into a continuing contract; requiring the Department of Management Services, beginning on a specified date, to adjust the maximum amount allowed under specified contracts using a specified index, and to publish the adjusted amount on its website; amending s. 287.055, F.S.; revising the definition of the term "continuing contract" to increase the maximum dollar value of such contract, to require the department, beginning on a specified date and annually thereafter, to adjust the maximum dollar value allowed under such contracts using a specified index, and to publish the new dollar value on its website; making technical changes; providing an effective date.

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

Section 1. Subsection (4) of section 255.103, Florida Statutes, is amended, and subsections (2) and (3) of that section are republished, to read:

255.103 Construction management or program management entities.—

(2) A governmental entity may select a construction management entity, pursuant to the process provided by s. 287.055, which is to be responsible for construction project

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

scheduling and coordination in both preconstruction and construction phases and generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law. The construction management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the construction management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and a guaranteed completion date, in which case, the construction management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the construction management entity to provide for a separate guaranteed maximum price or a separate lump-sum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the project.

(3) A governmental entity may select a program management entity, pursuant to the process provided by s. 287.055, which is to be responsible for schedule control, cost control, and

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

coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. The program management entity may retain necessary design professionals selected under the process provided in s. 287.055. At the option of the governmental entity, the program management entity, after having been selected and after competitive negotiations, may be required to offer a guaranteed maximum price and a guaranteed completion date or a lump-sum price and guaranteed completion date, in which case the program management entity must secure an appropriate surety bond pursuant to s. 255.05 and must hold design and construction subcontracts. If a project, as defined in s. 287.055(2)(f), solicited by a governmental entity under the process provided in s. 287.055 includes a grouping of substantially similar construction, rehabilitation, or renovation activities as permitted under s. 287.055(2)(f), the governmental entity, after competitive negotiations, may require the program management entity to provide for a separate guaranteed maximum price or a lump-sum price and a separate guaranteed completion date for each grouping of substantially similar construction, rehabilitation, or renovation activities included within the project.

(4) A governmental entity's authority under subsections (2) and (3) includes entering into a continuing contract for construction projects, pursuant to the process provided in s. 287.055, in which the estimated construction cost of each individual project under the contract does not exceed $7.5 ~~$4~~

million. Beginning July 1, 2025, and each July 1 thereafter, the Department of Management Services shall adjust the maximum amount allowed on the preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumers issued by the Bureau of Labor Statistics of the United States Department of Labor. The Department of Management Services shall publish the adjusted amount on its website. For purposes of this subsection, the term "continuing contract" means a contract with a construction management or program management entity for work during a defined period on construction projects described by type which may or may not be identified at the time of entering into the contract.

Section 2. Paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g)1. A "continuing contract" is a contract for any of the following:

a. Professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $7.5 ~~$4~~ million. Beginning July 1, 2025, and each July 1 thereafter, the department shall adjust the maximum amount allowed on the

preceding June 30 for each individual project in a continuing contract by using the change in the June-to-June Consumer Price Index for All Urban Consumer issued by the Bureau of Labor Statistics of the United States Department of Labor. The department shall publish the adjusted amount on its website;~~,~~

b. ~~for~~ Study activity if the fee for professional services for each individual study under the contract does not exceed $500,000;~~,~~ or

c. ~~for~~ Work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause.

2. Firms providing professional services under continuing contracts may ~~shall~~ not be required to bid against one another.

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

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The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

Fiscal
Committee

6570
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carol Bower

Phone (954) 465-6811

Address PO Box 880448
Street

Email cbower@abcflorida.com

Boca FL 33488
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:
Assoc. Builders and Contractors

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
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Fiscal Policy
Committee

656
Bill Number or Topic

Amendment Barcode (if applicable)

Name JEFF SCALA

Phone

Address 100 S Monroe
Street

Email jscala@flcounties.com

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 Association of Counties

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

CS/CS/SB 656
Bill Number or Topic

Amendment Barcode (if applicable)

Name George Levesque (Le-Veck)

Phone 850-5779090

Address 301 S. Bronough Street
Street

Email glevesque@gray-robinson.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:
American Institute of Architects, Florida Chapter

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

656
Bill Number or Topic

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 850 933 5994

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:

American Fire Sprinkler Assoc - FL Chapter / FL Refridgeration & AC Contractors 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 678
INTRODUCER:	Criminal Justice Committee and Senator Bradley
SUBJECT:	Forensic Investigative Genetic Genealogy Grant Program
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Favorable**
3.	Cellon	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 678 creates the Forensic Investigative Genetic Genealogy Grant Program within the Florida Department of Law Enforcement (FDLE). The purpose of the program is to award grants to statewide and local law enforcement agencies or medical examiner's offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to law enforcement agencies or medical examiner's offices funds specially appropriated for the grant program to cover expenses related to using forensic genetic genealogy methods to generate investigative leads for criminal investigations or identifying unidentified human remains.

The term "investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used in accordance with FDLE rule to:

- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze unidentified human remains.

Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:

- The amount of annual funding received;
- The number and type of cases pursued using forensic genetic genealogical DNA analysis;
- The type of forensic genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and
- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules to implement and administer the grant program, and to allocate funds.

The bill becomes effective July 1, 2024.

This bill does not have a fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

II. Present Situation:

Current Florida Law

Section 119.071(2)(r)2., F.S., makes investigative genetic genealogy information and materials held by an agency before, on, or after July 1, 2023, confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.[1]

As defined in s. 119.071(2)(r), F.S., "investigative genetic genealogy information and materials" means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research.[2] It includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means.[3] The term does not include the name or personal identifying information of the donor of a biological sample attributable to a perpetrator; or a person identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation.[4]

"Investigative genetic genealogy" means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing persons.[5]

[1] Chapter 2023-235, L.O.F.
[2] Section 119.071(2)(r)1.d., F.S.
[3] *Id*.
[4] Section 119.071(2)(r)1.d. (I) and (II), F.S.
[5] Section 119.071(2)(r)1.c., F.S.

The term "genetic genealogy" means the use of DNA testing in combination with traditional genealogical methods to infer relationships between persons and determine ancestry.[6]

"Traditional genealogical methods" means the use of genealogical databases and historical records to trace the family lineage of a person.[7] "DNA record" means all information associated with the collection and analysis of a person's DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.[8]

A law enforcement agency may disclose investigative genetic genealogy information and materials in furtherance of its official duties and responsibilities or to another governmental agency in the furtherance of its official duties and responsibilities.[9]

A law enforcement agency must disclose investigative genetic genealogy information and materials pursuant to a court order for furtherance of a criminal prosecution. If a court orders the disclosure of such information and materials, the recipient of the information and materials must maintain the confidential and exempt status of the information and materials and may only publicly disclose the information and materials as necessary for purposes of a criminal prosecution as determined by the court.[10]

Catching the Golden State Killer Using Consumer DNA Testing Database

A Florida-based genealogy website called GEDmatch that allows users to voluntarily share their genetic profiles for free provided information that led investigators to the "Golden State Killer" who had eluded law enforcement since 1976.[11] The website revealed a distant relative and that information helped lead authorities to the man suspected of conducting a reign of terror up and down California, including 12 homicides, 45 rapes, and more than 100 residential burglaries between 1976 and 1986.[12] The man subsequently pleaded guilty to 13 counts of first-degree murder and special circumstances (including murder committed during burglaries and rapes), as well as 13 counts of kidnapping.[13]

[6] Section 119.071(2)(r)1.b., F.S.
[7] Section 119.071(2)(r)1.e., F.S.
[8] Section 119.071(2)(r)1.a., F.S.
[9] Section 119.071(2)(r)3.a., F.S.
[10] Section 119.071(2)(r)3.b., F.S.
[11] Los Angeles Times, *The untold story of how the Golden State Killer was found: A covert operation and private DNA*, Paige St. John, December 8, 2020, available at https://www.latimes.com/california/story/2020-12-08/man-in-the-window, (last visited January 9, 2024).
[12] *Id*.
[13] CNN News, "*Hearing details ghastly crimes of Golden State Killer as he pleads guilty to killings*," Elliott C. McLaughlin, Stella Chan, June 29, 2020, available at https://www.cnn.com/2020/06/29/us/golden-state-killer-plea-expected/index.html#:~:text=DeAngelo%20pleaded%20guilty%20to%2013,as%2013%20counts%20of%20kidnapping, (last visited January 9, 2024).

The Florida Department of Law Enforcement Forensic/Investigative Genetic Genealogy Program

The FDLE Genetic Genealogy team currently provides investigative leads to investigators based on DNA matches to relatives found in public genealogy databases.[14] The team includes experts in genetic genealogy, analytical research, forensics, and investigations who work with local law enforcement agencies.[15] In its first year, the program helped identify four suspects, solving cases that were more than a decade old.[16]

III. Effect of Proposed Changes:

The bill creates the Forensic Investigative Genetic Genealogy Grant Program within the FDLE. The purpose of the program is to award grants to law enforcement agencies or medical examiner's offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to statewide and local law enforcement agencies and medical examiner's offices any funds specially appropriated for the grant program to cover expenses related to using forensic investigative genetic genealogy methods to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.

The term "investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used, in accordance with FDLE rule, to:
- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze DNA samples of unidentified human remains.

Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:
- The amount of annual funding received;
- The number and type of cases pursued using investigative genetic genealogy methods;
- The type of forensic investigative genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and

[14] Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-solv, (last visited January 9, 2024).
[15] *Id*.
[16] *Id*.

- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules pursuant to s. 120.536(1) and s. 120.54, F.S., to implement and administer the requirements in the bill, and to allocate funds.

The bill becomes effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not have a fiscal impact on the FDLE. The FDLE suggests that county labs may experience increased requests for services as a result of the bill. If the county labs cannot meet additional demands, the FDLE may experience higher volumes of examination requests.[17] The FDLE can absorb these requests within current resources.

[17] Florida Department of Law Enforcement, *2024 FDLE Legislative Bill Analysis*, December 5, 2023. (on file with the Senate Criminal Justice Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.327 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 Criminal Justice on January 16, 2024:
The committee substitute:

- Changes the name of the grant program to the Forensic Investigative Genetic Genealogy Grant Program.
- Defines the term investigative genetic genealogy and sets forth specified scientific requirements for participation in the grant program.
- Provides that any specially appropriated grant funds may be used by statewide and local law enforcement agencies and medical examiner's offices to cover expenses associated with DNA analysis used to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.
- Requires that grant recipients report specified facts and program analysis to the FDLE executive director, including the type of forensic investigative genetic genealogical methods used, no later than 1 year after receiving funding.
- Conveys rulemaking authority to FDLE to implement and administer the program and to allocate funds.

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 Criminal Justice; and Senator Bradley

591-02152-24 2024678c1

A bill to be entitled

An act relating to the Forensic Investigative Genetic Genealogy Grant Program; creating s. 943.327, F.S.; defining the term "investigative genetic genealogy"; requiring that certain methods be in accordance with Department of Law Enforcement rules and compatible with certain databases; specifying the intent for certain funding; creating the Forensic Investigative Genetic Genealogy Grant Program within the Department of Law Enforcement; specifying potential grant recipients; providing purposes for the grants under the program; requiring each grant recipient to provide a report to the executive director within a certain timeframe; specifying the required contents of the report; providing rulemaking authority; providing an effective date.

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

Section 1. Section 943.327, Florida Statutes, is created to read:

943.327 Forensic Investigative Genetic Genealogy Grant Program.—

(1) As used in this section, the term "forensic investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative methods to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in

591-02152-24 2024678c1

accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use for the purposes described in this section. For purposes of the grant program created in this section, funding is intended to be used for developing genealogy DNA profiles consisting of 100,000 or more markers.

(2) There is created within the department the Forensic Investigative Genetic Genealogy Grant Program to award grants to statewide and local law enforcement agencies and medical examiner's offices to support those agencies and offices in the processing of DNA samples as specified under subsection (4).

(3) The department shall annually award to statewide and local law enforcement agencies and medical examiner's offices any funds specially appropriated for the grant program to cover expenses related to using forensic investigative genetic genealogy methods to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.

(4) Grants may be used in accordance with department rule for any of the following purposes:

(a) The analysis of DNA samples collected under applicable legal authority using forensic investigative genetic genealogy methods for solving violent crimes.

(b) The analysis of DNA samples of unidentified human remains.

(5) Each grant recipient shall provide to the executive director a report no later than 1 year after receipt of funding under the grant program. The report must include all of the following:

(a) The amount of funding received.

(b) The number and type of cases pursued using forensic investigative genetic genealogy methods.

(c) The type of forensic investigative genetic genealogy methods used, including the name of the laboratory to which such testing was outsourced, if any, and the identity of the entity conducting any genetic genealogical research.

(d) The result of the testing, such as decedent identification, perpetrator identification, or no identification.

(e) The amount of time it took to make an identification or to determine no identification could be made.

(6) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and administer this section and to establish the process for the allocation of grant funds.

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2-22-24
Meeting Date

Fiscal Policy
Committee

678
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron Pitman

Phone 850-585-6835

Address 50 2nd Street
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Shalimar FL 32579
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

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Committee

SB 0678
Bill Number or Topic

Amendment Barcode (if applicable)

Name Molly Hudson for Volusia Sheriff's Office Phone (386) 736-5961

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DeLand FL. 32720
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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

678
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brendan Belair

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Email joe@thefloridagroup.com

Tallahassee FL 32311
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.

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 684
INTRODUCER:	Fiscal Policy Committee; Community Affairs Committee; and Senator DiCeglie
SUBJECT:	Residential Building Permits
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	**Fav/CS**
2.	Ryon	Yeatman	FP	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 684 provides a number of revisions to current law pertaining to the standards and timeframes for local governments to follow for the issuance of building permits. Specifically, the bill requires local governments to approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:

- 30 business days for the following permits for structures that are less than 7,500 square feet: single-family residential unit or dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanism, plumbing, or roofing.
- 60 business days for the above-mentioned permits for structures more than 7,500 square feet.
- 60 business days for signs and nonresidential buildings less than 25,000 square feet.
- 120 business days for multifamily residential not exceeding 50 units, certain site-plan approvals and subdivision plats, and lot grading and site alteration.
- 15 business days for master building permits for site-specific building permit.
- 10 business days for single-family dwellings utilizing the Community Development Block Grant-Disaster Recovery Program.

The bill modifies provisions requiring local governments to refund permit fees for failure to comply with the applicable timeframes, and applies specific timeframes for the processing of permit applications submitted with an affidavit from a private provider who is a licensed engineer or architect.

The bill also requires the Florida Building Commission to provide an exception in the Florida Building Code relating to sealed drawings by a design professional for replacement windows, doors, and garages, and reverts the definition of "windborne debris region" to the 2020 Florida Building Code, 7th edition definition.

Additionally, the bill:

- Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances.
- Provides that vested rights may be formed in a preliminary plat, under certain circumstances.
- Allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved.
- Requires all local governments to create a master building permit process.

The bill takes effect on July 1, 2024.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[1]

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[2] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[3]

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[4]

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[1] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 5, 2024).
[2] *Id.*
[3] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Feb. 5, 2024).
[4] *See* s. 553.72(1), F.S.

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[5] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[6]

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.[7] Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.[8] Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building plans, building inspections, re-inspections, building permit processing, and fire inspections.[9] Local governments must post all building permit and inspection fee schedules on their website.[10]

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.[11]

DBPR Surcharges

Current law requires all local governments to assess and collect a 1 percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.[12]

Current law also requires all local governments to assess and collect a separate 1.5 percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code

[5] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Feb. 5, 2024).
[6] Section 553.73(7)(a), F.S.
[7] Section 553.80 F.S.
[8] *Id.*
[9] Section 553.80 (7)(a)1., F.S.
[10] Sections125.56 (4)(c) F.S., and 166.222(2), F.S.
[11] Section 553.80(7)(a), F.S.
[12] Section 553.721, F.S.

Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[13]

Local government building departments are permitted to retain 10 percent of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.[14]

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law provides specified timeframes for local governments to review applications for the following building permits:[15]

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units other than a single-family unit;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with the permit application.

When a local government receives an application for one of the above building permits, it must:[16]

- Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
  - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
  - If additional information is needed the local government must specify what additional information is necessary.

[13] Section 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. Section 489.1401(2), F.S.
[14] Sections 468.631, and 553.721, F.S.
[15] Section 553.792(2), F.S.
[16] Section 553.792(1), F.S.

    - The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.
- Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.[17]

If a local government fails to meet the timeframes above without an agreement for an extension of time, a local government must reduce the building permit fee by 10 percent for each business day that a local government fails to meet the deadline.[18] This also applies if a local government fails to meet the deadlines established by local ordinance that differ from the statutory timeframes.[19]

Local Government's Requests for Additional Information[20]

A local government may only make three requests for additional information from an applicant applying for the following types of building permits:

- Accessory structure.
- Alarm permit.
- Nonresidential buildings less than 25,000 square feet.
- Electric.
- Irrigation permit.
- Landscaping.
- Mechanical.
- Plumbing.
- Residential units other than a single-family unit.
- Multifamily residential not exceeding 50 units.
- Roofing.
- Signs.
- Site-plan approvals and subdivision plats not requiring public hearings or public notice.
- Lot grading and site alteration associated with the permit application.

However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must[21]:

[17] Section 553.792(2)(a), F.S.
[18] Section 553.792(1)(c), F.S.
[19] Section 553.792(2)(b), F.S.
[20] Section 553.792(1)(b), F.S.
[21] *Id.*

- Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must offer to meet with the permit applicant to attempt to resolve outstanding issues.

If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

If a local government fails to meet these deadlines it must reduce the building permit fee by 10 percent for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

For building permit applications for a single-family residential dwelling, the local government must issue the permit within **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.[22]

If the local government does not issue the permit within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10 percent for each **business day** that it fails to meet the deadline. Each 10 percent reduction is based on the original amount of the building permit fee.

However, the local government need not reduce the permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances. In addition, the written notice must also include that the applicant has **10 business days** after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within **10 business days** will result in a denial of the application.[23]

[22] Section 553.79(16), F.S.
[23] Section 553.79(16)(a)-(b), F.S.

If the applicant submits the revisions within **10 business days**, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.[24]

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must: [25]

- Reduce the permit fee by 20 percent of the original permit fee for the first business day that it fails to meet the deadline; and
- An additional 10 percent of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.[26]

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.[27]

Private Providers Alternative Plans Review

In 2002, s. 553.791, F.S., was created to allow property owners and contractors to hire licensed building code officials, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers and their duly authorized representatives are able to approve building plans and perform building code inspections as long as the plans approval and building inspections are within the scope of the provider's or representative's license. A local government may establish, for private providers and duly authorized representatives working within the local government's jurisdiction, a system of registration to verify compliance with the license and insurance requirements for private providers.[28]

"Private provider" means a person licensed as a building official, engineer, or as an architect. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.[29]

[24] Section 553.79(16)(c), F.S.
[25] Section 553.79(16)(c), F.S.
[26] Section 553.79(16)(e), F.S.
[27] Section 553.79(16)(d), F.S.
[28] Section 553.791(16)(b), F.S.
[29] Section 553.791(1)(n) and (3), F.S.

"Duly authorized representative" means an employee of a private provider identified in a permit application who reviews plans or performs inspections, and is licensed as an engineer, architect, building official, inspector, or plans examiner. The term does not include a person with a provisional license by the BCAIB.[30]

If an owner or contractor opts to use a private provider, the local government must calculate the cost savings to its building department and reduce the building permit fees accordingly.[31]

A local government may not charge a fee for building inspections when an owner or contractor uses a private provider but may charge a reasonable administrative fee which is based on the cost that is actually incurred by the local government, including the labor cost of the personnel providing the service, or the cost attributable to the local government for the clerical and supervisory assistance required, or both.[32]

Local governments may audit the performance of building code inspection services by private providers operating within the local government's jurisdiction. However, the same private provider may not be audited more than four times in a month unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare.[33]

Plats

In Florida law, "plat" means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable state requirements and of any local ordinances.[34] Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets and parks of a new residential sub-division.[35]

State law establishes consistent minimum requirements for the establishment of plats, and local governing bodies have the power to regulate and control the platting of lands.[36] Prior to approval by the appropriate governing body, the plat must be reviewed for conformity with state and local law and sealed by a professional surveyor and mapper who is either employed by or under contract to the local governing body.[37]

Before a plat is offered for recording with the clerk of the circuit court, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat. If not

[30] Section 553.791(1)(f) and (8), F.S.
[31] "Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services." Section 553.791(2)(b), F.S.
[32] Section 553.791(2)(b), F.S.
[33] Section 553.791(19), F.S.
[34] Section 177.031(14), F.S.
[35] Harry W. Carls, Florida Condo & HOA Law Blog, May 17, 2018, *Why is a Plat so Important?*, https://www.floridacondohoalawblog.com/2018/05/17/why-is-a-plat-so-important/ (last visited Feb. 5, 2024).
[36] Section 177.011, F.S.
[37] Section 177.081(1), F.S.

approved, the governing body must return the plat to the professional surveyor and mapper or the legal entity offering the plat for recordation.

Jurisdiction over plat approval is as follows:[38]

- When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When a plat lies wholly within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When a plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

Every plat of a subdivision offered for recording must have certain information, including providing:[39]

- The name of the plat in bold legible letters, and the name of the subdivision, professional surveyor and mapper or legal entity, and street and mailing address on each sheet.
- The section, township, and range immediately under the name of the plat on each sheet included, along with the name of the city, town, village, county, and state in which the land being platted is situated.
- The dedications and approvals by the surveyor and mapper and local governing body, and the circuit court clerk's certificate and the professional surveyor and mapper's seal and statement.
- All section lines and quarter section lines occurring within the subdivision. If the description is by metes and bounds, all information called for, such as the point of commencement, course bearings and distances, and the point of beginning. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses.
- Location, width, and names of all streets, waterways, or other rights-of-way.
- Location and width of proposed easements and existing easements identified in the title opinion or property information report must be shown on the plat or in the notes or legend, and their intended use.
- All lots numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.
- Sufficient survey data to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat.
- Designated park and recreation parcels.
- All interior excepted parcels clearly indicated and labeled "Not a part of this plat."
- The purpose of all areas dedicated clearly indicated or stated on the plat.

[38] Section 177.071(1), F.S.
[39] Section 177.091, F.S.

- That all platted utility easements must provide that such easements are also easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services interferes with the facilities and services of an electric, telephone, gas, or other public utility.

Preliminary Plat Approval

Many local governments around the state have a process to approve a preliminary plat before approving a final plat. Generally, a preliminary plat is a technical, graphic representation of a proposed development, including plans for streets, utilities, drainage, easements, and lot lines, for a proposed subdivision. If a preliminary plat is required, it is generally a prerequisite for a final plat approval and the submission of any property improvement plans or permit applications.[40]

Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.[41]

Based on a preliminary plat approval, some local governments allow a developer to commence construction before the plat is finalized. For example, the City of Jacksonville, Village of Royal Palm Beach, and the City of Tallahassee allow for a preliminary plat approval process.[42]

In Jacksonville, the Planning and Development Department (Department) of the City of Jacksonville, upon request of an applicant, may allow up to 50 percent of the lots within a proposed subdivision to be developed, but not occupied, based on a preliminary plat approval so long as the developer or owner meets the following conditions for construction:[43]

- Prior to Civil Plans submittal to the Department, the developer must submit the development proposal to Jacksonville Electric Authority (JEA) for review.
- Once JEA has granted preliminary approval, the Department will review the preliminary site plan, the preliminary and final engineering plans for the required improvements, and the sheet identifying the lots being requested for home construction prior to platting as approved by JEA. The Department reserves the right to deny authorization for development on a specific lot or lots to protect City interests.
- The developer or owner must provide a guarantee for required improvements and warranty of title.
- A Certificate of Occupancy may not be issued until the final plat is approved by JEA and the Department and recorded in the current public records of Duval County, Florida.

[40] For examples, *see* City of Zephyrhills Code of Ordinances s. 11.03.02.01; Palm Beach County Code of Ordinances Art. 11., Ch. A.; Seminole County, SEMINOLE COUNTY PLANNING & DEVELOPMENT DIVISION, Subdivision Application, https://www.seminolecountyfl.gov/core/fileparse.php/3307/urlt/SUBDIVISION-05-2023.ADA.pdf (last visited Feb. 5. 2024).
[41] Advance Surveying & Engineering, *An In-Depth Look At Preliminary and Final Plats*, https://www.advsur.com/2019/07/an-in-depth-look-at-preliminary-and-final-plats/ (last visited Feb. 5, 2024).
[42] City of Jacksonville Code of Ordinances s. 654-109, Village of Royal Palm Beach Code of Ordinances s. 22-22, City of Tallahassee Code of Ordinances s. 9-92.
[43] City of Jacksonville Code of Ordinances s. 654-139(d).

- Approval of the preliminary plat and required supplemental material are valid for 12 months from the date of approval. If the final plat is not submitted to and approved during the 12-month period, the conditional approvals are null and void.[44]

Vested Rights in Property Based on a Plat

In general, vested rights[45] form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.[46] Property owners or developers who do not have vested rights will be subject to subsequently enacted land regulations, while subsequently enacted land regulations do not apply to the property owners or developers who are determined to have vested rights.[47]

Florida common law provides that vested rights in a property may be established if a property owner or developer has:[48]

- In good faith reliance,
- Upon some act or omission of government,
- Made such a substantial change in position or has incurred such extensive obligations and expenses,
- That it would make it highly inequitable to interfere with the acquired right.

Recordation of a final plat with the clerk of the circuit court alone is not sufficient to establish vested rights[49] in the land development regulations in existence at that time.[50] Instead, the property owner or developer must take meaningful steps towards development of the property, such as applying for development permits or expending certain monies,[51] to constitute a substantial change in position or be considered extensive obligations and expenses towards development of the property in reliance on some action by the local government.[52]

Additionally, a property owner or developer may obtain vested rights in both a local government-approved preliminary plat and a final plat, as long as expenditures or a substantial change have been made by the property owner or developer based on such preliminary plat or plat.[53]

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[44] City of Jacksonville Code of Ordinances s. 654-109(b).
[45] Florida courts have used the concepts of vested rights and equitable estoppel interchangeably in deciding fault in property rights cases. Equitable estoppel, in this instance, means focusing on whether it would be inequitable or fair to allow a local government to deny prior conduct or position on building or development decisions. Robert M. Rhodes and Cathy M. Sellers, *Equitable Estoppel and Vested Rights in Land Use*, The Florida Bar, II Florida Environmental and Land Use Law 8, (1994).
[46] *Id*.; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L.Ann. 63, 64-65 (1971).
[47] *Monroe County v. Ambrose*, 866 So.2d 707, 712 (Fla. 3d DCA 2003); Kristin Melton, de la Parte & Gilbert P.A., *When are Rights Vested in a Platted Development?*, 2016, https://www.dgfirm.com/email/2016summer/article2.html#:~:text=Florida%20common%20law%20provides%20that,it%20would%20make%20it%20highly (last visited Feb. 5, 2024).
[48] *Monroe County*, 866 So.2d at 710.
[49] *Id*.
[50] Melton, *supra*, at 42.
[51] *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).
[52] *Id*.; Melton, *supra*, at 42.
[53] *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

Wind-borne Debris Regions

Wind-borne debris regions (WBDR) are defined in the Building Code by specific wind speeds and represent areas where structures are vulnerable to impact from windborne debris during severe storm events. New construction located within a WBDR must meet enhanced requirements for the protection against windborne debris, such as the installation of impact-resistant windows, doors, or shutters.

The 8th Edition (2023) Building Code defines WBDR as areas:
- Within 1 mile of the mean high-water line where an Exposure D condition exists upwind at the waterline and the ultimate design wind speed is 130 mph or greater; or
- In areas where the ultimate design wind speed is 140 mph or greater.[54]

The 7th Edition (2020) Building Code defines WBDR as areas:
- Within 1 mile of the coastal mean high water line where the ultimate design wind speed is 130 mph or greater; or
- In areas where the ultimate design wind speed is 140 mph or greater.[55]

III. Effect of Proposed Changes:

Building Permit Processing Timeframes

Section 5 amends s. 553.792, F.S., to modify the timeframes for which local governments must process building permit applications. The bill requires a local government to approve, approve with conditions, or deny a building permit application after receipt of a completed and sufficient application within the following timeframes, unless the applicant waives such timeframes in writing:
- Within **30 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures less than 7,500 square feet: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.
- Within **60 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures of 7,500 square feet or greater: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.
- Within **60 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: signs or nonresidential buildings less than 25,000 square feet.
- Within **120 business days** after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: multifamily residential not exceeding 50 units; site-plan approvals and subdivision plats not requiring public hearing or public notice; and lot grading and site alteration.

[54] 2023 Florida Building Code, Residential, 8th Edition, R202.
[55] 2020 Florida Building Code, Residential, 7th Edition, R202.

- Within **15 business days** after receiving a complete and sufficient application, for an applicant using a master building permit consistent with s. 553.794 to obtain a site-specific building permit.
- Within **10 business days** after receiving a complete and sufficient application, for an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Commerce, unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

These timeframes do not apply if the timeframes set by a local ordinances are more stringent than the timeframes provided in the bill. Additionally, the local government may not require a permit applicant to waive the permit processing timeframes as a condition to review an application for a building permit.

The bill requires a local government to provide written notice to a building permit applicant within **5 business days** after receipt of the application advising the applicant what information, if any, is needed to deem or determine that the application is properly complete. If the local government does not provide timely written notice that the applicant has not submitted the properly completed application, the application is automatically deemed or determined to be property completed and accepted.

If a local government fails to meet a deadline provided in the bill, it must reduce the building permit fee by 10 percent, based on the original amount of the permit fee, for each business day that it fails to meet the deadline, unless the parties agree in writing to a reasonable extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstances.

However, a local government need not reduce building permit fees if the local government provides written notice to the applicant within the applicable timeframes specifically stating the reasons the permit application is deficient. If the applicant submits revisions within **10 business days** after receiving the written notice, the local government has **10 business days** after receiving such revisions to approve or deny the permit unless the applicant agrees to a longer period in writing. If the local government fails to issue or deny the permit within **10 business days** after receiving revisions, it must reduce the building permit fee by 20 percent for each business day it fails to meet the deadline unless the applicant agrees to a longer period in writing.

The bill removes from current law the schedule for which local governments may make up to three requests for additional information from an applicant.

Section 3 amends s. 553.79, F.S., to remove provisions which require single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into section 5 of the bill.

Use of Building Code Enforcement Fees

Section 6 amends s. 553.80, F.S., to specify that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

Private Providers

Section 4 amends s. 553.791, F.S., to require a local government to issue a permit or provide written notice of plan deficiencies within **12 business days** after receipt of a permit application that is accompanied by the required affidavit in s. 553.791(6), F.S., prepared by a private provider who is a licensed engineer or architect. The local building official must provide with specificity the plan's deficiencies, the reasons the permit application failed, and the applicable codes being violated in such written notice.

If the local building official does not provide specific written notice to the permit applicant within the 12-day period, the permit application is deemed approved as a matter of law, and the permit must be issued by the local building official on the next business day.

The bill also defines the term "private provider firm" for purposes of allowing local governments to establish a registration system to verify private provider licensure requirements.

The bill provides that a local government may not audit the performance of building code inspection services by private providers until the local government has created a manual for standard operating procedures for staff performing such audits. The manual must include, at a minimum, the audit purpose and scope, audit criteria, an explanation of processes and objectives, and detailed findings of area of noncompliance. The manual must be publicly available online or the printed manual must be readily accessible in building department offices, and the audit results of the staff for the prior two quarters must be publicly available. A local government's private provider audit processes must adhere to the local government's posted standard operating audit procedures.

Additionally, the bill provides that a local government may not audit the same private provider more than four times in a year, as opposed to four times in a month provided in current law.

Other Florida Building Code Provisions

Section 2 amends s. 553.73, F.S., to require the Florida Building Commission to modify section 505 of the 8th edition Building Code to state that sealed drawings by a design professional may not be required for the replacement of windows, doors, or garage doors. Replacement windows, doors, and garage doors must be installed in accordance with the manufacturer's instructions for the appropriate wind zone and must meet the design pressure and the current Building Code. The manufacturer's instructions must be submitted with the applicable permit application.

This section also provide that the term "windborne debris region" has the same meaning as in the 7th edition Building Code, Residential, until the adoption of the 9th edition Building Code. It

further provides that a homeowner or contractor is not prohibited from voluntarily complying with the definition of "windborne debris region" in the 8th edition.

Expedited Approval of Residential Building Permits and Preliminarily Plats

Section 1 creates s. 177.073, F.S., to require a governing body of a county or municipality to create:

- A two-step application process for the adoption of a preliminary plat and for a final plat in order to expedite the issuance of building permits related to such plats.
- A master building permit process consistent with existing master building permit application requirements for applicants seeking multiple building permits for planned residential subdivisions.

The bill requires the governing body to issue the number or percentage of building permits requested by an applicant, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

- The governing body has approved a preliminary plat for each residential subdivision or planned community.
- The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.
- The applicant holds a valid performance bond for up to 120 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section.

By August 15, 2024, the bill requires a governing body of a county or municipality with 30,000 residents or more to create a program to expedite the process for issuing building permits for residential subdivisions or planned communities before a final plat is recorded with the clerk of the circuit court.

If a governing body had a program in place before July 1, 2024, to expedite the building permit process, the bill requires such governing body to only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community.

The bill allows an applicant to use a private provider to review a preliminary plat and to obtain a building permit for each residential building or structure.

The bill allows a governing body to work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in an application.

The bill allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill prohibits an applicant from obtaining a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

An applicant has a vested right in a preliminary plat that has been approved with conditions by a governing entity, if all of the following conditions are met:

- The applicant relies in good faith on the approved preliminary plat or any amendments,
- The applicant substantially changes his or her position, including making improvements pursuant to s. 117.031(9), F.S,. or incurs other obligations and expenses; and
- Any change by the governing body would constitute an inequitable interference in the approved preliminary plat.

The bill requires an applicant to indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision before the approval and recording of the final plat by the governing body.

The building official of a governing body that creates an expedited program pursuant to this bill must send to the Department of Business and Professional Regulation a letter indicating the program has been established and must include a brief explanation of the program.

The bill provides the following definitions:

- "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.
- “Local building official” has the same meaning as in s. 553.791, F.S.
- “Plans” means any building plans, construction plans, engineering plans, or site plans, or their functional equivalent, submitted by an applicant for a building permit.
- "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains required land boundary information.

Section 7 makes a technical change to correct a cross-reference and **Section 8** provides that the bill takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may reduce the cost of permit fees paid by the private sector to local governments if local governments fail to meet the prescribed timeframes.

The streamlined platting processes in the bill may expedite some single family residential development across the state.

C. Government Sector Impact:

The bill may impact surcharge collections remitted to DBPR by local governments pursuant to ss. 553.791, F.S., and 468.631, F.S., in the event local governments must refund portions of permit fees.

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 553.73, 553.79, 553.791, 553.792, 553.80, and 440.103.

This bill creates section 177.073 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 Fiscal Policy on February 22, 2024:

- Prohibits a local government from auditing the performance of building code inspection services by private providers until the local government has created a manual for standard operating audit procedures for such purpose.
- Reduces the frequency in which local governments may audit the same private provider to 4 times per year, reduced from 4 times per month under current law.
- Prohibits a local government from requiring a building permit applicant to waive the permit processing timeframes as a condition to review an application for a building permit.
- Provides that a local government need not reduce building permit fees for failing to meet prescribed deadlines if the delay is caused by the permit applicant or the delay is attributable to a force majeure or other extraordinary circumstances.
- Makes technical and clarifying changes.

CS by Community Affairs on February 6, 2024:

- Requires the Florida Building Commission to modify the Florida Building Code to state that sealed drawings by a design professional may not be required for the replacement of windows, doors, or garage doors. Such replacement windows and doors must be installed in accordable with the manufacturer's instructions and the current FL Building Code.
- Reverts the definition of "windbone debris region" in the Florida Building Code to the definition from the previous Code (7th edition), until the adoption of the next 9th edition of the Code.
- Provides that for permit applications with the seal of a private provider who is a licensed engineer or architect, the local government must issue the permit or provide written notice of plan deficiencies within 12 business days after receipt of the permit application. If the local building official does not provide written notice of deficiencies within the 12-day timeframe, the permit application is deemed approved.
- Restores current law by removing bill provisions requiring local governments to reduce a permit fee by 75 percent if an owner retains a private provider.
- Defines the term "private provider firm" for purposes of allowing local governments to establish a registration system to verify private provider licensure requirements.
- Replaces bill provisions modifying time periods for local governments to approve building permit applications with a new scheme based on size and type of structures.
- Authorizes local governments to use building code enforcement fee revenue to upgrade technology hardware and software systems used to enforce the Building Code.

B. Amendments:

None.

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	.	
02/23/2024	.	
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The Committee on Fiscal Policy (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 261 - 526
and insert:
(o) of subsection (1), paragraph (c) of subsection (4), subsection (5), paragraphs (b) and (d) of subsection (7), paragraph (b) of present subsection (13), paragraph (b) of present subsection (16), and present subsection (19) of that section are amended, to read:
553.791 Alternative plans review and inspection.—

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

(o) "Private provider firm" means a business organization, including a corporation, partnership, business trust, or other legal entity, which offers services under this chapter to the public through licensees who are acting as agents, employees, officers, or partners of the firm. A person who is licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481 may act as a private provider for an agent, employee, or officer of the private provider firm.

(p) ~~(o)~~ "Request for certificate of occupancy or certificate of completion" means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.

2. A certificate of compliance from the private provider required under subsection (13) ~~(12)~~.

3. Any applicable fees.

4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official in writing at the time of permit application, or by 2 p.m. local time, 2 business days before the first scheduled inspection by the local building official or building code enforcement agency that a private provider has been contracted to perform the required inspections of construction under this section, including single-trade inspections, on a form to be adopted by the commission. This

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notice shall include the following information:

(c) An acknowledgment from the fee owner or the fee owner's contractor in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or

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structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change or within 2 business days before the next scheduled inspection, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so by 2 p.m. local time, 2 business days before the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(7)

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day period, the 20-day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (15) ~~(14)~~ or to submit revisions to correct the deficiencies.

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(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (15) ~~(14)~~ or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(10) When the private provider is a person licensed as an engineer under chapter 471 or as an architect under chapter 481 and affixes his or her professional seal to the affidavit required under subsection (6), the local building official must issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections, within 12 business days after receipt of the permit application and affidavit. In such written notice, the local building official shall provide with specificity the plan’s deficiencies, the reasons the permit application failed, and the applicable codes being violated. If the local building official does not provide specific written notice to the permit applicant within the prescribed 12-day period, the permit application is deemed approved as a matter of law, and the permit must be issued by the local building official on the next business day.

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(14)~~(13)~~

(b) If the local building official does not provide notice of the deficiencies within the applicable time periods under paragraph (a), the request for a certificate of occupancy or certificate of completion is automatically granted and deemed issued as of the next business day. The local building official must provide the applicant with the written certificate of occupancy or certificate of completion within 10 days after it is automatically granted and issued. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies pursuant to subsection (15) ~~(14)~~ or to submit a corrected request for a certificate of occupancy or certificate of completion.

(17)~~(16)~~

(b) A local enforcement agency, local building official, or local government may establish, for private provider firms, private providers, and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of paragraph (1)(n) and the insurance requirements of subsection (18) ~~(17)~~.

(20)~~(19)~~ A ~~Each~~ local building code enforcement agency may not audit the performance of building code inspection services by private providers operating within the local jurisdiction until the agency has created a manual for standard operating audit procedures for the agency's internal inspection and review staff which includes, at a minimum, the audit purpose and scope, audit criteria, an explanation of audit processes and objectives, and detailed findings of areas of noncompliance. The manual must be publicly available online or the printed manual

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must be readily accessible in building department offices, and the audit results of the staff for the prior two quarters must be publicly available. The agency's private provider audit processes must adhere to the agency's posted standard operating audit procedures. ~~However,~~ The same private provider may not be audited more than four times in a year ~~month~~ unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare, which must be communicated in writing to the private provider or private provider firm. Work on a building or structure may proceed after inspection and approval by a private provider. ~~if the provider has given notice of the inspection pursuant to subsection (9) and, subsequent to such inspection and approval,~~ The work may ~~shall~~ not be delayed for completion of an inspection audit by the local building code enforcement agency.

Section 5. Subsections (1) and (2) of section 553.792, Florida Statutes, are amended to read:

553.792 Building permit application to local government.—

(1)(a) A local government shall approve, approve with conditions, or deny a building permit application after receipt of a completed and sufficient application within the following timeframes, unless the applicant waives such timeframes in writing:

1. Within 30 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures less than 7,500 square feet: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm,

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electrical, irrigation, landscaping, mechanical, plumbing, or roofing.

2. Within 60 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures of 7,500 square feet or greater: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.

3. Within 60 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: signs or nonresidential buildings less than 25,000 square feet.

4. Within 120 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: multifamily residential not exceeding 50 units; site-plan approvals and subdivision plats not requiring public hearing or public notice; and lot grading and site alteration.

5. Within 15 business days after receiving a complete and sufficient application, for an applicant using a master building permit consistent with s. 553.794 to obtain a site-specific building permit.

6. Within 10 business days after receiving a complete and sufficient application, for an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a

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Community Development Block Grant-Disaster Recovery program administered by the Department of Commerce, unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

However, the local government may not require the waiver as a condition precedent to reviewing an applicant's building permit application.

(b) A local government must meet the timeframes set forth in this section for reviewing building permit applications unless the timeframes set by local ordinance are more stringent than those prescribed in this section.

(c) After ~~Within 10 days of~~ an applicant submits ~~submitting~~ an application to the local government, the local government must provide written notice to the applicant within 5 business days after receipt of the application advising ~~shall advise~~ the applicant what information, if any, is needed to deem or determine that the application is properly completed in compliance with the filing requirements published by the local government. If the local government does not provide timely written notice that the applicant has not submitted the properly completed application, the application is ~~shall be~~ automatically deemed or determined to be properly completed and accepted. ~~Within 45 days after receiving a completed application, a local government must notify an applicant if additional information is required for the local government to determine the sufficiency of the application, and shall specify the additional information that is required. The applicant must submit the additional information to the local government or request that the local~~

~~government act without the additional information. While the applicant responds to the request for additional information, the 120-day period described in this subsection is tolled. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.~~

(d) A local government shall maintain on its website a policy containing procedures and expectations for expedited processing of those building permits and development orders required by law to be expedited.

~~(b)1. When reviewing an application for a building permit, a local government may not request additional information from the applicant more than three times, unless the applicant waives such limitation in writing.~~

~~2. If a local government requests additional information from an applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 15 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~3. If a local government makes a second request for~~

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~~additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~4. Before a third request for additional information may be made, the applicant must be offered an opportunity to meet with the local government to attempt to resolve outstanding issues. If a local government makes a third request for additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information unless the applicant waived the local government's limitation in writing, determine that the application is complete and:~~

~~a. Approve the application;~~

~~b. Approve the application with conditions; or~~

~~c. Deny the application.~~

~~5. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, must process the application and either approve the~~

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~~application, approve the application with conditions, or deny the application.~~

(e) ~~(c)~~ If a local government fails to meet a deadline under this subsection ~~provided in paragraphs (a) and (b)~~, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline, unless the parties agree in writing to a reasonable extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstances. Each 10-percent

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

And the title is amended as follows:

Delete lines 39 - 61

and insert:

term "private provider firm"; requiring a fee owner or the fee owner's contractor to annually provide the local building official with specified information and a specified acknowledgment; requiring the local building official to issue a permit or provide written notice to the applicant with certain information if the private provider is a licensed engineer or architect who affixes his or her professional seal to the affidavit; providing that the permit application is deemed approved, and must be issued on the next business day, if the local building official does not meet the prescribed deadline; prohibiting a local building code enforcement agency from auditing the performance of building code inspection services by private providers until the agency has created a

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manual for standard operating audit procedures for the agency's internal inspection and review staff; providing requirements for the manual; requiring that the manual be made publicly available; requiring the agency to make publicly available its audits for the two prior fiscal quarters; revising the number of times a private provider may be audited within a specified timeframe; requiring the agency to notify, in writing, the private provider or private provider firm of any additional audits; conforming provisions to changes made by the act; making technical changes; amending s. 553.792, F.S.; revising the timeframes for approving, approving with conditions, or denying certain building permits; prohibiting the local government from requiring a waiver of such timeframes as a condition precedent to reviewing an applicant's building permit application; requiring the local government to follow the prescribed timeframes unless those set by local ordinance are more stringent; requiring a local government to provide written notice to an applicant under certain circumstances; requiring a local government to reduce permit fees by a certain percentage if certain deadlines are not met; providing exceptions; specifying requirements for the written

By the Committee on Community Affairs; and Senator DiCeglie

578-03037-24 2024684c1

A bill to be entitled

An act relating to residential building permits; creating s. 177.073, F.S.; defining terms; requiring certain governing bodies, by a date certain, to create a program to expedite the process for issuing residential building permits before a final plat is recorded; providing an exception; requiring a governing body to create certain processes for purposes of the program; authorizing applicants to use a private provider for certain reviews; authorizing a governing body to issue addresses and temporary parcel identification numbers for specified purposes; requiring a governing body to issue a certain number or percentage of building permits requested in an application when certain conditions are met; providing certain conditions for applicants who apply to the program; providing that an applicant has a vested right in an approved preliminary plat when certain conditions are met; requiring local building officials to mail a signed, certified letter with specified information to the Department of Business and Professional Regulation after the governing body creates the program; amending s. 553.73, F.S.; requiring the Florida Building Commission to modify a specific provision of the Florida Building Code to state that sealed drawings by a design professional are not required for replacement and installation of certain construction; requiring replacement windows, doors, and garage doors to be installed in accordance

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578-03037-24 2024684c1

with the manufacturer's instructions for appropriate wind zones and to meet certain design pressures of the Florida Building Code; requiring the manufacturer's instructions to be submitted with the permit application for such replacements; defining the term "windborne debris region"; providing construction; amending s. 553.79, F.S.; removing provisions relating to acquiring building permits for certain residential dwellings; amending s. 553.791, F.S.; defining the term "private provider firm"; requiring a fee owner or the fee owner's contractor to provide a specified acknowledgment when notifying a local building official that a private provider will be used to provide building code inspection services; requiring the local building official to issue a permit or provide specified written notice to the permit applicant within a certain timeframe; requiring that such written notice provide specific information; providing that the permit application is deemed approved, and must be issued on the next business day, if the local building official does not meet the prescribed deadline; amending s. 553.792, F.S.; revising the timeframes for approving, approving with conditions, or denying certain building permits; requiring the local government to follow the prescribed timeframes unless those set by local ordinance are more stringent; requiring a local government to provide written notice to an applicant under certain circumstances; requiring a local

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government to reduce permit fees by a certain percentage if certain deadlines are not met; providing an exception; specifying requirements for the written notice to the permit applicant; specifying a timeframe for the applicant to correct the application; specifying a timeframe for the local government and local enforcement agency to approve or deny certain building permits following revision; requiring a reduction in the building permit fee if the approval deadline is not met; providing an exception; amending s. 553.80, F.S.; authorizing local governments to use certain fees for certain technology upgrades; making technical changes; amending s. 440.103, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 177.073, Florida Statutes, is created to read:

177.073 Expedited approval of residential building permits before a final plat is recorded.—

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

(a) "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval and, upon approval by the appropriate governing body, submitted to the clerk of the circuit court for recording.

(b) "Local building official" has the same meaning as in s. 553.791.

(c) "Plans" means any building plans, construction plans, engineering plans, or site plans, or their functional equivalent, submitted by an applicant for a building permit.

(d) "Preliminary plat" means a map or delineated representation of the subdivision of lands which is a complete and exact representation of the residential subdivision and contains any additional information needed to be in compliance with the requirements of this chapter.

(2)(a) By August 15, 2024, a governing body that has 30,000 residents or more shall create a program to expedite the process for issuing building permits for residential subdivisions in accordance with the Florida Building Code and this section before a final plat is recorded with the clerk of the circuit court.

(b) A governing body that has a program in place before July 1, 2024, to expedite the building permit process, need only update its program to approve an applicant's request to issue up to 50 percent of the building permits for the residential subdivision in order to comply with this section.

(3) A governing body shall create all of the following:

(a) A two-step application process that includes the adoption of a preliminary plat and a final plat in order to expedite the issuance of building permits under this section. The governing body shall maximize its administrative processes to expedite the review and approval of applications, plats, and plans submitted under this section.

(b) A master building permit application process consistent with s. 553.794(3) for applicants seeking multiple building permits for planned residential subdivisions.

(4) An applicant may use a private provider consistent with s. 553.791 to review a preliminary plat and building permit for each residential building or structure.

(5) A governing body may work with appropriate local governmental agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in the application.

(6) If an applicant requests a certain number or percentage of building permits in his or her application, the governing body must issue the number or percentage requested in accordance with the Florida Building Code, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

(a) The governing body has approved a preliminary plat for each residential building or structure.

(b) The applicant provides proof to the governing body that the applicant has given a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.

(c) The applicant holds a valid performance bond for up to 120 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section.

(7)(a) An applicant may contract to sell, but may not transfer ownership of, a residential structure or building located in the residential subdivision until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(b) An applicant may not obtain a final certificate of

occupancy with respect to each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(c) An applicant must indemnify and hold harmless the governing body and its agents and employees from damages, including damages resulting from fire, flood, construction defects, and bodily injury, accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision before the approval and recording of the final plat by the governing body.

(8) For purposes of this section, an applicant has a vested right in a preliminary plat that has been approved by a governing body if all of the following conditions are met:

(a) The applicant relies in good faith on the approved preliminary plat.

(b) The applicant substantially changes his or her position, including making improvements pursuant to s. 177.031(9), or incurs other obligations and expenses.

(c) Any change by the governing body would constitute an inequitable interference in the approved preliminary plat.

(9) After a governing body creates the program required under this section, the local building official shall send to the Department of Business and Professional Regulation by certified mail, return receipt requested, a signed, certified letter indicating that the program has been established. The letter must contain a brief explanation of the program, including how the program expedites the process of issuing building permits for residential subdivisions before the final

plat is recorded.

Section 2. Paragraphs (g) and (h) are added to subsection (7) of section 553.73, Florida Statutes, to read:

553.73 Florida Building Code.—

(7)

(g) The Florida Building Commission shall modify section 505 of the Florida Building Code, 8th edition (2023) Existing Building, to state that sealed drawings by a design professional may not be required for the replacement of windows, doors, or garage doors. Replacement windows, doors, and garage doors must be installed in accordance with the manufacturer's instructions for the appropriate wind zone and must meet the design pressure and the current Florida Building Code. The manufacturer's instructions must be submitted with the permit application for replacement windows, doors, and garage doors. The manufacturer's installation instructions may be printed or in digital format.

(h) As used in this section, the term "windborne debris region" has the same meaning as in the Florida Building Code, 7th edition, Residential, until the adoption of the 9th edition of the Florida Building Code. This paragraph may not be construed to prohibit a homeowner or contractor from voluntarily complying with the definition of the term windborne debris region originally established in the 8th edition, until the adoption of the 9th edition.

Section 3. Subsection (16) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

~~(16) Except as provided in paragraph (e), a building permit for a single-family residential dwelling must be issued within~~

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~~30 business days after receiving the permit application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

~~(a) If a local enforcement agency fails to issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent reduction shall be based on the original amount of the building permit fee.~~

~~(b) A local enforcement agency does not have to reduce the building permit fee if it provides written notice to the applicant, by e-mail or United States Postal Service, within 30 business days after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances. The written notice must also state that the applicant has 10 business days after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within 10 business days will result in a denial of the application.~~

~~(c) The applicant has 10 business days after receiving the written notice to address the reasons specified by the local enforcement agency and submit revisions to correct the permit application. If the applicant submits revisions within 10 business days after receiving the written notice, the local enforcement agency has 10 business days after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer period in writing. If the local~~

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~~enforcement agency fails to issue or deny the building permit within 10 business days after receiving the revisions, it must reduce the building permit fee by 20 percent for the first business day that it fails to meet the deadline unless the applicant agrees to a longer period in writing. For each additional business day, but not to exceed 5 business days, that the local enforcement agency fails to meet the deadline, the building permit fee must be reduced by an additional 10 percent. Each reduction shall be based on the original amount of the building permit fee.~~

~~(d) If any building permit fees are refunded under this subsection, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the building permit fees after the refund.~~

~~(e) A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within 15 working days after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

Section 4. Present paragraphs (o) through (r) of subsection (1) and present subsections (10) through (21) of section 553.791, Florida Statutes, are redesignated as paragraphs (p) through (s) and subsections (11) through (22), respectively, a new paragraph (o) is added to subsection (1) and a new subsection (10) is added to that section, and present paragraph (o) of subsection (1), paragraph (c) of subsection (4),

paragraphs (b) and (d) of subsection (7), paragraph (b) of present subsection (13), and paragraph (b) of present subsection (16) of that section are amended, to read:

553.791 Alternative plans review and inspection.—

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

(o) "Private provider firm" means a business organization, including a corporation, partnership, business trust, or other legal entity, which offers services under this chapter to the public through licensees who are acting as agents, employees, officers, or partners of the firm. A person who is licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481 may act as a private provider for an agent, employee, or officer of the private provider firm.

(p) ~~(o)~~ "Request for certificate of occupancy or certificate of completion" means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.

2. A certificate of compliance from the private provider required under subsection (12).

3. Any applicable fees.

4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official in writing at the time of permit application, or by 2 p.m. local time, 2 business days

before the first scheduled inspection by the local building official or building code enforcement agency that a private provider has been contracted to perform the required inspections of construction under this section, including single-trade inspections, on a form to be adopted by the commission. This notice shall include the following information:

(c) An acknowledgment from the fee owner or the fee owner's contractor in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local

government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change or within 2 business days before the next scheduled inspection, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change.

(7)

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day period, the 20-day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (15) ~~(14)~~ or to submit revisions to correct the deficiencies.

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (15)

~~(14)~~ or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(10) When the private provider is a person licensed as an engineer under chapter 471 or as an architect under chapter 481 and affixes his or her professional seal to the affidavit required under subsection (6), the local building official must issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections, within 12 business days after receipt of the permit application and affidavit. The local building official must provide with specificity the plan's deficiencies, the reasons the permit application failed, and the applicable codes being violated in such written notice. If the local building official does not provide specific written notice to the permit applicant within the prescribed 12-day period, the permit application is deemed approved as a matter of law, and the permit must be issued by the local building official on the next business day.

(13)

(b) If the local building official does not provide notice of the deficiencies within the applicable time periods under paragraph (a), the request for a certificate of occupancy or

certificate of completion is automatically granted and deemed issued as of the next business day. The local building official must provide the applicant with the written certificate of occupancy or certificate of completion within 10 days after it is automatically granted and issued. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies pursuant to subsection (15) ~~(14)~~ or to submit a corrected request for a certificate of occupancy or certificate of completion.

(16)

(b) A local enforcement agency, local building official, or local government may establish, for private provider firms, private providers, and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of paragraph (1)(n) and the insurance requirements of subsection (18) ~~(17)~~.

Section 5. Subsections (1) and (2) of section 553.792, Florida Statutes, are amended to read:

553.792 Building permit application to local government.—

(1)(a) A local government must approve, approve with conditions, or deny a building permit application after receipt of a completed and sufficient application within the following timeframes, unless the applicant waives such timeframes in writing:

1. Within 30 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures less than 7,500 square feet: residential units including a single-family residential unit or a single-

family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.

2. Within 60 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits for structures of 7,500 square feet or greater: residential units including a single-family residential unit or a single-family residential dwelling, accessory structure, alarm, electrical, irrigation, landscaping, mechanical, plumbing, or roofing.

3. Within 60 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: signs or nonresidential buildings less than 25,000 square feet.

4. Within 120 business days after receiving a complete and sufficient application, for an applicant using a local government plans reviewer to obtain the following building permits: multifamily residential not exceeding 50 units; site-plan approvals and subdivision plats not requiring public hearing or public notice; and lot grading and site alteration.

5. Within 15 business days after receiving a complete and sufficient application, for an applicant using a master building permit consistent with s. 553.794 to obtain a site-specific building permit.

6. Within 10 business days after receiving a complete and sufficient application, for an applicant for a single-family residential dwelling applied for by a contractor licensed in

this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Commerce, unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

(b) A local government must meet the timeframes set forth in this section for reviewing building permit applications unless the timeframes set by local ordinance are more stringent than those prescribed in this section.

(c) After ~~Within 10 days of~~ an applicant submits ~~submitting~~ an application to the local government, the local government must provide written notice to the applicant within 5 business days after receipt of the application advising ~~shall advise~~ the applicant what information, if any, is needed to deem or determine that the application is properly completed in compliance with the filing requirements published by the local government. If the local government does not provide timely written notice that the applicant has not submitted the properly completed application, the application is ~~shall be~~ automatically deemed or determined to be properly completed and accepted. ~~Within 45 days after receiving a completed application, a local government must notify an applicant if additional information is required for the local government to determine the sufficiency of the application, and shall specify the additional information that is required. The applicant must submit the additional information to the local government or request that the local government act without the additional information. While the applicant responds to the request for additional information, the 120-day period described in this subsection is tolled. Both~~

~~parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.~~

(d) A local government shall maintain on its website a policy containing procedures and expectations for expedited processing of those building permits and development orders required by law to be expedited.

~~(b)1. When reviewing an application for a building permit, a local government may not request additional information from the applicant more than three times, unless the applicant waives such limitation in writing.~~

~~2. If a local government requests additional information from an applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 15 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~3. If a local government makes a second request for additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~4. Before a third request for additional information may be made, the applicant must be offered an opportunity to meet with the local government to attempt to resolve outstanding issues. If a local government makes a third request for additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information unless the applicant waived the local government's limitation in writing, determine that the application is complete and:~~

~~a. Approve the application;~~

~~b. Approve the application with conditions; or~~

~~c. Deny the application.~~

~~5. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, must process the application and either approve the application, approve the application with conditions, or deny the application.~~

(e) ~~(c)~~ If a local government fails to meet a deadline under

this subsection ~~provided in paragraphs (a) and (b)~~, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline, unless the parties agree in writing to a reasonable extension of time. Each 10-percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time.

(f) A local enforcement agency does not have to reduce the building permit fee if it provides written notice to the applicant by e-mail or United States Postal Service within the respective timeframes in paragraph (a) which specifically states the reasons the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances. The written notice must also state that the applicant has 10 business days after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within 10 business days will result in a denial of the application.

(g) If the applicant submits revisions within 10 business days after receiving the written notice, the local enforcement agency has 10 business days after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer period in writing. If the local enforcement agency fails to issue or deny the building permit within 10 business days after receiving the revisions, it must reduce the building permit fee by 20 percent for each business day that it fails to meet the deadline unless the applicant agrees to a longer period in writing.

~~(2)(a) The procedures set forth in subsection (1) apply to the following building permit applications: accessory structure;~~

~~alarm permit; nonresidential buildings less than 25,000 square feet; electric; irrigation permit; landscaping; mechanical; plumbing; residential units other than a single family unit; multifamily residential not exceeding 50 units; roofing; signs; site plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application set forth in this subsection. The procedures set forth in subsection (1) do not apply to permits for any wireless communications facilities or when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications.~~

~~(b) If a local government has different timeframes than the timeframes set forth in subsection (1) for reviewing building permit applications described in paragraph (a), the local government must meet the deadlines established by local ordinance. If a local government does not meet an established deadline to approve, approve with conditions, or deny an application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time. This paragraph does not apply to permits for any wireless communications facilities.~~

Section 6. Paragraph (a) of subsection (7) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(7)(a) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this

part. These fees, and any fines or investment earnings related to the fees, may ~~shall~~ be used only ~~solely~~ for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget for enforcing the Florida Building Code for the previous 4 fiscal years. For purposes of this subsection, the term "operating budget" does not include reserve amounts. Any amount exceeding this limit must be used as authorized in subparagraph 2. However, a local government that established, as of January 1, 2019, a Building Inspections Fund Advisory Board consisting of five members from the construction stakeholder community and carries an unexpended balance in excess of the average of its operating budget for the previous 4 fiscal years may continue to carry such excess funds forward upon the recommendation of the advisory board. The basis for a fee structure for allowable activities must relate to the level of service provided by the local government and must include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged must be consistently applied.

1. As used in this subsection, the phrase "enforcing the Florida Building Code" includes the direct costs and reasonable

indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

2. A local government must use any excess funds that it is prohibited from carrying forward to rebate and reduce fees, to upgrade hardware and software technology systems to enhance service delivery, ~~or~~ to pay for the construction of a building or structure that houses a local government's building code enforcement agency, or for ~~the~~ training programs for building officials, inspectors, or plans examiners associated with the enforcement of the Florida Building Code. Excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than 4 consecutive years. An owner or builder who has a valid building permit issued by a local government for a fee, or an association of owners or builders located in the state that has members with valid building permits issued by a local government for a fee, may bring a civil action against the local government that issued the permit for a fee to enforce this subparagraph.

3. The following activities may not be funded with fees adopted for enforcing the Florida Building Code:

a. Planning and zoning or other general government activities.

b. Inspections of public buildings for a reduced fee or no

fee.

c. Public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.

d. Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code as defined in subparagraph 1.

4. A local government must use recognized management, accounting, and oversight practices to ensure that fees, fines, and investment earnings generated under this subsection are maintained and allocated or used solely for the purposes described in subparagraph 1.

5. The local enforcement agency, independent district, or special district may not require at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

a. Providing proof of licensure under chapter 489;

b. Recording or filing a license issued under this chapter;

c. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440; or

d. Charging surcharges or other similar fees not directly related to enforcing the Florida Building Code.

Section 7. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits; identification of minimum premium policy.—Every employer shall, as a condition to applying for and receiving a building permit, show proof and certify to the

permit issuer that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the department, or a copy of the employer's authority to self-insure and shall be presented, electronically or physically, each time the employer applies for a building permit. As provided in s. 553.79(23) ~~s. 553.79(24)~~, for the purpose of inspection and record retention, site plans or building permits may be maintained at the worksite in the original form or in the form of an electronic copy. These plans and permits must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code. As provided in s. 627.413(5), each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of rules adopted by rating organizations licensed pursuant to s. 627.221. The words "minimum premium policy" or equivalent language shall be typed, printed, stamped, or legibly handwritten.

Section 8. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

684
Bill Number or Topic

824238
Amendment Barcode (if applicable)

Name JEFF SCALA Phone

Address 100 S Monroe Email
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 Association of Counties

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Policy
Committee

684
Bill Number or Topic

824238
Amendment Barcode (if applicable)

Name Lisa Miller Phone 8505289229

Address 331 N Monroe St Email lisamiller@lisamillerassociates.com
Street

Tallahassee FL 32301
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [X] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: Private Provider Association 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 684
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim Dinkins (1000 Friends of Florida) Phone 850-273-5055

Address 308 N Monroe St Email kdinkins@1000fof.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: 1000 Friends of FL.

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 684
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tiffany Garling

Phone 850 661 3339

Address 136 S Bronough St
Street

Email tgarling@flchamber.com

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:
FL Chamber of Commerce

☐ 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

Deliver both copies of this form to
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22 Feb 2024
Meeting Date

Fiscal Policy
Committee

684
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave
Street

Email cstranburg@afphq.org

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:

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S-001 (08/10/2021)

The Florida Senate

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2-22-24
Meeting Date

Fiscal Policy
Committee

684
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lisa Miller

Phone 8505289229

Address 331 N Monroe Street
Street

Email lisamiller@lisamillerassoci

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: Private Provider Association 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

6:04
Bill Number or Topic

Amendment Barcode (if applicable)

Name Edward Briggs

Phone 8507335994

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:
Highland Homes

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

684
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashton Mears

Phone 352-843-0248

Address 1319 Thomaswood Drive
Street

Email amears@fhba.com

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 Home Builders 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

fiscal
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carol Bowen

Phone (954) 465-6841

Address PO Box 880448
Street

Email cbower@abcfloridacon

Boca FL 33488
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:

Assoc. Builders and Contractors

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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 736
INTRODUCER:	Committee on Fiscal Policy; Appropriations Committee on Transportation, Tourism, and Economic Development; and Senator Trumbull
SUBJECT:	Services Provided by the Department of Highway Safety and Motor Vehicles or Its Agents
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Wells	Jerrett	ATD	**Fav/CS**
3.	Shutes	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 736 makes changes to various services and programs administered by the Department of Highway Safety and Motor Vehicles (DHSMV) and its agents. Specifically, the bill:

- Revises a requirement for a rightful heir to transfer ownership of a motor vehicle or mobile home if the previous owner died testate;
- Clarifies that no additional fee can be charged by the DHSMV or a tax collector for the reissuance of a certificate of title that is lost in transit and is not delivered;
- Allows permanent motor vehicle registration decals for rental trucks that weigh under 15,000 pounds;
- Authorizes the DHSMV to issue reduced dimension license plates for trailers;
- Provides that a disabled veteran who qualifies for a free "DV" license plate may choose a military or specialty license plate he or she qualifies for in lieu of the "DV" license plate;
- Adds the following two cases wherein DHSMV may design, issue, and regulate the use of temporary tags:
    - The existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien; and
    - An active-duty military service member who has a valid Florida driver license provides evidence satisfactory to the department that he or she is deployed outside this state;

- Removes the requirement to provide a written, notarized request for the purchase of a temporary tag and provides requirements for renewal of a temporary tag.
- Provides that in political subdivisions with a population of 1.9 million or greater (currently Broward and Miami-Dade Counties), upon petition by the agent in charge of a general lines agency, the tax collector must appoint such agency as an agent for the tax collector for limited purposes of motor vehicle and mobile home registration transactions.

This bill has an indeterminate, negative fiscal impact on DHSMV. See Section V., Fiscal Impact Statement.

This bill takes effect July 1, 2024

II. Present Situation:

County tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for titling and registering motor vehicles, motor homes, and vessels.

Transfer of Ownership - Certificate of Title

Florida law states that in the case of transfer of ownership of a motor vehicle or mobile home by operation of law, such as inheritance, the DHSMV must receive satisfactory proof of ownership and right of possession to such motor vehicle or mobile home, and payment of the required certificate of title application fee, before the DHSMV can issue the applicant a certificate of title.[1]

If the previous owner died testate, the application must be accompanied by:[2]
- A certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets to pay all just claims; or
- A sworn copy of the will, if the will is not being probated, and an affidavit that the estate is not indebted.

Lost Certificates of Titles

Under current law, if a certificate of title is lost or destroyed, the owner of the motor vehicle or mobile home, or the holder of a lien, must apply to the DHSMV for a duplicate copy.[3] Upon receiving an application signed and sworn to by the applicant, and accompanied by the required fee,[4] the DHSMV must issue a duplicate copy of the certificate of title.[5]

If an original, duplicate, or corrected certificate of title issued by the DHSMV is lost in transit and is not delivered to the addressee, the owner or holder must, within 180 days of the date of issuance of the title, apply to the DHSMV for the reissuance of the certificate of title without an

[1] Section 319.28(1)(a), F.S.
[2] Section 319.28(1)(b), F.S.
[3] Section 319.29(1), F.S.
[4] The fee for a duplicate title is generally $75.25. See Section 319.32(1) and (2), F.S., and DHSMV, *Fees - Motor Vehicle Title Fees*, https://www.flhsmv.gov/fees/ (last visited March 26, 2023).
[5] Section 319.29(1), F.S.

additional fee.[6] Florida law provides that tax collectors can handle certificate of title applications and collect the associated fees.[7] However, the information technology system used by tax collectors to process title transactions currently lacks the functionality to issue a no fee replacement.

Registration, License Plates, and Decals

Florida law provides that registration license plates must be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate must be replaced. With the issuance of a license plate, a validation sticker is issued with the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The license plate and validation sticker are issued based on the applicant's appropriate renewal period.[8]

License plates with validation stickers subject to the registration period are valid for not more than 12 months and expire at midnight on the last day of the registration period. A license plate with a validation sticker subject to the extended registration period is valid for not more than 24 months and expires at midnight on the last day of the extended registration period.[9]

Currently rental cars have the ability to permanently register vehicles, provided they pay the appropriate annual license taxes and fees.[10]

License Plates with Reduced Dimensions

In lieu of a standard license plate, the DHSMV may deem a plate with reduced dimensions necessary to accommodate motorcycles, mopeds, or similar smaller vehicles.[11] All other requirements, including the type of metal, validation stickers, identification letters and numerals, and imprints for specific plates, are the same regardless of registration license plate size.[12]

Disabled Veteran "DV" License Plates

Section 320.084, F.S., provides that a disabled veteran is eligible for one free "DV" license plate if he or she has been a resident of this state for the preceding five years or has established a domicile in this state, has been honorably discharged from the United States Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;
- Has been determined by the VA or its predecessor to have a service-related one hundred percent disability rating for compensation; or

[6] Section 319.29(3), F.S.
[7] Section 319.32(2)(b), F.S.
[8] Section 320.06(1)(b)1., F.S.
[9] Section 320.06(1)(c), F.S.
[10] Section 320.06(1)(b), F.S.
[11] Section 320.06(3)(a), F.S.
[12] *Id.*

- Has been determined to have a service connected disability rating of one hundred percent and receives disability retirement pay from any branch of the United States Armed Forces.

The license number on each plate issued to a disabled veteran must be identified by the letter designation "DV."[13] The design of the special disabled veteran plate is red, white, and blue, and resembles the United States flag.[14] As of January 2023, there were 97,994 active Florida "DV" license plates, the most of any military license plate.[15]

Upon issuance of each new permanent "DV" license plate, an initial validation sticker with an expiration not exceeding 27 months, is issued without cost to the applicant.[16] The applicant does have to pay the associated service charges for each initial application or renewal of registration.[17] Registration must be renewed annually or biennially, and at that time the applicant must submit a certified statement affirming their continued eligibility for the special "DV" license plate.[18]

Any vehicle displaying a "DV" license plate that is transporting the person to whom the plate was issued is authorized to park in a designated accessible parking space.[19] A state agency, county, municipality, or any agency thereof, may not enact any fee for parking on the public streets or highways or in any metered parking space from the driver of a vehicle that displays the "DV" license plate when the vehicle is transporting the person who has the disability or who the plate was issued to.[20] Additionally, the governing body of a publicly owned or publicly operated airport must grant free parking to a vehicle displaying a "DV" license plate.[21] These rights are afforded by the state and are not necessarily universally accepted as parking permits and license plates designated with the International Symbol of Accessibility.[22]

Special Military License Plates

Florida offers Special Military License Plates, which have specific eligibility requirements that must be met upon application and required payment of the license tax for the vehicle, if applicable, before the plate can be issued.[23] Section 320.089, F.S., authorizes the majority of these special military plates, which include several plates for veterans, plates for National Guard members and former Prisoners of War, and plates for military members who have been awarded specific honors such as combat badges and medals. General revenue generated from the sale of

[13] Section 320.084(3), F.S.
[14] *See* DHSMV, *Florida Military License Plates*, HSMV 80003, available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf at 2. (last visited December 19, 2023).
[15] *Id*. at p. 6.
[16] Section 320.084(4)(a), F.S.
[17] Section 320.084(4)(b), F.S.
[18] Section 320.084(4)(c), F.S.
[19] Sections 553.5041(1) and 316.1955(1), F.S.
[20] Section 316.1964(1), F.S. However, a fee may be charged when such parking facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium, sports arena, coliseum, or auditorium. See s. 316.1964(3), F.S.
[21] Section 316.1964(7), F.S.
[22] *See* U.S. Access Board, *Guide to the ADA Accessibility Standards: Guidance on the International Symbol of Accessibility* (March 27, 2017), https://www.access-board.gov/ada/guides/guidance-on-the-isa/ (last visited December 19, 2023).
[23] See ss. 320.0845, 320.0846, 320.089, 320.0891, 320.0892, 320.0893, F.S. A full-listing of the military plates offered by DHSMV are available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf *supra*, note 91.

military plates issued under s. 320.089, F.S., are distributed to Florida Department of Veterans' Affairs trust funds to be used as follows:

- The first $100,000 are to be used for the common benefit of the residents of Florida Veterans' Nursing Homes.[24]
- Any additional revenue is to be used to support program operations that benefit veterans or the operation, maintenance, or construction of domiciliary and nursing homes for veterans.[25]
- Except for the revenue from the "Woman Veteran" license plate, which is to be used solely for creating and implementing programs to benefit women veterans.[26]

Specialty License Plates

As of December 2023, there are 144 specialty license plates authorized by the Legislature. Of these plates, 109 are available for immediate purchase and 31 are in the presale process.[27] Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from $15 to $25, paid in addition to required license taxes and service fees.[28] The annual use fees are distributed to organizations in support of a particular cause or charity signified on the plate's design and designated in statute.[29]

Temporary Tags

Section 320.131, F.S., authorizes the DHSMV to sell temporary tags to their agents where a need is met by the consumer. The fee for the temporary tag is $2, and from that $1 from each tag sold is deposited into the Brain and Spinal Cord Injury Program Trust Fund**.** The remaining proceeds are deposited into the Highway Safety Operating Trust Fund. Agents of the DHSMV are permitted to sell the temporary tags for $2 each and service charges are authorized, regardless of quantity sold. Requests for temporary tags must be in written, notarized form. Unless provided otherwise, temporary tags are valid for 30 days, and no more than two shall be issued to the same person for the same vehicle.

Currently, 65 counties have elected tax collectors who are constitutional officers, while Broward and Miami-Dade counties have appointed tax collectors under each county's charter government. However, pursuant to s. 1(d), Article VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.[30]

License Plate Agents and Fees

Currently, 65 counties have elected tax collectors who are constitutional officers, while Broward and Miami-Dade counties have appointed tax collectors under each county's charter government.

[24] Section 320.089(1)(c), F.S.
[25] *Id.*
[26] Section 320.089(1)(d), F.S.
[27] DHSMV Presentation to the Senate Transportation Committee, *Specialty License Plate*s (January 24, 2023), slideshow available at https://www.flsenate.gov/Committees/Show/TR/MeetingPacket/5615/10046_MeetingPacket_5615_3.pdf (last visited October 10, 2023).
[28] Section 320.08056(3)(d), F.S., provides that except if specifically provided in s. 320.08056(4), the annual use fee for a specialty license plate is $25.
[29] Section 320.08058, F.S.
[30] Art. VIII, s. 1(d), Fla. Const.

However, pursuant to s. 1(d), Article VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.[31]

Each tax collector is authorized to enter into contracts with private third-party license plate agents (LPAs) for the titling and registration of motor vehicles, mobile homes, and vessels. LPAs are granted online computer access to DHSMV systems and are supplied with title paper, registration decals, and license plates by the tax collector.[32]

Sixteen counties have, or until recently had, contracts with privately owned LPAs to operate 57 offices[33], primarily in Miami Dade and Broward County, to perform title and registration services for motor vehicles, mobile homes, and vessels. In counties with elected tax collectors, LPAs only charge the fees for those services as expressly authorized in statute. In these counties, the LPAs may retain all or a portion of the statutorily authorized service fee that tax collectors are allowed to collect for motor vehicle, mobile home, and vessel title and registration services, as provided in the contracts between the LPA and the tax collector.[34] The LPAs in Broward and Miami-Dade County charge fees for motor vehicle, mobile home, and vessel title and registration fees *in addition* to the statutory fees authorized in chs. 319, 320, and 328, F.S. The additional fees levied in Broward and Miami-Dade Counties are levied pursuant to county ordinance and are retained by the LPAs.[35]

Regulation of Insurance Agents

The Department of Financial Services' (DFS) Division of Insurance Agent and Agency Services is responsible for the licensing and regulation of insurance agents, adjusters, insurance agencies, as well as related personnel and business entities.[36]

No person may be, act as, or advertise, or hold himself/herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by DFS and appointed by an appropriate appointing entity or person.[37] There are several types of insurance representatives. These include:
General lines agents,
Life insurance agents,
Health insurance agents,
Title insurance agents,
Personal lines agents, and
Unaffiliated insurance agents.[38]

[31] Art. VIII, s. 1(d), Fla. Const.
[32] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p. 2, December 22, 2023 (On file with the Senate Committee on Transportation)
[33] *Id*.
[34] *Id*.
[35] *Id*.
[36] Ch. 626, parts I, II, III, IV, V, VI, VIII, IX, and XIII, F.S.
[37] S. 626.112, F.S.
[38] Section 626.015, F.S.

A general lines agent[39] is one who sells the following lines of insurance: property;[40] casualty,[41] including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,[42] or a workers' compensation self-insurance fund;[43] surety;[44] health;[45] and, marine.[46] The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.[47] Motor vehicle insurance is a type of casualty insurance.[48]

III. Effect of Proposed Changes:

Transfer of Ownership – Certificate Title

The bill amends s. 319.28, F.S., to provide, that if the previous owner died *testate* and the application for a certificate of title is made by, and accompanied by an affidavit attested by, a Florida-licensed attorney in good standing with the Florida Bar who is representing the previous owner's estate, such affidavit establishes a presumption of ownership, absent information received on the contrary, and right of possession to the motor vehicle or mobile home. The affidavit must set forth the rightful heir or heirs, and the attorney must attest to their lawful entitlement to the rights of ownership and possession of the motor vehicle or mobile home. In this case, the application for certificate of title does not have to be accompanied by a copy of the will or other testamentary instrument.

The bill amends s. 319.29, F.S., to clarify that the DHSMV *or a tax collector* may reissue a certificate of title without an additional fee when the certificate of title is lost in transit and not delivered.

Permanent Registration Decals for Small Rental Trucks

The bill amends s. 320.06, F.S., to allow a person to permanently register rental trucks, under 15,000 pounds, in the same manner as rental cars. Such rental trucks will be required to pay the appropriate annual license taxes and fees.

License Plates with Reduced Dimensions

The bill also amends s. 320.06, F.S., to clarify that the DHSMV may deem a reduced dimension license plate (as is currently issued for motorcycles and mopeds) necessary for a trailer. The department will need to determine size/type qualifications and program the necessary changes in technology systems.

[39] Section 626.015(5), F.S.
[40] Section 624.604, F.S.
[41] Section 624.605, F.S.
[42] As defined in s. 624.462, F.S.
[43] Pursuant to s. 624.4621, F.S.
[44] Section 626.606, F.S.
[45] Sections. 624.603 and 627.6482, F.S.
[46] Section 624.607, F.S.
[47] Section 626.829, F.S.
[48] Section 624.605, F.S.

Disabled Veteran "DV" License Plates

The bill amends s. 320.084, F.S., to allow a disabled veteran who qualifies for the "DV" license plate to select a special military license plate for which he or she is eligible or specialty license plate in lieu of the free "DV" license plate. The applicant must pay all of the applicable fees related to such plate.

Additionally, the bill provides that an applicant who selects another plate in lieu of the "DV" plate will not be afforded the same protections and rights of the "DV" plate relating to disabled parking accessibility and free parking for vehicles displaying the "DV" plate.

Temporary Tags

The bill adds the following two cases wherein DHSMV may design, issue, and regulate the use of temporary tags:

- The existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien.
- An active-duty military service member who has a valid Florida driver license provides evidence satisfactory to the DHSMV that he or she is deployed outside this state.

Further, the bill provides that a temporary tag issued for the two purposes above is valid for 60 days, instead of the default of 30 days.

The bill amends s. 320.131, F.S., to remove the requirement of providing a written, notarized request when applying for a temporary tag.

Insurance Agencies as Agents for Tax Collectors

The bill amends s. 320.03, F.S., to authorize a licensed general lines insurance agencies in political subdivisions of 1.9 million or greater (Miami-Dade and Broward counties) holding an insurer appointment to write motor vehicle insurance in Florida, to petition a tax collector for appointment, and requires the tax collector to make such appointment, as an authorized agent of the tax collector for the purpose of issuing:

- Registration certificates;
- Registration license plates;
- Validation stickers; and
- Mobile home stickers

The bill provides that a general lines agency may not process registration transactions under the International Registration Plan.

The bill mandates that a general lines insurance agency appointed by a tax collector:

- Must file a performance bond of $2 million with the DHSMV.
- Must provide the DHSMVs with audited financial statements, prepared by a certified public accountant licensed in Florida, for each of the two previous years, demonstrating

that the agency has produced policy premiums in excess of $500 million in each of the two previous years.
- Must offer such services at no more than five locations in each county where the agency has a branch office.
- Is subject to all provisions of the law, as if the insurance agency were a private tag agency, except where the context indicates otherwise.

DHSMV is authorized to adopt rules to administer this provision, including rules establishing enforcement authority for noncompliance.

For the purposes of the section related to the general lines agency, the bill delays the effective date of that section from July 1, 2024 to July 1, 2025, in order to allow DHSMV to prepare MOUs, implement programming, purchase registration inventory, and purchase and install computer equipment.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact to the DHSMV associated with the implementation of programming, purchasing of registration inventory (plates and decals), and to purchase and install computer equipment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.28, 319.29, 320.03, 320.06, 320.084, and 320.131.

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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Provides that in political subdivisions with a population of 1.9 million or greater (currently Broward and Miami-Dade Counties), upon petition by the agent in charge of a general lines agency, the tax collector must appoint such agency as an agent for the tax collector for limited purposes of motor vehicle and mobile home registration transactions.
- The amendment requires a general lines agency who is appointed by a tax collector to provide a performance bond of $2 million dollars and provide audited financial statements demonstrating that it has produced policy premiums in excess of $500 million. The amendment limits the number of locations that may be established within eligible counties and stipulates that such agency is subject to the relevant provisions of law that currently apply to private tag agents.

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:
The committee substitute:

- Revises the provision relating to the application and affidavit requirements for the transfer of ownership of a motor vehicle or mobile home if the previous owner died testate by providing that the affidavit establishes a presumption, rather than the affidavit constituting proof, of ownership and right of possession to a motor vehicle or mobile home.
- Allows permanent motor vehicle registration decals for rental trucks that weigh under 15,000 pounds.

- Adds two additional cases wherein the DHSMV is authorized and empowered to design, issue, and regulate the use of temporary tags.
- Eliminates the authorization of the DHSMV or its agents to renew an initial temporary tag.

B. Amendments:

None.

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	.	
02/23/2024	.	
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	.	

The Committee on Fiscal Policy (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete line 238
and insert:
Section 6. Effective July 1, 2025, subsection (11) is added to section 320.03, Florida Statutes, to read:
320.03 Registration; duties of tax collectors; International Registration Plan.—
(11)(a) In political subdivisions with a population of 1.9 million or greater, pursuant to the 2020 census, upon petition

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by the agent in charge of a general lines agency licensed pursuant to chapter 626 and appointed to write motor vehicle insurance, the tax collector must appoint such agency as an agent for the tax collector for purposes of issuing registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants, excluding issuance of registration or trip permits pursuant to s. 320.0715.

(b) A general lines agency appointed as an agent for a tax collector under this subsection:

1. Must provide a performance bond of $2 million to the department;

2. Must provide audited financial statements, from a certified public accountant licensed to practice in this state, for each of the previous 2 years demonstrating that the agency has produced policy premiums in excess of $500 million in each of the previous 2 years;

3. May not offer such services at more than five locations in each county where the agency has a branch office;

4. Is subject to all provisions of law as though such agent is a private tag agency or agent, except where the context clearly indicates otherwise.

(c) The department may adopt rules to administer this subsection, including, but not limited to, rules establishing information that must be contained in a petition to offer services under this subsection and information that must be contained in the audited financial statements and enforcement authority for noncompliance.

Section 7. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete line 37

and insert:

amending s. 320.03, F.S.; requiring tax collectors in specified political subdivisions to appoint a general lines agency as an agent for the tax collector for certain purposes upon petition by the agent in charge of the general lines agency; providing requirements for a general lines agency appointed as an agent for a tax collector; authorizing the department to adopt rules to administer this section; providing effective dates.

By the Appropriations Committee on Transportation, Tourism, and Economic Development; and Senator Trumbull

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A bill to be entitled

An act relating to services provided by the Department of Highway Safety and Motor Vehicles or its agents; amending s. 319.28, F.S.; providing that a certain affidavit establishes a presumption of ownership and right of possession to a motor vehicle or mobile home when the previous owner of the motor vehicle or mobile home died testate; providing that the application for certificate of title does not need to be accompanied by a will or other testamentary instrument; amending s. 319.29, F.S.; prohibiting the department or a tax collector from charging a fee for reissuance of certain certificates of title; amending s. 320.06, F.S.; authorizing permanent registration of certain rental trucks; authorizing the department to deem a license plate with reduced dimensions to be necessary to accommodate trailers; amending s. 320.084, F.S.; authorizing certain disabled veterans to be issued a military license plate or specialty license plate in lieu of a "DV" license plate; requiring the veteran to pay all fees associated with the license plate; specifying applicable fees; providing applicability; amending s. 320.131, F.S.; authorizing the department to design, issue, and regulate the use of temporary tags when the existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien; authorizing the department to design, issue, and regulate the use of temporary tags when an active-duty military

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servicemember who has a valid Florida driver license provides evidence satisfactory to the department that he or she is deployed outside this state; providing the period of validity of such temporary tags; removing provisions requiring a written, notarized request for the purchase of a temporary tag; 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. Present paragraphs (c) and (d) of subsection (1) of section 319.28, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection, to read:

319.28 Transfer of ownership by operation of law.—

(1)

(c) If the previous owner died testate and the application for a certificate of title is made by, and accompanied by an affidavit attested by, a Florida-licensed attorney in good standing with The Florida Bar, such affidavit shall, for purposes of paragraph (a), establish a presumption of ownership, absent information received to the contrary, and right of possession to the motor vehicle or mobile home, so long as the affidavit sets forth the rightful heir or heirs and the attorney attests in the affidavit that such heir or heirs are lawfully entitled to the rights of ownership and possession of the motor vehicle or mobile home. It is not necessary for the application for certificate of title filed under this paragraph to be

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accompanied by a copy of the will or other testamentary instrument.

Section 2. Subsection (3) of section 319.29, Florida Statutes, is amended to read:

319.29 Lost or destroyed certificates.—

(3) If, following the issuance of an original, duplicate, or corrected certificate of title by the department, the certificate is lost in transit and is not delivered to the addressee, the owner of the motor vehicle or mobile home, or the holder of a lien thereon, may, within 180 days of the date of issuance of the title, apply to the department for reissuance of the certificate of title. An ~~No~~ additional fee may not ~~shall~~ be charged by the department or a tax collector, as agent for the department, for reissuance under this subsection.

Section 3. Paragraph (b) of subsection (1) and paragraph (a) of subsection (3) of section 320.06, Florida Statutes, are amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b)1. Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate shall be replaced. The department shall extend the scheduled license plate replacement date from a 6-year period to a 10-year period. The fee for such replacement is $28, $2.80 of which shall be paid each year before the plate is replaced, to be credited toward the next $28 replacement fee. The fees shall be deposited into the Highway Safety Operating

Trust Fund. A credit or refund may not be given for any prior years' payments of the prorated replacement fee if the plate is replaced or surrendered before the end of the 10-year period, except that a credit may be given if a registrant is required by the department to replace a license plate under s. 320.08056(8)(a). With each license plate, a validation sticker shall be issued showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The validation sticker shall be placed on the upper right corner of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period is 12 months, the extended registration period is 24 months, and all expirations occur based on the applicant's appropriate registration period. Rental vehicles taxed pursuant to s. 320.08(6)(a) and rental trucks taxed pursuant to s. 320.08(3)(a), (b), and (c) and (4)(a)-(d) may elect a permanent registration period, provided payment of the appropriate license taxes and fees occurs annually.

2. A vehicle that has an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate. This subparagraph expires June 30, 2024.

3. Beginning July 1, 2024, a vehicle registered in accordance with the International Registration Plan must be issued a license plate for a 3-year period. At the end of the 3-year period, upon renewal, the license plate must be replaced. Each license plate must include a validation sticker showing the

month of expiration. A cab card denoting the declared gross vehicle weight for each apportioned jurisdiction must be issued annually. The fee for an original or a renewal cab card is $28, which must be deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn, it may be replaced at no charge by applying to the department and surrendering the current license plate.

4. In order to retain the efficient administration of the taxes and fees imposed by this chapter, the 80-cent fee increase in the replacement fee imposed by chapter 2009-71, Laws of Florida, is negated as provided in s. 320.0804.

(3)(a) Registration license plates must be made of metal specially treated with a retroreflection material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, ~~or~~ similar smaller vehicles, or trailers. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Apportioned license plates must have the word "Apportioned" at the bottom, and license plates issued for

vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), or (14) must have the word "Restricted" at the bottom. License plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Dealer" at the bottom unless the license plate is a specialty license plate as authorized in s. 320.08056. Manufacturer license plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Manufacturer" at the bottom. License plates issued for vehicles taxed under s. 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The state motto or the words "Sunshine State" shall be printed in lieu thereof. A license plate issued for a vehicle taxed under s. 320.08(6) may not be assigned a registration license number, or be issued with any other distinctive character or designation, that distinguishes the motor vehicle as a for-hire motor vehicle.

Section 4. Subsection (1) of section 320.084, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

320.084 Free motor vehicle license plate to certain disabled veterans.—

(1) One free "DV" motor vehicle license number plate shall be issued by the department for use on any motor vehicle owned or leased by any disabled veteran who has been a resident of this state continuously for the preceding 5 years or has established a domicile in this state as provided by s.

222.17(1), (2), or (3), and who has been honorably discharged from the United States Armed Forces, upon application, accompanied by proof that:

(a) A vehicle was initially acquired through financial assistance by the United States Department of Veterans Affairs or its predecessor specifically for the purchase of an automobile;

(b) The applicant has been determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent disability rating for compensation; or

(c) The applicant has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services.

(6)(a) A disabled veteran who meets the requirements of subsection (1) may be issued, in lieu of the "DV" license plate, a military license plate for which he or she is eligible or a specialty license plate. A disabled veteran electing a military license plate or specialty license plate under this subsection must pay all applicable fees related to such license plate.

(b) A military license plate or specialty license plate elected under this subsection:

1. Does not provide the protections or rights afforded by ss. 316.1955, 316.1964, 320.0848, 526.141, and 553.5041.

2. Is not eligible for the international symbol of accessibility as described in s. 320.0842.

Section 5. Subsection (2) of section 320.131, Florida Statutes, is amended, and paragraphs (m) and (n) are added to

subsection (1) of that section, to read:

320.131 Temporary tags.—

(1) The department is authorized and empowered to design, issue, and regulate the use of temporary tags to be designated "temporary tags" for use in the following cases:

(m) When the existing owner of a vehicle has submitted an application to transfer a valid out-of-state title that is subject to a lien. A temporary tag issued for this purpose shall be valid for 60 days.

(n) When an active-duty military servicemember who has a valid Florida driver license provides evidence satisfactory to the department that he or she is deployed outside this state. A temporary tag issued for this purpose shall be valid for 60 days.

Further, the department is authorized to disallow the purchase of temporary tags by licensed dealers, common carriers, or financial institutions in those cases where abuse has occurred.

(2) The department may ~~is authorized to~~ sell temporary tags, in addition to those listed above, to its ~~their~~ agents and where need is demonstrated by a consumer complainant. The fee for a temporary tag issued under this section shall be $2 each. One dollar from each tag sold shall be deposited into the Brain and Spinal Cord Injury Program Trust Fund, with the remaining proceeds being deposited into the Highway Safety Operating Trust Fund. Agents of the department shall sell temporary tags for $2 each and shall charge the service charge authorized by s. 320.04 per transaction, regardless of the quantity sold. ~~Requests for purchase of temporary tags to the department or its agents shall~~

~~be made, where applicable, on letterhead stationery and notarized.~~ Except as specifically provided otherwise, a temporary tag issued under this section shall be valid for 30 days, and no more than two shall be issued to the same person for the same vehicle.

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

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 764
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Stewart
SUBJECT:	Retention of Sexual Offense Evidence
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Fav/CS**
3.	Cellon	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 764 amends s. 943.326(3), F.S., to specify parameters for the storage of sexual assault evidence kits (SAKs). Kits that are collected from alleged victims of a sexual offense who does *not report* the sexual offense to law enforcement during the forensic physical examination and *does not request* to have the evidence tested, must be retained for a minimum of 50 years.[1] The bill requires that:

- The medical facility or certified rape crisis center that collected the kit must transfer the SAK to the Florida Department of Law Enforcement (FDLE) within 30 days after the collection date; and
- The FDLE must store the evidence anonymously, in a secure environmentally safe manner, and with a documented chain of custody.

If, at any time following the initial retention of a SAK an alleged victim reports the crime to law enforcement or requests testing of the evidence and if the applicable time limitation under s. 775.15, F.S., has not expired and a criminal prosecution may still be commenced, the previously collected SAK evidence will be retained in a secure, environmentally safe manner until the prosecuting agency has approved destruction. However, if the time limitation has

[1] Note that if the alleged victim is a minor, the alleged victim's parent, guardian, or legal representative can request to have the SAK evidence tested as can the alleged victim's personal representative, if the alleged victim is deceased. An alleged victim or, if applicable, the person representing the alleged victim must be informed of the purpose of submitting evidence for testing and the right to request testing. Section 943.326(1)(b) and (2), F.S.

expired and a criminal prosecution may not be commenced, the kit must be stored in a secure, environmentally safe manner until the department has approved its destruction.

This bill does not have a fiscal impact on state government. See Part V. Fiscal Impact Statement.

The bill becomes effective July 1, 2024.

II. Present Situation:

Tracking Sexual Assault Evidence Kits

In 2021, the Florida Department of Law Enforcement (FDLE) began creating, implementing, and maintaining a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs).[2] As of July 2023, all 67 counties were using the database and 1,602 SAKs were being tracked at that time.[3] Law enforcement agencies, medical facilities, crime laboratories, and any other facilities in the chain of custody of the SAKs are required to participate in the statewide database.[4]

An alleged victim[5] who has reported the offense to law enforcement and who provides the SAK evidence during the forensic physical examination has the ability to access the statewide database.[6] The reporting alleged victim can follow his or her SAK from the collection site (typically a medical facility),[7] to law enforcement agency storage, then to the crime laboratory for forensic testing and possible destruction after testing, or back to law enforcement agency storage.[8]

A SAK collected from an alleged victim who chooses not to report the sexual offense to law enforcement is not sent from the medical facility to law enforcement for testing.[9] A SAK must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.[10] Section 943.326(3), F.S., does not currently delineate between a SAK collected from a reporting victim and a SAK collected from a non-reporting victim.

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[2] Chapter 2021-213, L.O.F., s. 943.326(4)(c), F.S.; A SAK is defined by FDLE rule as a Florida sexual offense evidence kit or other sealed package containing samples collected from the alleged victim's body. Rule 11D-12.001, F.A.C.
[3] Information provided by FDLE via e-mail dated September 5, 2023 (on file with the Senate Criminal Justice Committee).
[4] Section 943.326(4)(d), F.S.
[5] If the alleged victim is a minor the alleged victim's parent, guardian, or legal representative can request to have the SAK evidence tested as can the alleged victim's personal representative, if the alleged victim is deceased. An alleged victim or, if applicable, the person representing the alleged victim must be informed of the purpose of submitting evidence for testing and the right to request testing. Sections 943.326(1)(b), and (2), F.S.
[6] If the alleged victim is a minor, his or her parent, guardian, or legal representative will have access to the database. If the alleged victim is deceased, his or her personal representative will have access. Section 943.326(4)(c) and (e), F.S.
[7] Section 943.326(4)(c), F.S.
[8] Section 943.326(4)(c) and (e), F.S.
[9] For a Florida Department of Law Enforcement (FDLE) or regional county laboratory to process evidence from a SAK, there must be an accompanying law enforcement report. Non-reporting SAKs will not be tested pursuant to s. 943.326, F.S., unless an alleged victim converts from a non-reporting victim to one who makes a report to law enforcement. To test a non-reporting SAK would violate the confidentiality and privacy of the victim's health records under the Health Insurance Portability and Accountability Act (HIPAA). FDLE Sexual Assault Kit Submissions Frequently Asked Questions, available at https://www.fdle.state.fl.us/Forensics/Documents/Sexual-Assault-Kit-FAQs-for-LEA_Final.aspx (last visited December 29, 2023).
[10] Section 943.326(3), F.S.

Time Limitations for Prosecution

The statutes of limitation (SOL) determine the timeframe within which a criminal prosecution must be initiated by a prosecutor.[11] The SOL in effect at the time a crime is committed controls.[12] In general, the timeframe is calculated from the day after a person commits an offense to the filing of a charging document, such as an indictment or information, which initiates the prosecution.[13]

Regardless of whether a charging document is filed, the time limitation does not run during any time an offender is continuously absent from the state or otherwise undiscoverable because he or she lacks a reasonably ascertainable home address or place of employment; however, an extension under this scenario may not exceed the normal time limitation by more than three years.[14]

The standard time limitations for the following crimes are:
- Four years for a first-degree felony.[15]
- Three years for a second or third-degree felony.[16]
- Two years for a first-degree misdemeanor.[17]
- One year for a second-degree misdemeanor.[18]

Capital felonies, life felonies, and felonies resulting in a death are not subject to time constraints, and the state may bring charges at any time.[19]

Exceptions to the Standard SOL for Sexual Battery Offenses

Florida extends or removes time limitations or changes the date on which the calculation of the SOL begins for specified sexual offenses.[20]

Pursuant to s. 775.15, F.S., the following SOLs apply to sexual battery prosecutions:
- Prosecution may be commenced at any time, for a specified:
  - Sexual battery involving a victim under 16;[21]

[11] Section 775.15, F.S.
[12] The statute of limitations to be used in determining whether a prosecution is timely is the one that is in effect at the time of the crime. *State v. Wadsworth*, 293 So.2d 345 (Fla.1974).
[13] Section 775.15(3) and (4), F.S.
[14] Section 775.15(5), F.S.
[15] Section 775.15(2)(a), F.S.
[16] Section 775.15(2)(b), F.S.
[17] Section 775.15(2)(c), F.S.
[18] Section 775.15(2)(d), F.S.
[19] Section 775.15(1), F.S.
[20] An extension of a particular crime's SOL does not violate the ex post facto clause of the Florida Constitution if the extension takes effect before prosecution of an offense is barred by the old SOL and the new SOL clearly indicates it applies to cases pending upon its effective date. s. 10, art. I, Fla. Const.; *Andrews v. State*, 392 So. 2d 270, 271 (Fla. 2d DCA 1980); The statute of limitations to be used in determining whether a prosecution is timely is the one that is in effect at the time of the crime. State v. Wadsworth, 293 So.2d 345 (Fla.1974).
[21] Prosecution must not have been barred by s. 775.15(2), F.S., on or before July 1, 2010. Section 775.15(13)(c), F.S.

- Sexual battery involving a victim under 18;[22]
- First-degree felony sexual battery involving a victim under 18;[23]
- First or second-degree felony sexual battery involving a victim less than 18 years of age, *if* the offense is reported within 72 hours of the commission of the offense.[24]
- First or second-degree felony violations of sexual battery involving a victim who is 16 years of age or older at the time of the offense *if* the offense is reported within 72 hours of the commission of the offense.[25]

- Prosecution of a specified first- or second-degree felony sexual battery involving a victim 16 or older must be commenced within 8 years, if the offense is not reported within 72 hours of the commission of the offense.[26]

III. Effect of Proposed Changes:

The bill amends s. 943.326(3), F.S., to specify parameters for the storage of sexual assault evidence kits (SAKs). Kits that are collected from alleged victims of a sexual offense who does *not report* the sexual offense to law enforcement during the forensic physical examination and *does not request* to have the evidence tested, must be retained for a minimum of 50 years.[27] The bill requires that:

- The medical facility or certified rape crisis center that collected the kit must transfer the SAK to the Florida Department of Law Enforcement (FDLE) within 30 days after the collection date; and
- The FDLE must store the evidence anonymously, in a secure environmentally safe manner, and with a documented chain of custody.

The 50-year DNA retention limitation for possible DNA evidence in non-reported sexual offenses provides a date certain for evidence disposal by the department while allowing a non-reporting alleged victim time to decide to report the sexual offense.

The anonymous storage of the possible DNA evidence complies with HIPPA by preserving the confidentiality and privacy of the alleged victim's health records.[28] Requiring that the evidentiary chain of custody remain unbroken is beneficial to the admissibility of the evidence in court should the alleged non-reporting victim decide to report the sexual offense.

If, at any time following the initial retention of a SAK an alleged victim reports the crime to law enforcement or requests testing of the evidence and if the applicable time limitation under s. 775.15, F.S., has not expired and a criminal prosecution may still be commenced, the previously collected SAK evidence will be retained in a secure, environmentally safe manner until the prosecuting agency has approved destruction. However, if the time limitation has

[22] Prosecution must not have been barred by s. 775.15(2), F.S., on or before July 1, 2020. Section 775.15(20), F.S.
[23] Prosecution must not have been barred by s. 775.15(2), F.S., on or before October 1, 2003. Section 775.15(13)(b), F.S.
[24] Prosecution must not have been barred by s. 775.15(2), F.S., on or before December 31, 1984. Section 775.15(13)(a), F.S.
[25] Section 775.15(14)(a), F.S.
[26] Prosecution must not have been barred by s. 775.15(2), F.S., on or before July 1, 2015. Section 775.15(14)(b), F.S.
[27] Note that if the alleged victim is a minor, the alleged victim's parent, guardian, or legal representative can request to have the SAK evidence tested as can the alleged victim's personal representative, if the alleged victim is deceased. An alleged victim or, if applicable, the person representing the alleged victim must be informed of the purpose of submitting evidence for testing and the right to request testing. Section 943.326(1)(b) and (2), F.S.
[28] The Health Insurance Portability and Accountability Act.

expired and a criminal prosecution may not be commenced, the kit must be stored in a secure, environmentally safe manner until the department has approved its destruction.

The bill becomes effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.326 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/CS by Fiscal Policy on February 22, 2024:
The committee substitute:

- Provides for the transfer of a sexual offense evidence kit from the medical facility or certified rape crisis center that collected the kit to the department within 30 days after the collection date.
- Provides that if the alleged victim (or another in compliance with s. 943.326(1)(b), F.S.,) elects to report the crime to law enforcement, the previously collected SAK evidence will be retained if the applicable time limitation under s. 775.15, F.S., has not expired and a criminal prosecution may still be commenced.
- Specifies that if the time limitation has expired and a criminal prosecution may not be commenced, the kit must be stored in a secure, environmentally safe manner until the department has approved its destruction.

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 8, 2024:
The committee substitute increases the retention time to 50 years for a sexual offense evidence kit collected from a non-reporting victim in s. 943.326(3)(b)1., F.S.

CS by Criminal Justice on January 10, 2024:
The committee substitute:

- Clarifies the length of time and conditions within which a sexual offense evidence kit collected from a reporting victim must be retained in s. 943.326(3)(a), F.S.
- Specifies the manner and length of time a sexual offense evidence kit collected from a non-reporting victim must be retained in s. 943.326(3)(b)1., F.S.
- Provides that a sexual offense evidence kit collected from a non-reporting victim who decides to report the offense to law enforcement before the 8-year kit retention period expires will be retained until the prosecuting agency has approved its destruction in s. 943.326(3)(b)2., F.S.

B. Amendments:

None.

885644

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 66

and insert:

for a minimum of 50 years after the collection date. Within 30 days after collecting such a kit, the medical facility or certified rape crisis center that collected the kit must transfer the kit to the department, which must maintain the kit in compliance with this subparagraph. A sexual offense evidence kit that is transferred and retained pursuant to this

885644

subparagraph must be stored anonymously, in a secure, environmentally safe manner, and with a documented chain of custody.

2. If, at any time following the initial retention of a sexual offense evidence kit pursuant to subparagraph 1., an alleged victim makes a report to a law enforcement agency or makes a request, or has a request made on his or her behalf, for testing in compliance with paragraph (1)(b), the kit must be retained as described in paragraph (a) if the applicable time limitation under s. 775.15 has not expired and prosecution of a criminal case may still be commenced. In circumstances in which a criminal case may not be commenced because the applicable time limitation under s. 775.15 has expired, the kit must be maintained in a secure, environmentally safe manner until the department has approved its destruction.

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

And the title is amended as follows:

Delete lines 6 - 8

and insert:

the collection date; requiring specified entities to transfer such sexual offense evidence to the department within a specified time period; requiring the department to retain such sexual offense evidence; requiring that such evidence be stored anonymously, in a secure, environmentally safe manner, and with a documented chain of custody; providing requirements for the transferring, storing, and destruction of such sexual offense evidence;

By the Appropriations Committee on Criminal and Civil Justice; the Committee on Criminal Justice; and Senator Stewart

A bill to be entitled

An act relating to retention of sexual offense evidence; amending s. 943.326, F.S.; requiring that specified sexual offense evidence be retained by specified entities for a minimum number of years after the collection date; requiring that such evidence be stored anonymously in a secure, environmentally safe manner, and with a documented chain of custody; providing an effective date.

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

Section 1. Section 943.326, Florida Statutes, is amended to read:

943.326 DNA evidence collected in sexual offense forensic physical examinations and investigations.—

(1) A sexual offense evidence kit, or other DNA evidence if a kit is not collected, must be submitted to a member of the statewide criminal analysis laboratory system under s. 943.32 for forensic testing within 30 days after:

(a) Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the law enforcement agency; or

(b) A request to have the evidence tested is made to the medical provider or the law enforcement agency by:

1. The alleged victim;

2. The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor; or

3. The alleged victim's personal representative, if the

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

alleged victim is deceased.

(2) An alleged victim or, if applicable, the person representing the alleged victim under subparagraph (1)(b)2. or 3. must be informed of the purpose of submitting evidence for testing and the right to request testing under subsection (1) by:

(a) A medical provider conducting a forensic physical examination for purposes of a sexual offense evidence kit; or

(b) A law enforcement agency that collects other DNA evidence associated with the sexual offense if a kit is not collected under paragraph (a).

(3)(a) Except as provided in paragraph (b), a collected sexual offense evidence kit, or other DNA evidence if a kit is not collected, that is collected from an alleged victim who reports a sexual offense to a law enforcement agency or who makes a request, or on whose behalf a request is made, for testing in compliance with paragraph (1)(b) must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.

(b)1. A sexual offense evidence kit that is collected from a person who does not report a sexual offense to a law enforcement agency during the forensic physical examination and who does not make a request, or have a request made on his or her behalf, in compliance with paragraph (1)(b) must be retained for a minimum of 50 years after the collection date by the medical facility that collected the kit, a certified rape crisis center with appropriate storage capabilities, or a law enforcement agency. A sexual offense evidence kit retained pursuant to this subparagraph must be stored anonymously, in a

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secure, environmentally safe manner, and with a documented chain of custody.

2. If, at any time following the initial retention of a sexual offense evidence kit pursuant to subparagraph (b)1., an alleged victim makes a report to a law enforcement agency or makes a request, or has a request made on his or her behalf, for testing in compliance with paragraph (1)(b), the kit must be retained as described in paragraph (a).

(4) The department and each laboratory within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, shall adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence that is obtained in connection with an alleged sexual offense. The timely submission and testing of sexual offense evidence kits is a core public safety issue. Testing of sexual offense evidence kits must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

(a) The guidelines and procedures must include the requirements of this section, standards for how evidence is to be packaged for submission, what evidence must be submitted to a member of the statewide criminal analysis laboratory system, and timeframes for when the evidence must be submitted, analyzed, and compared to DNA databases.

(b) The testing requirements of this section are satisfied when a member of the statewide criminal analysis laboratory system tests the contents of the sexual offense evidence kit in an attempt to identify the foreign DNA attributable to a suspect. If a sexual offense evidence kit is not collected, the

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laboratory may receive and examine other items directly related to the crime scene, such as clothing or bedding or personal items left behind by the suspect. If probative information is obtained from the testing of the sexual offense evidence kit, the examination of other evidence should be based on the potential evidentiary value to the case and determined through cooperation among the investigating agency, the laboratory, and the prosecutor.

(c) The department shall, subject to appropriation by the Legislature, no later than July 1, 2023, create and maintain a statewide database to track the location, processing status, and storage of each sexual offense evidence kit collected after the implementation of the database that is accessible to law enforcement agencies and alleged victims and other persons listed in paragraph (1)(b). The database shall track the status of the kits from the collection site throughout the criminal justice process, including the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime laboratories, analysis at crime laboratories, and storage or destruction after completion of analysis.

(d) The department shall adopt rules establishing the requirements for each entity that participates in the database. Law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve sexual offense evidence kits shall participate in the database, as required by the department.

(e) The department shall ensure that each alleged victim and other person listed in paragraph (1)(b) is notified of the existence of the database and provided with instructions on how

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to access it and informed that he or she is entitled to access to information regarding the alleged victim's sexual offense evidence kit, including tracking information, testing status, and any DNA matches to a person deemed by investigators to be a suspect or person of interest. However, notification of a DNA match shall state only that a DNA match has occurred and may not contain any genetic or other identifying information. Such a notification may be delayed for up to 180 days if such notification would, in the opinion of investigators, negatively affect the investigation.

(5) A violation of this section does not create:

(a) A cause of action or a right to challenge the admission of evidence.

(b) A cause of action for damages or any other relief.

Section 2. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

764
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bobbie Smith

Phone 850-251-6392

Address 2331 Phillips Rd.
Street

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Tall FL 32311
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:
FDLE

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

764
Bill Number or Topic

885644
Amendment Barcode (if applicable)

Name Bobbie Smith

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City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

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Meeting Date

Fiscal Policy
Committee

764
Bill Number or Topic

Amendment Barcode (if applicable)

Name Molly Hudson for Volusia Sheriff's Office Phone

Address 123 W. Indiana Email mhudson@volusiasheriff.gov
Street

DeLand FL. 32720
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Policy
Committee

764
Bill Number or Topic

Amendment Barcode (if applicable)

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Email barbaradevane1@yahoo.com

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:
FL NOW

☐ 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

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 776
INTRODUCER:	Children, Families, and Elder Affairs Committee and Senator Powell
SUBJECT:	Temporary Cash Assistance Eligibility
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski	CF	**Fav/CS**
2.	Sneed	McKnight	AHS	**Favorable**
3.	Hall	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 776 leaves the existing prohibition from receiving Temporary Cash Assistance (TCA) and Supplemental Nutrition Assistance Program (SNAP) assistance for individuals with felony drug trafficking convictions, but creates an exemption for victims of human trafficking. Under the bill, these public benefits may not be denied to an individual solely on the basis of a drug trafficking conviction if the Department of Children and Families has determined the individual is a victim of human trafficking.

The bill has an indeterminate, negative fiscal impact on state government. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Public Assistance

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.[1] The social safety net for American families depends on the coordination of a

[1] National Conference of State Legislatures, *Introduction to Benefit Cliffs and Public Assistance Programs*, available at https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs (last visited February 1, 2024).

complex patchwork of federal, state, and local funding and program administration.[2] Through various programs, public assistance can help families to keep children in their family home through economic difficulties[3], reduce the material hardship that has been linked to negative outcomes in children[4], drive the economy in times of market downturns[5], and support the career advancement of low-income adults striving to break the cycle of intergenerational poverty.[6]

Two of the most commonly utilized public assistance programs in Florida are the Temporary Assistance for Needy Families Temporary Cash Assistance (TANF or TCA) program and the Supplemental Nutrition Assistance Program (SNAP) or food assistance program

Temporary Assistance for Needy Families

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996.[7] PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program that provided dedicated funding for cash assistance to needy families with children, and alternatively created the broad-purpose federal TANF block grant.[8] The TANF block grant became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005.

Temporary Cash Assistance (TCA)

Direct cash assistance to needy families is the foundation of public welfare in the U.S.[9] Prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary

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[2] Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need*, available at https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/ (last visited February 1, 2024).

[3] Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. *See* Office of Family Assistance, *About TANF*, available at https://www.acf.hhs.gov/ofa/programs/tanf/about (last visited February 1, 2024); *see also* Center on Budget and Policy Priorities, *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment*, available at https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound (last visited February 1, 2024).

[4] Urban Institute, *What Explains the Widespread Material Hardship among Low-Income Families with Children?*, available at https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf (last visited February 1, 2024).

[5] Stephen Vogen, Cristina Miller, Katherine Ralston, *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession*, Economic Research Service (2021), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3938336 (last visited February 1, 2024).

[6] Brookings, *Policies that Reduce Intergenerational Policy*, available at https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/ (last visited February 1, 2024).

[7] Center on Budget and Policy Priorities, *Policy Basics: Temporary Assistance for Needy Families*, available at https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf (last visited February 1, 2024). *See also* Department of Health and Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law*, available at https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law (last visited February 1, 2024).

[8] Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at https://crsreports.congress.gov/product/pdf/R/R47503 (last visited February 1, 2024).

[9] Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed "mother's pension" programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at https://crsreports.congress.gov/product/pdf/R/R47503 (last visited February 1, 2024).

method of providing support to low-income families with children. Since the transition to TANF federal block grant funding, the number of families receiving direct cash assistance has waned significantly even among eligible populations, and currently, the majority of TANF funds are allocated for indirect methods of assisting families.[10]

The Temporary Cash Assistance (TCA) program is Florida's direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements[11] may receive cash assistance. The cash assistance is provided in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.[12]

TCA is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Florida Department of Commerce[13] is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to local workforce development boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.[14] CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.[15]

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July 2020.[16] While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, a total of 34,015 families, including 44,309 children, received TCA.[17]

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[10] Public cash assistance to needy families has its origin in the early 1900s; state and local entities financed "mother's pension" programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. See Congressional Research Service, *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals*, available at https://crsreports.congress.gov/product/pdf/R/R47503 (last visited February 1, 2024).

[11] Children must be under the age of 18, or under age 19 if they are full-time secondary school students. Parents, children, and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the ninth month of pregnancy. *See* DCF, *Temporary Cash Assistance (TCA)*, available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited February 1, 2024).

[12] DCF, *Temporary Cash Assistance Fact Sheet*, available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited February 1, 2024).

[13] Florida's Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. *See* Ron DeSantis, *Governor DeSantis Signs Legislation to Streamline Economic Development in Florida*, available at https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/ (last visited February 1, 2024).

[14] Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report*, available at https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf (last visited February 1, 2024).

[15] *Id.*

[16] DCF, *ESS Standard Reports: Caseload Report*, available at https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard (last visited February 1, 2024).

[17] DCF, *ESS Standard Reports: Flash Points*, available at https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard (last visited February 1, 2024).

TCA Eligibility

States have broad discretion in determining who is eligible for cash assistance. Florida's TCA program requires applicants to meet all of the following criteria to be eligible:[18]

- Be a U.S. citizen or qualified noncitizen[19];
- Be a legal resident of Florida;
- Have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the ninth month of pregnancy;
- Have a gross income of 185 percent or less of the federal poverty level;[20]
- Have liquid or nonliquid resources, of all members of the family, valued at less than $2,000;[21]
- Register for work with the local workforce development board (LWDB), unless an applicant qualifies for an exemption.

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation; [22] however, most households receive TCA for fewer than six months.

TCA Work Requirements

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.[23] Individuals who fail to comply with the work requirements may be sanctioned.[24] Individuals are required to participate in work activities for the maximum number of hours allowable under federal law.[25] The number of required work or activity hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount.

[18] DCF, *Temporary Assistance for Needy Families – State Plan Renewal*, available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf (last visited February 1, 2024).

[19] Section 414.095(3), F.S. A qualified noncitizen includes an individual who is admitted to the United States as a refugee or who is granted asylum, a Cuban or Haitian entrant, or a noncitizen who has been admitted as a permanent resident. It also includes an individual who, or an individual whose children or parent, has been battered or subject to extreme cruelty in the U.S. by a spouse, a parent, or other household member, and has applied for or received protection under the federal Violence Against Women Act, if certain criteria are met.

[20] Gross income cannot exceed 185% of the federal poverty level, and a family's countable income cannot exceed the payment standard for the family size. There is a $90 deduction on earned income per individual. See Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*, available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited January 25, 2024).

[21] Licensed vehicles with a combined value of not more than $8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See s. 414.075, F.S.

[22] Section 414.105, F.S.

[23] Section 414.095(1), F.S. A person may be exempt from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA time limitation due to hardship, or not considered work-eligible under federal policy. *See also* DCF, *Temporary Assistance for Needy Families – State Plan Renewal*, available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf (last visited February 1, 2024).

[24] Section 414.065, F.S.

[25] Section 445.024(2), F.S.

Work Participation Requirements	
Family Composition	**Required Work Participation Hours**
Single parent with a child under age 6	20 hours weekly of "core" work activities
Single parent with a child over 6, or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours of "core" work activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours weekly with at least 30 hours of "core" work activities, combined between both parents
Two-parent families who receive subsidized child care	55 hours weekly with at least 50 hours in "core" activities, combined between both parents

Pursuant to state and federal law, there are 12 distinct types of work activities which can be used to satisfy a TCA recipient's work requirement.[26] The 12 activities are categorized as either "core" or "supplemental" activities; such categorization impacts how the activity is counted toward a TCA recipient's work requirement.

Work Activities	
"Core" Activities	**"Supplemental" Activities**
• Unsubsidized employment • Subsidized private-sector employment • Subsidized public-sector employment • Work experience • On-the-job training • Job search and job readiness assistance • Community service programs • Vocational educational training • Providing child care services to an individual participating in a community service program	• Job skills training directly related to employment • Education directly related to employment • Completion of a secondary school program

While these activities may contribute toward a TCA recipient's work requirement, federal policy limits the extent to which certain activities may satisfy the work requirement. Federal and state law further limits how the different work activities may count toward a person's work requirement based on the characteristics of the individual and the length of time in which the individual engages in the activity.[27]

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance. Consequences for failure to participate in work activities include:[28]

[26] 45 CFR 261-30; s. 445.024(1), F.S.; *see also* DCF, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016), available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 25, 2024).
[27] 45 CFR § 261.31; s. 445.024, F.S.; *see also* Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities*, available at https://crsreports.congress.gov/product/pdf/R/R44751 (last visited January 26, 2024).
[28] Section 414.065, F.S.

- First noncompliance – cash assistance is terminated for the entire family for a minimum of ten days or until the individual complies, whichever is later.
- Second noncompliance – cash assistance is terminated for the entire family for one month or until the individual complies, whichever is later.
- Third noncompliance – cash assistance is terminated for the entire family for three months or until the individual complies, whichever is later.

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).[29] SNAP is the nation's largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision for funds that can be used to purchase eligible foods.[30] In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the U.S.[31] SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.[32]

SNAP is administered at the state level in Florida by the DCF.[33] The DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100 percent of the benefit amount received by participants.[34] Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need,

[29] The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every $1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity, simplify program administration, maintain states' flexibility in how they administer their programs, and improve access to SNAP. *See* US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*, available at https://www.fns.usda.gov/snap/short-history-snap (last visited February 2, 2024).

[30] US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*, available at https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/ (last visited February 2, 2024).

[31] US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*, available at https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics (last visited February 2, 2024).

[32] US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*, available at https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/ (last visited February 2, 2024).

[33] Section 414.31, F.S.

[34] Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*, available at https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it (last visited February 2, 2024).

streamline program administration and field operations, and coordinate SNAP activities with those of other programs.[35]

The amount of benefits, or allotment, for which a household qualified depends on the number of individuals in the household and the household's net income. To calculate a household's allotment, 30% of its net income is subtracted from the maximum allotment for that household size.[36] This is because SNAP households are expected to spend about 30 percent of their own resources on food.[37] As of October 2023, 3,112,411 Floridians were participating in SNAP.[38]

SNAP Eligibility & Work Requirements

To be eligible for SNAP, households must meet the following criteria:
(1) Gross monthly income must be at or below 200 percent of the poverty level;
(2) Net income must be equal to or less than the poverty level; and
(3) Assets must be below the limits set based on household composition.[39]

Individuals may be deemed ineligible for SNAP due to any of the following:[40]

- Conviction of drug trafficking;
- Fleeing a felony warrant;
- Breaking SNAP or TANF program rules;
- Failure to cooperate with the child support enforcement agency; or
- Being a noncitizen without qualified status.

Able-bodied adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult without Dependents (ABAWD) work requirement.

The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption. The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.[41]

Individuals are exempt from the general work requirements if they are:[42]

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[35] US Department of Agriculture, Food and Nutrition Service, *State Options Report*, available at https://www.fns.usda.gov/snap/waivers/state-options-report (last visited February 2, 2024).
[36] US Department of Agriculture, Food and Nutrition Service, *SNAP Eligibility*, available at https://www.fns.usda.gov/snap/recipient/eligibility (last visited February 2, 2024).
[37] *Id.*
[38] US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program: Number of Persons Participating*, available at https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-persons-1.pdf (last visited February 2, 2024).
[39] DCF, *SNAP Eligibility*, available at https://www.myflfamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility (last visited February 2, 2024). *See also* s. 414.32, F.S.
[40] *Id. See also* s. 414.32, F.S.
[41] US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at https://www.fns.usda.gov/snap/work-requirements (last visited February 2, 2024).
[42] *Id.*

- Already working at least 30 hours a week (or earning wages at least equal to the federal minimum wage multiplied by 30 hours);
- Meeting work requirements for another program (TANF or unemployment compensation);
- Taking care of a child under six or an incapacitated person;
- Unable to work due to a physical or mental limitation;
- Participating regularly in an alcohol or drug treatment program; or
- Studying in school or a training program at least half-time (but college students are subject to additional eligibility rules).

If an individual capable of meeting the general work requirements fails to do so, they are disqualified from getting SNAP for at least a month and must start meeting the requirements to get SNAP again. If the person gets back on SNAP and fails to meet the requirements again, they are disqualified for longer than a month and could be permanently disqualified.[43]

The ABAWD work requirement applies to Adults between 18 and 52 years of age, able-bodied, and without dependents, unless otherwise exempt from the general work requirement.[44] ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.[45]

Prohibition on Receiving TCA and Food Assistance – Felony Drug Convictions

Federal law prohibits TCA and food assistance eligibility for any individual with a felony drug conviction and imposes a lifetime ban on such benefits, unless a state elects to opt out of the provision.[46] Florida has opted out of this federal provision[47], with one limitation. Florida has implemented a modified ban wherein an applicant may not be denied benefits solely based on a felony drug conviction, unless the conviction is for drug trafficking[48], including agreeing, conspiring, combining, or confederating with another person to commit an act after August 22, 1996.[49]

[43] US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at https://www.fns.usda.gov/snap/work-requirements (last visited February 2, 2024).
[44] *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement, are a veteran, experiencing homelessness, or were in foster care on their 18th birthday and are under age 24 are exempt from the ABAWD requirements.
[45] US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide*, available at https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf (last visited February 2, 2024).
[46] Pub. L. No. 104-193, s. 115.
[47] Section 414.095(1), F.S.
[48] Section 414.095, F.S. Any person may be convicted of drug trafficking if they knowingly sell, purchase, manufacture, deliver, or bring into this state specified illegal drugs, such as cannabis, morphine, cocaine, fentanyl, hydrocodone, oxycodone, or if they are knowingly in actual or constructive possession of these drugs, and the drugs are over a certain amount. S. 893.135, F.S. Drug trafficking also includes those who agree, conspire, combine, or confederate with another person to commit the act.
[49] *See* DCF's ESS Policy Manual 1420.2200, Individual Convicted Felony Drug Trafficking (TCA), available at https://www.myflfamilies.com/sites/default/files/2023-02/1410.pdf (last visited February 2, 2024).

Under Florida law, drug trafficking is a first-degree felony punishable by up to 30 years of imprisonment and – depending upon the drug type and amount trafficked – fines from $25,000 to $500,000.[50] During the application process, individuals seeking public benefits self-attest if they have been convicted of felony drug trafficking. This information is then confirmed by an eligibility specialist during the applicant's interview. If the illegal behavior that led to the conviction occurred on or before August 22, 1996, the disqualification does not apply regardless of the date of the conviction. If a court expunges the felony drug trafficking conviction, the individual is not subject to the disqualification.[51]

In Florida, while an individual is disqualified, his or her family may still apply for and receive benefits. In such instances, the disqualified individual's needs are excluded in calculating the family's benefits, although the individual's income and assets are included in determining the household's eligibility. This means that while those with felony drug trafficking convictions may still apply for assistance for their children, the overall household receives less support because of the current bans.

The Department of Children and Families reports that in the 2023 calendar year, 402 individuals were denied benefits due to a drug trafficking conviction.[52] The number of people otherwise eligible who choose not to apply due to disqualification due to a felony drug trafficking conviction is unknown.

Prohibition Policy by State

Many states have chosen to opt out or implement a modified ban on the receipt of SNAP and TCA benefits for individuals with felony drug convictions. Except for South Carolina, all other states and Washington, D.C., have chosen to modify or remove the ban for at least one of the two affected programs.[53]

As of April 2022, seven[54] states fully ban TANF benefits, including TCA, for individuals with prior felony drug convictions, while 17[55] states, including Florida, have modified bans, and 26[56] states and Washington, D.C., have no ban for SNAP benefits. South Carolina is the only state with a full ban on SNAP benefits for individuals with prior felony drug convictions. Florida is

[50] Section 893.135, F.S.
[51] *See* DCF's ESS Policy Manual 1420.2200, Individual Convicted Felony Drug Trafficking (TCA), available at https://www.myflfamilies.com/sites/default/files/2023-02/1410.pdf (last visited February 2, 2024).
[52] DCF, Agency Bill Analysis for SB 776, on file with the Senate Children, Families, and Elder Affairs Committee.
[53] The Center for Law and Social Policy, *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions*, available at https://www.clasp.org/publications/report/brief/no-more-double-punishments/ (last visited February 2, 2024).
[54] Arizona, Georgia, Missouri, Nebraska, South Carolina, Texas, and West Virginia.
[55] Alaska, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Iowa, Montana, Maryland, Massachusetts, Michigan, Minnesota, North Carolina, Pennsylvania, Tennessee, and Utah.
[56] Alabama, Arkansas, California, Delaware, Illinois, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

one of 21[57] states with modified bans, and 28[58] states and Washington, D.C., have no ban for SNAP benefits.

Recidivism Studies

Studies have shown that public assistance such as TANF and SNAP reduces recidivism, while banning access has been linked to increased recidivism. The Bureau of Justice Statistics reports that approximately 66 percent of state prisoners were rearrested within three years of release, and 82 percent were arrested within 10 years.[59] Such odds of recidivating can be offset through providing support; the barriers to re-entering society as a productive member are reduced when people are able to meet their basic needs. A Harvard Law School study found that access to SNAP and TANF significantly reduced an individual's risk of being reincarcerated by up to 10 percent within one year.[60] Additionally, a study of recidivism before and after the Florida ban took effect estimated the ban increased drug traffickers' likelihood of returning to prison by at least 9.5 percent.[61]

Human Trafficking

Human trafficking is a form of modern-day slavery involving the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining, another person for the purpose of exploiting that person.[62] Victims of human trafficking are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.[63] Human trafficking does not necessarily involve the movement or relocation of a person, nor does it necessarily involve physical captivity.

Human trafficking can affect individuals of any age, gender, or nationality; however, some people are not more vulnerable than others. Significant risk factors include recent migration or relocation, substance use, mental health concerns, and involvement in the child welfare system.[64] Vulnerable people are lured and coerced through a myriad of means including economic abuse, psychological coercion, threats against family, drug addiction, physical abuse, and sexual abuse.[65]

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[57] Alabama, Alaska, Arizona, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, North Carolina, Tennessee, Texas, West Virginia, and Wisconsin.
[58] Arkansas, California, Delaware, Illinois, Iowa, Kentucky, Louisiana, Maine, Michigan, Massachusetts, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, and Wyoming.
[59] U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008-2018), Special Report*, available at https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs (last visited February 2, 2024).
[60] Crystal S. Yang, *Does Public Assistance Reduce Recidivism?*, Vol. 107, No. 5, Am. Econ. Rev. 551 (2017).
[61] Cody Tuttle, *Snapping Back: Food Stamp Bans and Criminal Recidivism*, Vol. 11, No. 2, Am. J. Econ. Pol'y 301 (2019).
[62] Section 787.06, F.S.
[63] *Id.*
[64] National Human Trafficking Hotline, *Human Trafficking*, available at https://humantraffickinghotline.org/en/human-trafficking (last visited February 6, 2024).
[65] AMA Journal of Ethics, *Human Trafficking, Mental Illness, and Addiction, Avoiding Diagnostic Overshadowing*, available at https://journalofethics.ama-assn.org/article/human-trafficking-mental-illness-and-addiction-avoiding-diagnostic-overshadowing/2017-01 (last visited February 6, 2024).

It is estimated that at any given time in 2021, there were approximately 27.6 million people engaging in forced labor.[66] In 2021, the National Human Trafficking Hotline[67] identified 16,710 trafficking victims in the U.S., of which 1,253 were in Florida[68]; however, these figures do not reflect the true scope and scale of the issue, which cannot be easily quantified due to its underground nature.

Trafficking of illegal drugs and human trafficking often co-occur.[69] Victims of trafficking may be exploited for the transport of illegal drugs and illegal drugs may also serve as a means of coercion by the trafficker.[70] Substance use as a means of coercion occurs in various settings, including sexual exploitation and forced labor, as well as intimate personal violence.[71] Through substance use coercion, a trafficker can maintain control over the victim through controlling the victim's access to the substance, forcing the victim to use substances, and using the victim's own substance use as a means of discrediting the victim and making the victim complicit in the victim's own oppression.[72]

The Legislature has made clear its intent that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by the state and the agencies[73]; however, in application it has proven difficult to hold human traffickers accountable, and victims of human trafficking face significant barriers to being recognized as such.

Victims of human trafficking often do not trust the police and rarely seek their assistance.[74] When victims of human trafficking do not interact with the criminal justice system, they are often perceived as criminals, rather than victims. Trafficking victims are frequently compelled to

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[66] International Labor Organization, *Global Estimates of Modern Slavery Forced Labour and Forced Marriage*, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf (last visited February 6, 2024).

[67] The National Human Trafficking Hotline is a free service to connect victims and survivors of sex and labor trafficking with services and supports to find help and safety. The hotline also receives tips about potential situations of sex and labor trafficking and facilitates reporting that information to the appropriate authorities. *See* National Human Trafficking Hotline, *About Us*, available at https://humantraffickinghotline.org/en/about-us (last visited February 6, 2024).

[68] National Human Trafficking Hotline, *Florida Statistics*, available at https://humantraffickinghotline.org/en/statistics/florida (last visited February 6, 2024).

[69] U.S. Drug Enforcement Administration, Violent Drug Organizations Use Human Trafficking to Expand Profits, available at https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits (last visited February 6, 2024).

[70] Asian Pacific Institute on Gender-Based Violence, *Intersections of Human Trafficking, Domestic Violence, and Sexual Assault – National Organizational Advocacy Roundtable*, available at https://api-gbv.org/wp-content/uploads/2019/02/Trafficking-DV-SA-Intersections-2016-formatted2019.pdf (last visited February 6, 2024).

[71] U.S. Department of Health and Human Services, *Understanding Substance Use Coercion as a Barrier to Economic Stability for Survivors of Intimate Partner Violence: Policy Implications*, available at https://aspe.hhs.gov/sites/default/files/private/pdf/264166/Substance-Use-Coercion-Policy-Brief.pdf (last visited February 6, 2024).

[72] International Labor Organization, *Global Estimates of Modern Slavery Forced Labour and Forced Marriage*, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf (last visited February 6, 2024).

[73] Section 787.06(1)(d), F.S.

[74] Amy Farrell, Meredith Dank, leke de Vries, Matthew Kafafian, Andrea Hughes, Sarah Lockwood, *Failing Victims? Challenges of the Police Response to Human Trafficking*, Vol. 18, No. 3, Criminology & Pub. Pol'y, 649, 649-673 (2019).

break the law and may be arrested as a result of that criminal act before they are recognized as a victim of human trafficking. Once a human trafficking victim is charged with a crime, the circumstances around the arrest and the overtaxed criminal court system create significant pressure on the victim to plead guilty, rather than contest the charge or seek to reveal the human trafficking situation.[75]

III. Effect of Proposed Changes:

The bill amends s. 414.095, F.S., to create an exemption to eligibility for victims of human trafficking for Florida's Temporary Cash Assistance (TCA) and Supplemental Nutrition Assistance Program (food assistance) benefits. This will allow individuals with a drug trafficking conviction who are also victims of human trafficking to access benefits assistance, as long as they meet all other eligibility requirements.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[75] The City University of New York, CUNY School of Law, *Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims*, available at https://ncjtc-static.fvtc.edu/Resources/RS00002861.pdf (last visited February 6, 2024).

B. Private Sector Impact:

Individuals previously disqualified from receiving cash or food assistance because of felony drug trafficking convictions who are also human trafficking victims will now be eligible to receive such benefits, assuming they meet all of the other eligibility requirements, which will provide additional financial support to low-income families.

C. Government Sector Impact:

According to the Department of Children and Families (DCF), there is an indeterminate, negative fiscal impact to state government to provide for individuals who would now be eligible for Temporary Cash Assistance (TCA) and/or Supplemental Nutrition Assistance Program (food assistance) benefits. It is unknown how many applicants would be eligible and apply and receive benefits under this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 414.095 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 by Children, Families, and Elder Affairs on February 6, 2024:
The committee substitute narrows the bill language and allows an individual convicted of drug trafficking and also determined to be a victim of human trafficking to not be denied TCA and food assistance benefits.

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 Children, Families, and Elder Affairs; and Senator Powell

586-02948-24 2024776c1

A bill to be entitled

An act relating to temporary cash assistance eligibility; amending s. 414.095, F.S.; providing that benefits may not be denied to certain victims of human trafficking; making technical changes; providing an effective date.

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

Section 1. Subsection (1) of section 414.095, Florida Statutes, is amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(1) ELIGIBILITY.—An applicant must meet the eligibility requirements of this section before receiving services or temporary cash assistance under this chapter, except that an applicant must ~~shall be required to~~ register for work and engage in work activities in accordance with s. 445.024, as designated by the local workforce development board, and may receive support services or child care assistance in conjunction with such requirement. The department shall make a determination of eligibility based on the criteria identified ~~listed~~ in this chapter. The department shall monitor continued eligibility for temporary cash assistance through periodic reviews consistent with the food assistance eligibility process. Benefits may not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135. If an individual has been determined by the department to be a victim of human trafficking as defined in s.

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943.0583(1), the individual may not be denied benefits solely on the basis of being convicted of a trafficking offense described in s. 893.135. To be eligible under this section, an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in this chapter, the state opts out of the provision of Pub. L. No. 104-193, s. 115, which ~~that~~ eliminates eligibility for temporary cash assistance and food assistance for any individual convicted of a controlled substance felony.

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 796
INTRODUCER:	Fiscal Policy Committee; Criminal Justice Committee; Governmental Oversight and Accountability Committee; and Senators Avila and Yarborough
SUBJECT:	Anti-human Trafficking
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVaney	GO	**Fav/CS**
2.	Wyant	Stokes	CJ	**Fav/CS**
3.	Limones-Borja	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 796 makes several updates that relate to combatting human trafficking in Florida. The bill extends the repeal date of the direct-support organization (DSO) for the Statewide Council on Human Trafficking to October 1, 2029.

The bill replaces the national human trafficking hotline with the Florida human trafficking hotline in several sections.

The bill also extends the date by which:

- A person licensed or certified under several chapters must post a human trafficking public awareness sign.
- A massage establishment must implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline.
- A public lodging establishment must post a human trafficking public awareness sign.

The bill requires a nongovernmental entity that enters into, renews, or extends a contract with a governmental entity to provide the governmental entity with an affidavit attesting that the nongovernmental entity does not use coercion for labor or services.

The bill prohibits a minor from being employed by an adult entertainment establishment in any role.

The bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.[1] An owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.[2]

The bill also provides that an owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall carefully check the person's driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services Identification Card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill provides that a person's ignorance of a person's age or a person's misrepresentation of his or her age cannot be used a defense in a prosecution for certain violations.

The bill has an indeterminate fiscal impact on the private sector. The bill may increase the need for prison beds.

The bill takes effect July 1, 2024.

II. Present Situation:

Human Trafficking

Human trafficking means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.[3] Under federal law, the term "severe forms of trafficking in persons" includes labor[4] and sex trafficking.[5,6] Victims can be found in legal and illegal labor industries, including child care, elder care, the drug trade, massage parlors, nail and hair salons, restaurants, hotels, factories, and farms.[7] In 2021, a total of 2,027 persons were referred to U.S. attorneys for

[1] A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.
[2] A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
[3] Section 787.06 (2)(d), F.S.
[4] The term "labor trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery. 22 USCA § 7102.
[5] The term "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. 22 USCA § 7102.
[6] 22 USCA § 7102.
[7] U.S. Department of Justice, *What is Human Trafficking?* (Jun. 26, 2023), *available at* https://www.justice.gov/humantrafficking/what-is-human-trafficking (last visited February 2, 2024).

human trafficking offenses.[8] Victims of sex trafficking are frequently recruited to work in strip clubs across the United States. Such persons may be recruited to work in strip clubs as hostesses, servers or dancers but are then required to perform sex acts with customers. Such strip clubs may be designed to provide the space and environment in which buyers may purchase commercial sex.[9]

Human Trafficking in Florida

Florida is ranked the third highest state of reported human trafficking cases in the United States.[10] Reports of commercially exploited children to the Florida Abuse Hotline for 2022 totaled 3,408 and 3,182 in 2021.[11] In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, 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,[12] services,[13] or commercial sexual activity,[14] commits a crime.[15] The circumstances and associated level of offense are as follows:

Statute	Description of Offense	Level of Felony	Offense Severity Ranking
787.06(3)(a)1.	Using for labor or services of any child under the age of 18 or an adult believed by the person to be a child younger than 18 years of age	First	Level 8
787.06(3)(a)2.	Using coercion[16] for labor or services of an adult	First	Level 7
787.06(3)(b)	Using coercion for commercial sexual activity of an adult	First	Level 8

[8] U.S. Department of Justice, *Human Trafficking Data Collection Activities, 2023* (Oct. 2023), *available at* https://bjs.ojp.gov/document/htdca23.pdf (last visited February 2, 2024).
[9] National Human Trafficking Hotline, *Hostess/Strip Club-Based*, *available at*, https://humantraffickinghotline.org/en/sex-trafficking-venuesindustries/hostessstrip-club-based (last visited Feb. 22, 2024).
[10] Florida Alliance to End Human Trafficking, *The Issue, available at* https://www.floridaallianceendht.com/the-issue/ (last visited February 2, 2024).
[11] The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida, 2023* (July 2023), *available at* https://oppaga.fl.gov/Documents/Reports/23-08.pdf (last visited February 2, 2023).
[12] Section 787.06(2)(e), F.S., defines "labor" as: work of economic or financial value.
[13] 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. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
[14] Section 787.06(2)(b), F.S., defines "commercial sexual activity" as any violation of ch. 796, F.S., relating to prostitution, or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.
[15] Section 787.06(3), F.S.
[16] The term "coercion" means:
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 and against her or his 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. Section. 787.06(2)(a), F.S.

Statute	Description of Offense	Level of Felony	Offense Severity Ranking
787.06(3)(c)1.	For labor or services of any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age who is an unauthorized alien	First	Level 9
787.06(3)(c)2.	Using coercion for labor or services of an adult who is an unauthorized alien	First	Level 8
787.06(3)(d)	Using coercion for commercial sexual activity of an adult who is an unauthorized alien	First	Level 9
787.06(3)(e)1.	For labor or services who does so by the transfer or transport of any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age from outside this state to within this state	First	Level 8
787.06(3)(e)2.	Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within this state	First	Level 7
787.06(3)(f)1.	For commercial sexual activity who does so by the transfer or transport of any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age from outside this state to within this state	First	Level 9
787.06(3)(f)2.	Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within this state	First	Level 8
787.06(3)(g)	For commercial sexual activity in which any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age, or in which any person who is mentally defective or mentally incapacitated	Life	Level 10

Soliciting or Purchasing Prostitution

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.[17]

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor:[18]

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,[19] assignation,[20] or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;

[17] This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.
[18] A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding $500. Sections 775.082(4)(b) and 775.083(1)(e), F.S
[19] "Lewdness" means any indecent or obscene act. Section 796.07(1)(c), F.S
[20] "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(d), F.S.

- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.[21]

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.[22] An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:

- One hundred hours of community service;[23]
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such a program is offered in the circuit in which the offender is sentenced;[24]
- A 10-day mandatory minimum jail sentence for a second or subsequent violation;[25]
- Vehicle impoundment up to 60 days if the offender used a car to commit the violation;[26]
- Inclusion of the offender's name on the Soliciting for Prostitution Public Database in certain situations;[27] and
- A $5,000 civil fine.[28]

Commercial Sexual Activity

Strip clubs are considered adult entertainment establishments under Florida law. Section 847.001, F.S., defines "adult entertainment establishment," to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

- An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
- Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.

[21] Section 796.07(2), F.S.
[22] Section 796.07(2)(f) and (5)(a), F.S.
[23] Section 796.07(5)(b)1., F.S.
[24] Section 796.07(5)(b)2., F.S.
[25] Section 796.07(5)(c), F.S.
[26] Section 796.07(5)(d), F.S.
[27] Section 796.07(5)(e), F.S.
[28] Section 796.07(6), F.S.

- Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
- An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term does not include an establishment licensed under s. 480.043, F.S.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws have been challenged, and courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments. In *Jane Doe I v. Landry*, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.[29]

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers' First Amendment free speech challenge.[30]

In *Valadez v. Paxton*, the United States District Court, W.D. Texas, Austin Division held that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.[31]

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting "all working relationships between 18-20 year olds and sexually-oriented businesses" because the plaintiff's failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking.[32]

In *DC Operating, LLC v. Paxton*, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state's recently enacted bill relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state's interest in curbing human trafficking.[33] The Court ruled that the plaintiff's failed to establish a likelihood of success on the merits of their

[29] *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).
[30] *Id*.
[31] *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021).
[32] *Id*.
[33] *Dc Operating, LLC v. Paxton*, 586 F.Supp.3d 554, 572 (W.D. Tex. 2022).

claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution's equivalent provisions.[34]

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court, M.D. Florida upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.[35] The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a "permissible way to keep track of licensed performers, secondary to combating human trafficking."[36] The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code[37] (Code) as Florida's "primary sentencing policy."[38] The offense severity ranking chart must be used with the Code worksheet to compute a sentence score for each felony offense who offense was committed on or after October 1, 1998.[39] Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[40] Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury, commission of certain drug trafficking offenses, and certain violent offenses committed against listed criminal justice professionals performing their duties.[41]

Direct-Support Organizations

Citizen-support organizations (CSOs) and direct-support organization (DSOs) are statutorily created non-profit organizations authorized to carry out specific tasks in support of public entities or public causes.[42] The function and purpose of a CSO or DSO are prescribed by an enacting statute and a written contract with the agency the CSO or DSO supports.[43]

In 2014, the Legislature created s. 20.058, F.S., which established a comprehensive set of transparency and reporting requirements for Citizen Support Organizations (CSOs) and Direct-

[34] *Id*.
[35] *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).
[36] *Id*. at 1127.
[37] Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.
[38] *See* chs. 97-194 and 98-204, L.O.F
[39] Section 921.0022, F.S.
[40] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.
[41] Section 921.0024, F.S.
[42] *See, e.g.,* ss. 16.618, 413.0111, and 1009.983, F.S.
[43] *See, e.g.,* 14.29(9), F.S.

Support Organizations (DSOs).[44] Specifically, the law requires CSOs and DSOs to annually submit the following information to the appropriate agency by August 1 of each year:[45]

- The name, mailing address, telephone number, and website address of the organization;[46]
- The statutory authority or executive order that created the organization;[47]
- A brief description of the mission of, and results obtained by, the organization;[48]
- A brief description of the organization's plans for the next three fiscal years;[49]
- A copy of the organization's ethics code;[50]
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990;[51] and
- An attestation, under penalty of perjury, stating that the organization has complied with subsection (4).[52]

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each CSO and DSO.[53] The agencies must also make such information available to the public through their websites.[54]

Florida Alliance to End Human Trafficking

The Florida Alliance to End Human Trafficking (Alliance) is the DSO established to provide assistance, fund, and support the Florida Statewide Council on Human Trafficking (Council).[55] The purpose of the DSO is to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, property and funds; and make expenditures in support of the statewide effort to end human trafficking.[56] The Alliance operates under a written contract with the Department of Legal Affairs.[57] The Alliance is set to repeal October 1, 2024, unless saved from repeal by the Legislature.[58]

In Fiscal Year 2022-2023, the Alliance:

- Trained over 26,000 individuals with its online human trafficking course;
- Obtained $500,000 state appropriations to update its training course to include various languages and expand its awareness statewide;
- Provided 15 different awareness trainings for various organizations;

[44] Ch. 2014-96, L.O.F.
[45] Section 20.058(1), F.S.
[46] Section 20.058(1)(a), F.S.
[47] Section 20.058(1)(b), F.S.
[48] Section 20.058(1)(c), F.S.
[49] Section 20.058(1)(d), F.S.
[50] Section 20.058(1)(e), F.S.
[51] Section 20.058(1)(f), F.S.
[52] Section 20.058(1)(g), F.S.
[53] Section 20.058(3), F.S.
[54] Section 20.058(2), F.S.
[55] *See* s. 16.618, F.S.
[56] Section 16.618(1)(b), F.S.
[57] Section 16.618(1)(c), F.S.
[58] Section 16.618(12), F.S.

- Hosted a webinar for Human Trafficking Awareness Month; and
- Fundraised $583,949 in private contributions.[59]

Financial Information for the Alliance to End Human Trafficking			
Tax year 2020-2021[60]		*Tax year 2021-2022*[61]	
Expenses on salaries, other compensation, and employee benefits	$21,719	Expenses on employee compensation and benefits	$86,498
Expenses on professional fees and payments to independent contractors	$59,500	Total on advertising, promotion, and travel	$62,095
Total Expenses	$123, 833	Total Expenses	$203,279
Total Revenue	$90,947	Revenue from fundraising events	$277,237
		Revenue from government grants	$25,000
		All other contributions	
		Total Revenue	$371,710
Ending Cash Balance	-32, 886	Ending Cash Balance	$168,431

Florida Statewide Council on Human Trafficking

The Florida Statewide Council on Human Trafficking (Council) is administratively housed within the Department of Legal Affairs. The purpose of the Council is to enhance the development and coordination of state and local law enforcement and social service responses to fight all forms of human trafficking and to support victims.[62] The duties of the Council include:[63]

- Development of recommendations for comprehensive programs and services including recommendations for certification of safe houses and safe foster homes.
- Assess the frequency and extent to which social media platforms are used to assist, facilitate, or support human trafficking within Florida; establish a process to detect such use on a consistent basis; and make recommendations on how to stop, reduce, or prevent social media platforms from being used for such purposes.

[59] Florida Alliance to End Human Trafficking, *2022-2023 Annual Report* (Jul. 27, 2023), *available at* https://www.floridaallianceendht.com/wp-content/uploads/2023/10/2022-2023-Annual-Report.pdf (last visited February 2, 2024).
[60] Email from Elizabeth Guzzo, Director of Legislative Affairs, Office of the Attorney General, to Amanda Stokes, Staff Director, Senate Criminal Justice Committee (Oct. 12, 2023, 11:14 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).
[61] Email from Elizabeth Guzzo, Director of Legislative Affairs, Office of the Attorney General, to Amanda Stokes, Staff Director, Senate Criminal Justice Committee (Oct. 12, 2023, 11:14 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).
[62] Section 16.617(1), F.S.
[63] Office of Attorney General, Florida Statewide Council on Human Trafficking, *available at* https://www.myfloridalegal.com/human-trafficking/council (last visited February 2, 2024).

- Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.
- Hold an annual statewide policy summit with an institution of higher learning.
- Work with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in our state.
- Develop overall policy recommendations.

The Council is also required to submit an annual report to the Legislature detailing the preceding fiscal year's accomplishments and recommendations regarding the development and coordination of state and local law enforcement and social services responses to fight human trafficking and support victims.[64]

III. Effect of Proposed Changes:

Section 1 amends s. 16.618, F.S., to extend the repeal date of the direct-support organization (DSO) for the Statewide Council on Human Trafficking to October 1, 2029.

Section 3 extends the date by which a person licensed or certified under several chapters must post a human trafficking public awareness sign.

Section 4 extends the date by which a massage establishment must implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline.

Section 5 extends the date by which a public lodging establishment must post a human trafficking public awareness sign.

Sections 2, 3, 4, 5, and 8 amend ss. 394.875, 456.0341, 480.043, 509.096, and 787. 29, F.S., respectively, to replace references to the national human trafficking hotline requirement with the Florida human trafficking hotline. Sections 3, 4, and 5 require that all of the new requirements be met by January 1, 2025.

Section 6 amends s. 562.13, F.S., to prohibit a minor from being employed by an adult entertainment establishment. Section 563.13, F.S., which provides a list of exceptions that allows a minor to be employed by alcohol venders, does not apply to adult entertainment establishments.

Section 7 amends s. 787.06, F.S., to require a nongovernmental entity that enters into, renews, or extends a contract with a governmental entity to provide the governmental entity with an affidavit attesting that the nongovernmental entity does not use coercion for labor or services. The affidavit must be signed by an officer or representative of the nongovernmental entity under penalty of perjury. Section 837.06, F.S., provides that the penalty for perjury for knowingly making a false statement in writing, with the intent to mislead a public servant shall be guilty of a misdemeanor of the second degree.[65]

[64] Section 16.617(5), F.S.

[65] A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a $500 fine, as provided in s. 775.082 and s. 775.083, F.S.

Section 9 creates s. 787.30, F.S., to prohibit a person under the age of 21 from working in an adult entertainment establishment. "Adult entertainment establishment" is defined to have the same meaning as provided in s. 847.001, F.S., which includes adult bookstores, adult theaters, special cabarets, and unlicensed massage establishments as defined by statute. Specifically, the section provides that an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.[66]

Furthermore, this section provides that an owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.[67] The term "nude" is defined to mean the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding.

Section 10 provides that the bill will take effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

[66] A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

[67] A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

E. Other Constitutional Issues:

The **Florida** Constitution expressly provides that:[68]

> *All natural persons are equal before the law* and have inalienable rights, among which are the **right to** enjoy and defend life and liberty, to pursue happiness, *to be **rewarded** for **industry***, and to acquire, possess and protect property....

In evaluating claims of statutory discrimination, a statute will be regarded as inherently "suspect" and subject to "heightened" judicial scrutiny if it impinges too greatly on fundamental constitutional rights flowing either from the federal or Florida constitutions, or if it primarily burdens certain groups that have been the traditional targets of irrational, unfair, and unlawful discrimination.[69] A court generally reviews classifications based on age, income, and employment status under the rational basis standard, upholding the classification unless it is wholly arbitrary—that is, unless it bears no rational relationship to a legitimate government interest.[70]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public lodging and massage establishments may incur costs associated with the training required by this bill. There may also be minor costs to crisis stabilization units, residential treatment facilities, residential treatment centers for children and adolescents, massage establishments, public lodging establishments, and strip clubs or other adult entertainment establishments associated with updating the human trafficking awareness signs to contain the Florida Human Trafficking Hotline number, instead of the national hotline. Each person licensed or certified under ch. 457, ch. 458, ch. 459, ch. 460, ch. 461, ch. 463, ch. 465, ch. 466, ch. 468, ch. 480, or ch. 486, F.S., may incur minor costs associated with updating the human trafficking awareness signs to include the Florida Human Trafficking Hotline number, instead of the national hotline.

C. Government Sector Impact:

The Department of Transportation may incur minor costs associated with updating the human trafficking awareness signs to include the Florida Human Trafficking Hotline number, instead of the national hotline in every rest area, turnpike service plaza, weigh

[68] Art. I, s. 2, FLA. CONST.
[69] *De Ayala v. Fla. Farm Bureau Cas. Ins. Co.*, 543 So.2d 204 (Fla. 1989).
[70] *Gregory v. Ashcroft*, 501 U.S. 452 (1991). *See also*, *Jackson v. State*, 191 So. 3d 423 at 426 (Fla. 2016). Under the rational basis test, a court generally grants great deference to legislative goals and objectives. Where the Legislature's objective is not clear, a court may search for any conceivable objective that might have motivated enactment of the law. *U.S. R.R. Ret. Bd. v. Fritz*, 449 U.S. 166 (1980) and *McDonald v. Bd. of Election*, 394 U.S. 802 (1969).

station, primary airport, passenger rail station, and welcome center that is open to the public.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.618, 394.875, 456.0341, 480.043, 509.096, 562.13, 787.06, and 787.29.

The bill creates section 787.30 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/CS by Fiscal Policy on February 22, 2024:
The committee substitute retains all of the provisions of the bill, but adds two new sections. Specifically, the committee substitute:

- Clarifies that a minor who qualifies for one of the exceptions relating to employment of a minor by a vendor licensed under the Beverage Law may not be employed as, or perform as, a professional entertainer or otherwise if such employment involves nudity, or be employed by an adult entertainment establishment.
- Prohibits the employment of an individual under the age of 21, as either an employee or performer, in an adult entertainment establishment.
- Establishes criminal penalties for an owner, manager, employee, or contractor of an adult entertainment establishment that knowingly employs, contracts, or permits and individual younger than 21 years of age to person or work in an adult entertainment establishment.
- Provides that a person's ignorance of another person's age or misrepresentation of his or her age be raised as a defense in a prosecution for a violation of this section.

CS/CS by Criminal Justice on February 6, 2024:
The committee substitute:

- Removes language increasing the members of the direct-support organization.
- Removes language requiring all employees of establishments who are on the premises and regularly interact with guests to receive training on human trafficking awareness.

CS by Governmental Oversight and Accountability on January 22, 2024:
The committee substitute:

- Specifies that the nongovernmental entities must attest that they do not use coercion *for* labor or services.

B. Amendments:

None.

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	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Yarborough) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (12) of section 16.618, Florida Statutes, is amended to read:

16.618 Direct-support organization.—

(12) This section is repealed October 1, 2029 ~~2024~~, unless reviewed and saved from repeal by the Legislature.

Section 2. Paragraph (b) of subsection (8) of section

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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)

(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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~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 3. Subsection (3) of section 456.0341, Florida Statutes, is amended to read:

456.0341 Requirements for instruction on human trafficking.—The requirements of this section apply to each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; chapter 480; or chapter 486.

(3) By January 1, 2025 ~~2021~~, the licensees or certificateholders shall post in their place of work in a conspicuous place accessible to employees a sign at least 11 inches by 15 inches in size, printed in a clearly legible font and in at least a 32-point type, which substantially states in

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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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Resource Center at 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."

Section 4. Subsection (13) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection; human trafficking awareness training and policies.—

(13) By January 1, 2025 ~~2021~~, a massage establishment shall implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Hotline~~ or to a local law enforcement agency and shall post in a conspicuous place in the establishment which is accessible to employees a sign with the relevant provisions of the reporting procedure.

Section 5. Subsections (1) and (3) of section 509.096, Florida Statutes, are amended to read:

509.096 Human trafficking awareness training and policies for ~~employees of~~ public lodging establishments; enforcement.—

(1) A public lodging establishment shall:

(a) Provide annual training regarding human trafficking awareness to employees of the establishment who perform housekeeping duties in the rental units or who work at the front

desk or reception area where guests ordinarily check in or check out. Such training must also be provided for new employees within 60 days after they begin their employment in those roles~~, or by January 1, 2021, whichever occurs later~~. Each employee must submit to the hiring establishment a signed and dated acknowledgment of having received the training, which the establishment must provide to the Department of Business and Professional Regulation upon request. The establishment may keep such acknowledgment electronically.

(b) ~~By January 1, 2021,~~ Implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.

(c) By January 1, 2025 ~~2021~~, post in a conspicuous location in the establishment which is accessible to employees a human trafficking public awareness sign at least 11 inches by 15 inches in size, printed in an easily legible font and in at least 32-point type, which states in English and Spanish and any other language predominantly spoken in that area which the department deems appropriate substantially the following:

"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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Resource Center at 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."

(3) ~~For a violation committed on or after July 1, 2023,~~ The

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division shall impose an administrative fine of $2,000 per day on a public lodging establishment that is not in compliance with this section and remit the fines to the direct-support organization established under s. 16.618, unless the division receives adequate written documentation from the public lodging establishment which provides assurance that each deficiency will be corrected within 45 days after the division provided the public lodging establishment with notice of its violation. For a second or subsequent violation of this subsection ~~committed on or after July 1, 2023~~, the division may not provide a correction period to a public lodging establishment and must impose the applicable administrative fines.

Section 6. Section 562.13, Florida Statutes, is amended to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(1) Unless otherwise provided in this section, it is unlawful for any vendor licensed under the Beverage Law to employ any person under 18 years of age.

(2) This section shall not apply to:

(a) Professional entertainers 17 years of age who are not in school.

(b) Minors employed in the entertainment industry, as defined by s. 450.012(5), who have either been granted a waiver under s. 450.095 or employed under the terms of s. 450.132 or under rules adopted pursuant to either of these sections.

(c) Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have

obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

(d) Persons 17 years of age or over or any person furnishing evidence that he or she is a senior high school student with written permission of the principal of said senior high school or that he or she is a senior high school graduate, or any high school graduate, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.

(e) Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.

(f) Persons under the age of 18 years employed in bowling alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.

(g) Persons under the age of 18 years employed by a bona fide dinner theater as defined in this paragraph, as long as their employment is limited to the services of an actor, actress, or musician. For the purposes of this paragraph, a dinner theater means a theater presenting consecutive productions playing no less than 3 weeks each in conjunction with dinner service on a regular basis. In addition, both events

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must occur in the same room, and the only advertised price of admission must include both the cost of the meal and the attendance at the performance.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

However, a minor who qualifies for one of the exceptions in this subsection ~~to whom this subsection otherwise applies~~ may not be employed as or perform ~~if the employment, whether~~ as a professional entertainer or otherwise if such employment~~,~~ involves nudity, as defined in s. 847.001, on the part of the minor and such nudity is intended as a form of adult entertainment, or be employed by an adult entertainment establishment, as defined in s. 847.001.

(3)(a) It is unlawful for any vendor licensed under the beverage law to employ as a manager or person in charge or as a bartender any person:

1. Who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state.

2. Who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any felony violation of chapter 893 or the controlled substances act of any other state or the Federal Government.

3. Who has, in the last past 5 years, been convicted of any

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felony in this state, any other state, or the United States.

The term "conviction" shall include an adjudication of guilt on a plea of guilty or nolo contendere or forfeiture of a bond when such person is charged with a crime.

(b) This subsection shall not apply to any vendor licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

Section 7. Subsection (13) is added to section 787.06, Florida Statutes, to read:

787.06 Human trafficking.—

(13) When a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in this section. For purposes of this subsection, the term "governmental entity" has the same meaning as in s. 287.138(1).

Section 8. Subsection (4) of section 787.29, Florida Statutes, is amended to read:

787.29 Human trafficking public awareness signs.—

(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,

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farm work, factory work, retail work, restaurant work, or any other activity—call the Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~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."

Section 9. Section 787.30, Florida Statutes, is created to read:

787.30 Employing persons under the age of 21 years in adult entertainment establishments prohibited.—

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

(a) "Adult entertainment establishment" has the same meaning as in s. 847.001.

(b) "Nude" means the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute nudity, regardless of whether the nipple is covered during or incidental to feeding.

(2)(a) Except as provided in paragraph (b), an owner, a manager, an employee, or a contractor of an adult entertainment establishment who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) An owner, a manager, an employee, or a contractor of an

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adult entertainment establishment who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work while nude in an adult entertainment establishment commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) An owner, a manager, an employee, or a contractor of an adult entertainment establishment who permits a person to perform as an entertainer or work in any capacity for the establishment shall carefully check the person's driver license or identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

(4) For purposes of this section, a person's ignorance of another person's age or a person's misrepresentation of his or her age may not be raised as a defense in a prosecution for a violation of this section.

Section 10. This act shall take effect July 1, 2024.

================ 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 anti-human trafficking; amending s. 16.618, F.S.; extending the future repeal date of the

direct-support organization for the Statewide Council on Human Trafficking; amending ss. 394.875, 456.0341, and 480.043, F.S.; revising the hotline telephone number to be included in human trafficking awareness signs; amending s. 509.096, F.S.; deleting obsolete provisions; revising the hotline telephone number to be included in human trafficking awareness signs; amending s. 562.13, F.S.; revising applicability of provisions governing the employment of minors by vendors licensed under the Beverage Law; amending s. 787.06, F.S.; requiring that contractors with governmental entities attest that they do not use coercion for labor or services; defining the term "governmental entity"; amending s. 787.29, F.S.; revising the hotline telephone number to be included in human trafficking awareness signs; creating s. 787.30, F.S.; defining terms; prohibiting the employment of persons younger than 21 years of age in adult entertainment establishments; providing criminal penalties; requiring adult entertainment establishments to check identification of entertainers; specifying forms of identification that may be used; prohibiting the raising of specified arguments as a defense in a prosecution for certain violations; providing an effective date.

WHEREAS, Florida is ranked third nationally for reported cases of human trafficking abuses, many of which involved sex trafficking, and

WHEREAS, adult entertainment establishments are widely recognized as being a significant part of the sex trafficking network used by traffickers to coerce and facilitate men, women, and children into performing sexual acts, which places the employees of these establishments in direct and frequent contact with the victims of human trafficking, and

WHEREAS, victims of sex trafficking are frequently recruited to work as performers or employees in adult entertainment establishments, and

WHEREAS, researchers have found that sex trafficking victims are more likely to be trafficked by someone from within her or his own community, and

WHEREAS, persons younger than 21 years of age are more likely to still remain within and dependent on the community in which they were raised, and

WHEREAS, research studies have identified the average age at which a person in the United States enters the sex trade for the first time as 17 years of age, and

WHEREAS, sex trade at adult entertainment establishments is a common occurrence in Florida, thereby subjecting performers at these establishments to frequent propositions and enticements to engage in sex trade actions and sex trafficking from customers, as well as strip club employees, managers, and owners, and

WHEREAS, an understanding of history and human nature reveals that there are sex criminals of various kinds who will prey on the young and vulnerable, and

WHEREAS, restricting the employment of persons younger than 21 years of age at adult entertainment establishments furthers an important state interest of protecting those vulnerable

individuals from sex trafficking, drug abuse, and other harm, and

WHEREAS, many court opinions recognize that, while expressive activities are entitled to some First Amendment protections at adult entertainment establishments, content-neutral restrictions or regulations intended to minimize the secondary harmful effects of those businesses tend to be upheld, and

WHEREAS, on November 16, 2018, the federal Fifth Circuit Court of Appeals, in the case of *Jane Doe I v. Landry*, 909 F.3d 99 (5th Cir. 2018), upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution, and

WHEREAS, the federal district court in *Valadez v. Paxton*, 553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a preliminary injunction against the enforcement of Texas Senate Bill 315 prohibiting "all working relationships between 18-20-year-olds and sexually-oriented businesses" because the plaintiffs failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking, and

WHEREAS, the federal district court in *DC Operating, LLC v. Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for a preliminary injunction against Texas Senate Bill 315, at least in part, because of the state's evidence of the correlation between raising the minimum employment age and reducing human trafficking, and

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WHEREAS, the federal district court in *Wacko's Too, Inc., v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023), upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the city's interest in preventing human and sex trafficking, NOW, THEREFORE,

By the Committees on Criminal Justice; and Governmental Oversight and Accountability; and Senator Avila

591-02984-24 2024796c2

A bill to be entitled

An act relating to anti-human trafficking; amending s. 16.618, F.S.; extending the future repeal date of the direct-support organization for the Statewide Council on Human Trafficking; amending ss. 394.875, 456.0341, and 480.043, F.S.; revising the hotline telephone number to be included in human trafficking awareness signs; amending s. 509.096, F.S.; deleting obsolete provisions; revising the hotline telephone number to be included in human trafficking awareness signs; amending s. 787.06, F.S.; requiring that contractors with governmental entities attest that they do not use coercion for labor or services; defining the term "governmental entity"; amending s. 787.29, F.S.; revising the hotline telephone number to be included in human trafficking awareness signs; providing an effective date.

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

Section 1. Subsection (12) of section 16.618, Florida Statutes, is amended to read:

16.618 Direct-support organization.—

(12) This section is repealed October 1, 2029 ~~2024~~, unless reviewed and saved from repeal by the Legislature.

Section 2. Paragraph (b) of 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

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

591-02984-24 2024796c2

adolescents; authorized services; license required.—

(8)

(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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~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 3. Subsection (3) of section 456.0341, Florida Statutes, is amended to read:

456.0341 Requirements for instruction on human trafficking.—The requirements of this section apply to each person licensed or certified under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 465; chapter 466; part II, part III, part V, or part X of chapter 468; chapter 480; or chapter 486.

(3) By January 1, 2025 ~~2021~~, the licensees or certificateholders shall post in their place of work in a conspicuous place accessible to employees a sign at least 11 inches by 15 inches in size, printed in a clearly legible font and in at least a 32-point type, which substantially states in English and Spanish:

"If you or someone you know is being forced to engage in an

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

activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Resource Center at 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."

Section 4. Subsection (13) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection; human trafficking awareness training and policies.—

(13) By January 1, 2025 ~~2021~~, a massage establishment shall implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Hotline~~ or to a local law enforcement agency and shall post in a conspicuous place in the establishment which is accessible to employees a sign with the relevant provisions of the reporting procedure.

Section 5. Subsections (1) and (3) of section 509.096, Florida Statutes, are amended to read:

509.096 Human trafficking awareness training and policies for ~~employees of~~ public lodging establishments; enforcement.—

(1) A public lodging establishment shall:

(a) Provide annual training regarding human trafficking awareness to employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check in or check out. Such training must also be provided for new employees within 60 days after they begin their employment in those roles~~,~~

~~or by January 1, 2021, whichever occurs later~~. Each employee must submit to the hiring establishment a signed and dated acknowledgment of having received the training, which the establishment must provide to the Department of Business and Professional Regulation upon request. The establishment may keep such acknowledgment electronically.

(b) ~~By January 1, 2021,~~ Implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.

(c) By January 1, 2025 ~~2021~~, post in a conspicuous location in the establishment which is accessible to employees a human trafficking public awareness sign at least 11 inches by 15 inches in size, printed in an easily legible font and in at least 32-point type, which states in English and Spanish and any other language predominantly spoken in that area which the department deems appropriate substantially the following:

"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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~the National Human Trafficking Resource Center at 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."

(3) ~~For a violation committed on or after July 1, 2023,~~ The division shall impose an administrative fine of $2,000 per day on a public lodging establishment that is not in compliance with this section and remit the fines to the direct-support

organization established under s. 16.618, unless the division receives adequate written documentation from the public lodging establishment which provides assurance that each deficiency will be corrected within 45 days after the division provided the public lodging establishment with notice of its violation. For a second or subsequent violation of this subsection ~~committed on or after July 1, 2023~~, the division may not provide a correction period to a public lodging establishment and must impose the applicable administrative fines.

Section 6. Subsection (13) is added to section 787.06, Florida Statutes, to read:

787.06 Human trafficking.—

(13) When a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in this section. For purposes of this subsection, the term "governmental entity" has the same meaning as in s. 287.138(1).

Section 7. Subsection (4) of section 787.29, Florida Statutes, is amended to read:

787.29 Human trafficking public awareness signs.—

(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 Florida Human Trafficking Hotline, 1-855-FLA-SAFE, ~~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."

Section 8. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

0796
Bill Number or Topic

Amendment Barcode (if applicable)

Name Molly Hudson for Volusia Sheriff's office Phone

Address 123 W. Indiana Email mhudson@volusiasheriff.gov
Street

DeLand FL. 32720
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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 864
INTRODUCER:	Fiscal Policy Committee; Criminal Justice Committee; and Senator Collins and others
SUBJECT:	Autism Spectrum Disorder Training for Law Enforcement and Correctional Officers
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Favorable**
3.	Vaughan	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 864 amends s. 943.1727, F.S., requiring a training component relating to individuals with autism spectrum disorder. The bill specifies that the training may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer, correctional officer, or correctional probation officer. This would apply to both the Criminal Justice Standards and Training Commission (CJSTC) advanced/specialized programs and to the basic recruit training for those seeking to become a certified law enforcement officer in Florida.

The bill also specifies that the training must include in-person instruction for initial certification and online instruction for continued employment, in the techniques and procedures including:

- The nature and manifestation of autism spectrum disorders;
- Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the right of the individual;
- Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual;
- Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations;
- Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder;

- Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder;
- Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility; and
- The impact of interaction with officers on individuals with autism spectrum disorder.

All recruits must receive the employment training component relating to individuals with autism spectrum disorder.

The bill provides timeframes for implementation of training for initial certification and for continued training or education. Failure to complete the training will result in the officer's certification being in "inactive status" until the officer's employing agency notifies the commission that he or she has completed the training.

The Florida Department of Law Enforcement can absorb the workload associated with this bill within existing resources. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Criminal Justice Standards and Training Commission (CJSTC)

The CJSTC is established under s. 943.11, F.S. The commission is an independent policy making body that ensures that Florida's criminal justice officers are ethical, qualified, and well-trained. The commission is responsible for creating entry-level curricula and certification testing for criminal justice officers in Florida, establishing minimum standards for employment and certification, and revoking the certification of officers who fail to maintain these minimum standards of conduct.[1]

Minimum Qualifications

An individual must be at least 19 years of age to become a certified law enforcement officer or a certified correctional probation officer and must be at least 18 years of age to become a certified correctional officer. Additionally, the individual must be a citizen of the United States, not have been convicted of a felony or received a dishonorable discharge from the military, pass a physical exam, and have good moral character as determined by a background investigation. Certification as a law enforcement officer or correctional officer requires a high school diploma or equivalent (GED). Certification as a correctional probation officer requires a bachelor's degree.[2,3]

[1] Florida Department of Law Enforcement, Criminal Justice Professionalism Division, *Overview of the Professionalism Division*, https://www.fdle.state.fl.us/CJSTC/Overview.aspx (last visited January 18, 2024).
[2] Office of Program Policy Analysis and Governmental Accountability, *Department of Law Enforcement Criminal Justice Professionalism Services*, https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1065 (last visited January 18, 2024).
[3] Section 943.13, F.S.

Autism Training

In 2017, s. 943.1727, F.S., was amended to include autism training for law enforcement officers. This training may be counted toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer under s. 943.135, F.S.[4]

Section 627.6686(2)(b), F.S., defines "Autism spectrum disorder" to mean any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder.
- Asperger's syndrome.
- Pervasive developmental disorder not otherwise specified.[5]

Currently, the Florida Law Enforcement Academy Basic Recruit Training Program (LEBRT or Basic Recruit) is set at 770 hours of instruction time. The Basic Recruit has a lesson in place on interacting with people with autism that addresses topics relating to the autism spectrum disorder. Training is included in an optional 4-hour Specialized Course, Autism Spectrum Disorder and Awareness. The LEBRT program also includes information on interviewing people with autism spectrum disorder and responding to missing persons incidents involving people with autism spectrum disorder.[6]

III. Effect of Proposed Changes:

The bill amends s. 943.1727, F.S., to require a training component relating to individuals with autism spectrum disorder[7] for law enforcement officers, correctional officers, or correctional probation officers. The bill specifies that the training may count toward the 40 hours of instruction for continued employment or for appointment as a law enforcement officer, correctional officer, or correctional probation officer. This would apply to both the CJSTC's advanced/specialized programs and to the basic recruit training for those seeking to become certified law enforcement officers in Florida.

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[4] The commission shall, by rule, adopt a program that requires all officers, as a condition of continued employment or appointment as officers, to receive periodic commission-approved continuing training or education. Such continuing training or education shall be required at the rate of 40 hours every 4 years. No officer shall be denied a reasonable opportunity by the employing agency to comply with this section. The employing agency must document that the continuing training or education is job-related and consistent with the needs of the employing agency. The employing agency must maintain and submit, or electronically transmit, the documentation to the commission, in a format approved by the commission. Section 943.135, F.S.

[5] Section 627.6686, F.S.

[6] 2024 FDLE Legislative Bill Analysis, January 6, 2024 (on file with the Senate Committee on Criminal Justice).

[7] The bill defines the term "autism spectrum disorder to have the same meaning as provided in s. 627.6686(2)(b), F.S., which defines "autism spectrum disorder" as any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

1. Autistic disorder.
2. Asperger's syndrome.
3. Pervasive developmental disorder not otherwise specified.

The bill also specifies that the training must include in-person instruction for initial certification and online instruction for continued employment, in the techniques and procedures including:

- The nature and manifestation of autism spectrum disorders;
- Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the right of the individual;
- Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual;
- Techniques for recognizing the agency[8] of an individual with autism spectrum disorder while identifying potential abusive or coercive situations;
- Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder;
- Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder;
- Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility; and
- The impact of interaction with officers on individuals with autism spectrum disorder.

All recruits must receive the employment training component relating to individuals with autism spectrum disorder.

The bill provides that by July 1, 2026, each basic skills course required for a law enforcement, correctional, and correctional probation officer to obtain initial certification must incorporate the autism spectrum disorder training. Autism training for continued training or education must be completed by July 1, 2028. The bill provides that failure to complete the training will result in the officer's certification being in "inactive status" until the officer's employing agency notifies the commission that he or she has completed the training.

Increasing the overall number of hours for basic recruit training would require the CJSTC approval and approval by the Department of Education be completed and approved before the training becomes effective.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[8] The bill defines the term "agency" to mean "the ability to make independent decisions and act in one's own best interests."

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 FDLE cited the need for 2 new positions (Education and Training Specialists) to meet the requirements of the bill. The salary and benefits cost for one of these positions totals $53,806 and the expense and human resource service assessment package costs $11,436. As of December 2023, the department has two vacant Education and Training Specialist positions and should be able to absorb the workload within existing resources.

Additionally, the Department states there will be minimal programming changes needed to the Automated Training Management System. The cost estimate for these changes is $45,000, which can be absorbed within current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.1727 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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Removes the language "may include at least 4 hours" and requires in person training without a specific time requirement.
- Requires that the basic skills course incorporate autism training for law enforcement, correctional, and correctional probation officers to obtain *initial certification* by July 1, 2026.
- Requires that law enforcement, correctional, and correctional probation officers complete training by July 1, 2028, through continued training or education. The amendment provides that failure to complete the training will result in the officer's certification being in "inactive status" until the officer's employing agency notifies the commission that he or she has completed the training.

CS by Criminal Justice on January 23, 2024:
The committee substitute:

- Adds language to include correctional officers or correctional probation officers in autism spectrum disorder training.

B. Amendments:

None.

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	.	
02/23/2024	.	
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The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 37 - 74
and insert:
must include in-person instruction for initial certification and online instruction for continued employment training in the techniques and procedures described in this subsection:
(a) The nature and manifestation of autism spectrum disorders.
(b) Appropriate techniques for interviewing or

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interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the rights of the individual.

(c) Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual.

(d) Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations.

(e) Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder.

(f) Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder.

(g) Procedures to identify and address challenges related to the safety and well-being of individuals with autism spectrum disorder in a correctional facility.

(h) The impact of interaction with officers on individuals with autism spectrum disorder.

(4) All recruits must receive the employment training component relating to individuals with autism spectrum disorder. Such training component may be taught as part of other relevant components of the training.

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(5) The commission shall by rule require that each officer receive instruction in the techniques and procedures described in subsection (3) as part of basic recruit training or as part of the required instruction for continued employment or appointment as an officer.

(a) By July 1, 2026, each basic skills course required for a law enforcement, correctional, and correctional probation officer to obtain initial certification, as required under s. 943.13(9), must incorporate such training.

(b) By July 1, 2028, each law enforcement, correctional, and correctional probation officer must successfully complete such training as required under s. 943.131(4)(a), or as part of continued training or education required under s. 943.135(1). If an officer fails to complete the training required under this subsection, his or her certification must be placed on inactive status until the officer's employing agency notifies the commission that he or she has completed the training.

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

And the title is amended as follows:

Delete lines 8 - 9

and insert:

Training Commission to adopt specified rules requiring such training as part of basic recruit training or as part of the required instruction for continued employment or appointment as

By the Committee on Criminal Justice; and Senators Collins and Perry

591-02410-24 2024864c1

A bill to be entitled

An act relating to autism spectrum disorder training for law enforcement and correctional officers; amending s. 943.1727, F.S.; providing definitions; providing requirements for training officers for interacting with individuals with autism spectrum disorder; requiring the Criminal Justice Standards and Training Commission to adopt rules requiring such training as part of continued employment training for officers; providing an effective date.

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

Section 1. Section 943.1727, Florida Statutes, is amended to read:

943.1727 ~~Continued~~ Employment training relating to autism spectrum disorder.—

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

(a) "Agency" means the ability to make independent decisions and act in one's own best interests.

(b) "Autism spectrum disorder" has the same meaning as in s. 627.6686(2).

(2) The commission ~~department~~ shall establish an ~~a continued~~ employment training component relating to individuals with autism spectrum disorder ~~as defined in s. 627.6686. The training component shall include, but need not be limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to an individual exhibiting such~~

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

591-02410-24 2024864c1

~~symptoms and characteristics~~. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer, correctional officer, or correctional probation officer required under s. 943.135.

(3) The employment training component for officers relating to interaction with individuals with autism spectrum disorder may include at least 4 hours of in-person instruction in the techniques and procedures described in this subsection:

(a) The nature and manifestation of autism spectrum disorders.

(b) Appropriate techniques for interviewing or interrogating an individual with autism spectrum disorder, including techniques to ensure the legality of statements made by the individual and techniques used to protect the rights of the individual.

(c) Techniques for locating an individual with autism spectrum disorder who runs away and is in danger and for returning that individual while causing as little stress as possible to the individual.

(d) Techniques for recognizing the agency of an individual with autism spectrum disorder while identifying potential abusive or coercive situations.

(e) Techniques for deescalating a potentially dangerous situation to maximize the safety of both the officer and the individual with autism spectrum disorder.

(f) Techniques for differentiating an individual with autism spectrum disorder from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the

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

characteristics of an individual with autism spectrum disorder and understanding the law as it relates to the use of the Baker Act against an individual with autism spectrum disorder.

(g) Procedures to identify and address challenges related to the safety and wellbeing of individuals with autism spectrum disorder in a correctional facility.

(h) The impact of interaction with officers on individuals with autism spectrum disorder.

(4) All recruits must receive the employment training component relating to individuals with autism spectrum disorder. Such training component may be taught as part of other relevant components of the training.

(5) The commission shall by rule require that each officer receive, as part of the required instruction for continued employment or appointment as an officer, instruction in the techniques and procedures described in subsection (3).

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 864
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon (Cow-ray-lee)

Phone 9548818595

Address 403 Washington Ave
Street

Email aurelie.colon-larrauri@splcactionfund.org

Montgomery AL
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:
SPLC Action Fund

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2-22-24
Meeting Date

FP
Committee

864
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID CULLEN

Phone 941-323-2404

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Street

Email CULLENASEA@GMAIL.COM

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:
ADVOCACY INSTITUTE FOR CHILDREN

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-2024
Meeting Date

SB 864
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Margaret J. Hooper

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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 Developmental Disabilities Council

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 868
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Boyd
SUBJECT:	Transportation Facility Designations
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Nortelus	Jerrett	ATD	**Fav/CS**
3.	Johnson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 868 creates the following honorary transportation facility designations and directs the Florida Department of Transportation (FDOT) to erect suitable markers for:

- Army Specialist Nicholas Panipinto Memorial Highway in Manatee County.
- Dylan Roberts Memorial Crosswalk in Alachua County.
- AWF3 Mohammed 'Mo' Haitham Memorial Way in Hillsborough and Pinellas Counties.
- Deputy Sheriff Christopher Taylor Memorial Highway in Charlotte County.
- Deputy Sheriff George Pfeil Memorial Highway in Seminole County.
- Deputy Sheriff Robert Moore Memorial Highway in Seminole County.
- Deputy Sheriff James Cleveland Jacobs Memorial Highway in Seminole County.
- Henry Dean Road in St. Johns County.
- Abe Resnick Drive in Miami-Dade County.
- Pastor Rick Blackwood Street in Miami-Dade County.
- Gus Kopelousos Memorial Highway in Clay County.
- MICCO Way in Miami-Dade County.
- Major John Leroy Haynes Memorial Highway in Leon and Jefferson Counties
- Tuskegee Airmen Memorial Highway in various north Florida counties.
- Randy Roberts Memorial Highway in Polk County.
- Carol Jenkins Barnett Memorial Highway in Polk County.

The bill also redesignates a bridge in St. Lucie County as the E.C. Summerlin Family Bridge.

The bill has an insignificant, negative fiscal impact on state government. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.[1]

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.[2]

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before the installation of the markers.[3]

III. Effect of Proposed Changes:

The bill creates an undesignated section of Florida law creating honorary designations of transportation facilities.

Subsection 1 designates that portion of U.S. 19 between Palm View Road and Terra Ceia Road in Manatee County as "Army Specialist Nicholas Panipinto Memorial Highway."

On November 6, 2019, 20-year old Army Specialist Nicholas Panipinto was killed when, in a training accident, his Bradley fighting vehicle rolled over [4] He graduated from Manatee High School in 2017 and joined the US Army in January 2018, as an Infantryman. Nicholas was awarded the Army Commendation Medal, National Defense Service Medal, Global War on Terrorism Medal, Army Service Ribbon and received the Expert Marksmanship Badge.[5]

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[1] Section 334.071(1), F.S.
[2] Section 334.071(2), F.S.
[3] Section 334.071(3), F.S.
[4] My Fallen Soldiers, *Panipinto Nicholas,* https://myfallensoldiers.com/2019/11/06/panipinto-nicholasarmy-specialist/, (last visited February 2, 2024).
[5] Nicholas C. Panipinto Obituary, https://www.brownandsonsfuneral.com/obituary/nicholas-panipinto (last visited February 2, 2024).

Subsection 2 designates the mid-block crossing and pedestrian hybrid beacon on that portion of E. University Avenue/S.R. 26 between N.E. 26th Terrace and S.E. 26th Terrace in Alachua County as "Dylan Roberts Memorial Crosswalk."

On October 27, 2021, four-year old Dylan Roberts was tragically killed when hit by a car while crossing East University Avenue in Gainesville.[6] The FDOT has installed a pedestrian crosswalk at the site of Dylan's death.[7]

Subsection 3 designates those portions of the Gandy Bridge on U.S. 92 located within of Hillsborough and Pinellas Counties as "AWF3 Mohammed "Mo" Haitham Memorial Way."

On December 6, 2019, Airman Mohammed "Mo" Haitham was the victim of an active shooter at the Naval Air Station, Pensacola, Florida. He has been widely recognized as a hero for his actions in connection with the incident. Airman Haitham was a 2018 graduate of Lakewood High School in St. Petersburg.[8]

Subsection 4 designates that portion of I-75 between U.S. 17/Duncan Road and Harbor View Road in Charlotte County as "Deputy Sheriff Christopher Taylor Memorial Highway."

On November 22, 2022, 23-year old Deputy Sheriff Christopher Taylor was fatally struck by an impaired motorist while conducting a traffic stop on I-75. Deputy Sheriff Taylor joined the Charlotte County Sheriff's Office in August 2021 and was officially sworn in on February 14, 2022.[9]

Subsection 5 designates that portion of S.R. 434 between S.R. 400 and Ronald Reagan Blvd. in Seminole County as "Deputy Sheriff George Pfeil Memorial Highway."

On December 29, 1977, Deputy Sheriff George Pfeil was mortally wounded when he interrupted an armed robbery at a pharmacy in Longwood. Deputy Sheriff Pfeil was a retired New York City police officer who served as a reserve deputy sheriff after moving to Florida.[10]

Subsection 6 designates that portion of U.S. 17-92 between 1st Street and 25th Street in Seminole County as "Deputy Sheriff Robert Moore Memorial Highway."

On June 9, 1975, Deputy Sheriff Robert Moore succumbed to smoke inhalation and intense heat exposure while rescuing inmates during a fire at the Seminole County Jail. Deputy Sheriff Moore

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[6] Aaron Adelson, *Mother of 4-year old hit and killed pleas for pedestrian safety,* November 10, 2021, https://mycbs4.com/news/local/mother-of-4-year-old-hit-and-killed-pleas-pedestrian-safety (last visited February 2, 2024).
[7] Seth Johnson, *Gainesville unveils new road sign in honor of Dylan Roberts,* October 27, 2023, https://www.mainstreetdailynews.com/news/gainesville-road-sign-dylan-roberts (last visited February 2, 2023).
[8] The United States Navy Memorial, *Mohammed Sameh "Mo" Haitham*, https://navylog.navymemorial.org/haitham-mohammed (last visited February 2, 2024).
[9] Charlotte County Sheriff's Office, *Deputy Christopher Taylor tragically killed in the line of duty,* https://ccsoblog.org/2022/11/23/deputy-christopher-taylor-tragically-killed-in-the-line-of-duty/ (last visited February 2, 2024).
[10] Seminole County Sheriff's Office, *In Memoriam,* https://www.seminolesheriff.org/page.aspx?id=18 (last visited February 2, 2024).

had successfully brought several inmates to safety before heroically re-entering the burning jail, in yet another attempt to save trapped inmates.[11]

Subsection 7 designates that portion of C.R. 419 between Snow Hill Road and the Orange County line in Seminole County as "Deputy Sheriff James Cleveland Jacobs Memorial Highway."

On September 14, 1922, Deputy Sheriff James Cleveland Jacobs was shot and killed while attempting to arrest a man for theft. Deputy Sheriff Jacobs located the man at a nearby home, where the suspect opened fire, striking Deputy Sheriff Jacobs. Deputy Sheriff Jacobs was transported to the hospital where he succumbed to his injuries.[12]

Subsection 8 designates that portion of Guana River Road between South Ponte Verde Boulevard and the Guana River Research Reserve in St. Johns County as "Henry Dean Road."

Henry Dean, a long-time resident of St. Johns County, served as Executive Director of the St. Johns River Water Management District for 17 years and the South Florida Water Management District for four years. Since 2016, he has served on the St. Johns County Commission.[13]

Subsection 9 designates that portion of Bay Avenue between West 25th Street and West 27th Street in Sunset Islands in Miami Dade County as "Abe Resnick Drive."

Abe Resnick was a Holocaust survivor who was born in Lithuania. In 1960, he moved to Miami-Dade County, and from 1985 to 1993 served on the Miami Beach City Commission. He helped develop the Holocaust Memorial in Miami Beach. Mr. Resnick passed away on September 3, 1998.[14]

Subsection 10 designates that portion of S.W. 168th Street between U.S. 1 and S.W. 89th Avenue in Miami-Dade County as "Pastor Rick Blackwood Street."

Reverend Dr. Rick Blackwood served as lead pastor of Christ Fellowship Church in South Florida for 23 years. Pastor Blackwood passed away on August 4, 2023.[15]

Subsection 11 designates that portion of S.R. 16 between C.R. 225 and Rifle Range Road in Clay County as "Gus Kopelousos Memorial Highway."

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[11] *Id.*
[12] *Id.*
[13] St. Johns County, Board of County Commissioners, *About Commissioner Dean*, https://www.sjcfl.us/bcc-district-5/ (last visited February 13, 2024).
[14] Miami-Dade County Legislative Item File No. 990425, *Codesignating Dade Boulevard as Abe Resnick Boulevard*. Adopted March 4, 1999. https://www.miamidade.gov/govaction/matter.asp?matter=990425&file=false&yearFolder=Y1999 (last visited February 13, 2024). Holocaust Memorial Miami Beach, https://holocaustmemorialmiamibeach.org/about/history/ (last visited February 13, 2024).
[15] Miami Herald, *Rev. Dr. Rick Blackwood*, https://www.legacy.com/us/obituaries/herald/name/rick-blackwood-obituary?id=52928579, (last visited February. 21, 2024).

Constantinos "Gus" Kopelousos of Starke, Florida, was raised by Greek immigrant parents, graduated from the University of Tampa, and subsequently took over the family business, the Garden Restaurant.[16] Mr. Kopelousos passed away on May 22, 2023.[17]

Subsection 12 designates that portion of S.R. 997/Krome Avenue/ W. 177th Avenue between S.W. 8th Street and the entrance to the Miccosukee Casino & Resort in Miami-Dade County as "MICCO WAY."

The Miccosukee Indians were originally part of the Creek Nation, and then migrated to Florida before it became part of the United States.[18] The Miccosukee currently have over 600 tribal members and three reservation areas in Florida, including the Tamiami Trail Reservation area.[19]

Subsection 13 designates that portion of S.R. 59 between U.S. 90 and U.S. 27 in Leon and Jefferson Counties as "Major John Leroy Haynes Memorial Highway."

Major John Leroy Haynes completed 30 years of military service in the United States Marine Corps, followed by almost 50 years of volunteer service to veterans and their families. Major Haynes received numerous military and civilian awards, including the Purple Heart, the Navy and Marine Corps Achievement Medal with Gold Star and Combat "V", induction into the Florida Veterans Hall of Fame in 2013, and the Governor's Medal of Merit in 2017. Major Haynes passed away on November 14, 2023.[20]

Subsection 14 designates that portion of I-10 between the Alabama state line and I-75 is designated as "Tuskegee Airmen Memorial Highway."

The Tuskegee Airmen were the first African American military aviators in the United States armed forces. During their years of operation, from 1940 to 1946, 996 pilots were trained at Tuskegee Army Air Field. Approximately 445 were deployed overseas and 150 lost their lives during that period. Sixty-six pilots were killed in action or accidents and 32 were captured and held as prisoners of war.[21]

Subsection 15 designates that portion of S.R. 570/Polk Parkway between mile marker 3.5 and mile marker 2.5 in Polk County is designated as "Randy Roberts Memorial Highway."

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[16] The Florida Times-Union, *Constantinos Kopelousos*, *https://www.jacksonville.com/obituaries/pfla0495884* (last visited February 21, 2024).
[17] Echovita, *Constantinos "Gus" Kopelousos,* *https://www.echovita.com/us/obituaries/fl/starke/constantinos-kopelousos-16448155* (last visited February 21, 2024).
[18] Miccosukee Casino & Resort, *History of the Miccosukee Tribe*, *https://miccosukee.com/miccosukee-tribe-history/* (last visited February 21, 2024).
[19] Letter from Juan Fernandez-Barquin, Clerk of the Court and Comptroller, Miami-Dade County, Resolution No. R-116-23 of Miami-Dade Board of County Commissioners, (December 12, 2023).
[20] Tallahassee Democrat, *Major John L. Haynes*, (November 18, 2023), https://www.tallahassee.com/obituaries/psar0631025 (last visited Feb. 15, 2024).
[21] The Tuskegee Airmen on BlackPast.Org, https://www.blackpast.org/african-american-history/tuskegee-airmen-blackpast-org/#:~:text=The%20Tuskegee%20Airmen%20were%20the,their%20lives%20during%20that%20period. (last visited February 21, 2024).

Randy Roberts, a lifelong Floridian, served as the Director of Government Affairs for Publix Supermarkets. The Randy Roberts Foundation was established as a way of celebrating Randy's life The foundation was established to help young men and women who care about their community and who want to make an impact. Mr. Roberts passed away on February 27, 2009.[22]

Subsection 16 designates that portion of S.R. 35/George Jenkins Boulevard between Kathleen Road and North Sloan Avenue in Polk County is designated as "Carol Jenkins Barnett Memorial Highway."

Carol Jenkins Barnett was born and raised in Lakeland, Florida. She began with Publix in 1972 as a cashier at Grove Park Shopping Center in Lakeland and later worked in Publix's corporate marketing research and development department. In 1983, she joined the foundation's board of directors (which would later become Publix Super Markets Charities) which instilled in her a passion for the needs of the communities Publix serves. She was involved in generously giving back to nonprofit organizations including United Way, Florida Partnership for School Readiness, and Family Fundamentals, as well as countless others. Ms. Barnett passed away on Dec. 7, 2021.[23]

The bill amends Ch. 65-781, Laws of Fla., to designate the new S.R. A1A North Causeway Bridge over the Intracoastal Waterway in St. Lucie County as "E.C. Summerlin Family Bridge." This designation replaces the "D.H. 'Banty' Saunders Bridge" designation.[24]

The Summerlin name has been connected with Florida since 1770, when members of the family came from England and Scotland and settled on the St. Mary's River in the border between the British colony of Georgia and the Spanish colony of Florida. In 1888, Edward Cabell Summerlin and his wife, Pollyanna, arrived near St. Lucie Village. Edward Cabell Summerlin and his wife had 14 children. More than 250 people of varying degrees of kinship to E.C. Summerlin live in the Treasure Coast and across state.[25]

The bill directs the FDOT to erect suitable markers for each of the above honorary designations.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[22] Randy Roberts Foundation, https://www.randyrobertsfoundation.org/about-us (last visited February 21, 2024).
[23] The Children's Movement of Florida, *Carol Jenkins Barnett, Board Member Emerita (Deceased)*, https://www.childrensmovementflorida.org/about/people/carol-jenkins-barnett (last visited February 21, 2024).
[24] Ch. 65-781, Laws of Fla.
[25] Treasure Coast Palm, *Summerlins celebrate their Treasure Coast Legacy*, https://archive.tcpalm.com/news/summerlins-celebrate-their-treasure-coast-legacy-ep-400832953-347895831.html (last visited February 21, 2024).

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 estimated cost to erect the designation markers required under this bill is $52,200, based on the assumption that a minimum of two markers are required at a cost to the FDOT of no less than $900 each, with one marker each direction in each county for the Tuskegee Airmen Memorial Highway designation. The estimate includes labor, materials, manufacturing, and installation. The FDOT is expected to absorb the estimated cost within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of 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 Fiscal Policy Committee on February 22, 2023:
The committee substitute designates the following additional honorary designations for transportation facilities:

- Pastor Rick Blackwood Street in Miami-Dade County.
- Gus Kopelousos Memorial Highway in Clay County.
- MICCO Way in Miami-Dade County.
- Major John Leroy Haynes Memorial Highway in Leon and Jefferson Counties
- Tuskegee Airmen Memorial Highway in various north Florida counties.
- Randy Roberts Memorial Highway in Polk County.
- Carol Jenkins Barnett Memorial Highway in Polk County.

The committee substitute also redesignates a bridge in St. Lucie County as the E.C. Summerlin Family Bridge.

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 13, 2024:
The committee substitute:

- Adds the military rank and removes the middle name for the "AWF3 Mohammed 'Mo' Haitham Memorial Way" designation.
- Designates Henry Dean Road in St. Johns County.
- Designates Abe Resnick Drive in Miami-Dade County.

CS by Transportation on January 30, 2023:
The committee substitute designates the following additional honorary designations for transportation facilities:

- Dylan Roberts Memorial Crosswalk in Alachua County.
- Airman Mohammed 'Mo' Sameh Haitham Memorial Way in Hillsborough and Pinellas Counties.
- Deputy Sheriff Christopher Taylor Memorial Highway in Charlotte County.
- Deputy Sheriff George Pfeil Memorial Highway in Seminole County.
- Deputy Sheriff Robert Moore Memorial Highway in Seminole County.
- Deputy Sheriff James Cleveland Jacobs Memorial Highway in Seminole County.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 42 - 44
and insert:
(10) That portion of S.W. 168th Street between U.S. 1 and S.W. 89th Avenue in Miami-Dade County is designated as "Pastor Rick Blackwood Street."
(11) That portion of S.R. 16 between C.R. 225 and Rifle Range Road in Clay County is designated as "Gus Kopelousos Memorial Highway."
(12) That portion of S.R. 997/Krome Avenue/W. 177th Avenue

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between S.W. 8th Street and the entrance to the Miccosukee Casino & Resort in Miami-Dade County is designated as "MICCO Way."

(13) That portion of S.R. 59 between U.S. 90 and U.S. 27 in Leon and Jefferson Counties is designated as "Major John Leroy Haynes Memorial Highway."

(14) That portion of I-10 between the Alabama state line and I-75 is designated as "Tuskegee Airmen Memorial Highway."

(15) That portion of S.R. 570/Polk Parkway between mile marker 3.5 and mile marker 2.5 in Polk County is designated as "Randy Roberts Memorial Highway."

(16) That portion of S.R. 35/George Jenkins Boulevard between Kathleen Road and North Sloan Avenue in Polk County is designated as "Carol Jenkins Barnett Memorial Highway."

(17) The Department of Transportation is directed to erect suitable markers designating the transportation facilities as described in this section.

Section 2. Sections 1 and 2 of chapter 65-781, Laws of Florida, are amended to read:

Section 1. Upon completion of construction, the new S.R. A1A North Causeway Bridge over the Intracoastal Waterway ~~The north bridge in St. Lucie county across Indian River on highway A-1-A~~ is designated as the "E.C. Summerlin Family ~~hereby dedicated and named the "D. H. 'Banty' Saunders~~ Bridge."

Section 2. The ~~state road~~ Department of Transportation is directed to erect suitable markers designating the E.C. Summerlin Family Bridge as described in section 1. ~~authorized and empowered to affix proper plaques to said bridge bearing the name "D. H. 'Banty' Saunders Bridge."~~

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41
42 ================ T I T L E A M E N D M E N T ================
43 And the title is amended as follows:
44 Delete line 6
45 and insert:
46 to erect suitable markers; amending chapter 65-781,
47 Laws of Florida; redesignating a specified bridge in
48 St. Lucie County as the "E.C. Summerlin Family
49 Bridge"; directing the Department of Transportation to
50 erect markers designating the bridge; providing an
51 effective

By the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senators Boyd and Rouson

606-03288A-24 2024868c2

A bill to be entitled

An act relating to transportation facility designations; providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. Transportation facility designations; Department of Transportation to erect suitable markers.

(1) That portion of U.S. 19 between Palm View Road and Terra Ceia Road in Manatee County is designated as "Army Specialist Nicholas Panipinto Memorial Highway."

(2) The mid-block crossing and pedestrian hybrid beacon on that portion of E. University Avenue/S.R. 26 between N.E. 26th Terrace and S.E. 26th Terrace in Alachua County is designated as "Dylan Roberts Memorial Crosswalk."

(3) Those portions of the Gandy Bridge on U.S. 92 located within the geographical boundaries of Hillsborough and Pinellas Counties are designated as "AWF3 Mohammed 'Mo' Haitham Memorial Way."

(4) That portion of I-75 between U.S. 17/Duncan Road and Harbor View Road in Charlotte County is designated as "Deputy Sheriff Christopher Taylor Memorial Highway."

(5) That portion of S.R. 434 between S.R. 400 and Ronald Reagan Boulevard in Seminole County is designated as "Deputy Sheriff George Pfeil Memorial Highway."

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

606-03288A-24 2024868c2

(6) That portion of U.S. 17-92 between 1st Street and 25th Street in Seminole County is designated as "Deputy Sheriff Robert Moore Memorial Highway."

(7) That portion of C.R. 419 between Snow Hill Road and the Orange County line in Seminole County is designated as "Deputy Sheriff James Cleveland Jacobs Memorial Highway."

(8) That portion of Guana River Road between South Ponte Vedra Boulevard and the Guana River Research Reserve in St. Johns County is designated as "Henry Dean Road."

(9) That portion of Bay Avenue between West 25th Street and West 27th Street in Sunset Islands in Miami-Dade County is designated as "Abe Resnick Drive."

(10) The Department of Transportation is directed to erect suitable markers designating the transportation facilities as described in this section.

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 892
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senator Harrell
SUBJECT:	Dental Insurance Claims
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Fav/CS**
3.	Johnson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 892 revises provisions within the Florida Insurance Code relating to covered dental services, contractual agreements, and dental claims payments by an insurer, prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO). The bill:

- Revises the definition of covered services, and as a result, if an insurer, HMO, or PLHSO denies service due to a contractual limitation (maximum benefits paid prior to the end of the plan year), then the procedure would be considered a non-covered service and the dentist would not be subject to the negotiated rate, and may charge patient a higher rate;
- Prohibits a contract between a dentist and a health insurer, HMO, or PLHSO from limiting the method of claim payments for dental services to credit card payments only;
- Requires a health insurer, PLHSO, or HMO to disclose in writing to a dentist any fees associated with an electronic funds transfer (EFT) and alternative payment methods before the insurer, HMO or PLHSO pays a dentist via EFT;
- Requires a health insurer, PLHSO, or HMO to receive written consent from a dentist prior to employing claim payment through EFT and clarifies the EFT includes, but is not limited to, virtual credit card payment;
- Prohibits an insurer, HMO or PLHSO that pays a claim to a dentist through an automatic clearing house (ACH) from charging a fee solely to transmit the payment unless the dentist has consented to the fee;

- Prohibits an insurer, HMO, or PLHSO from denying the payment of a claim if the procedure was previously authorized by an insurer, HMO, or PLHSO prior to the dentist rendering the service except under the following circumstances:
  - Benefit limitations being reached subsequent to the issuance of the prior authorization;
  - Inadequate documentation submitted by a dentist to support the originally authorized procedures and claim;
  - Subsequent to the issuance of the prior authorization, new procedures are provided to the insured or the insured's condition changes, resulting in the prior authorized procedure not being medically necessary;
  - The claim was denied because another payor is responsible for payment, the dentist has already been paid, the claim was submitted fraudulently, or the prior authorization was based on erroneous information submitted to the insurer, HMO, or PLHSO; or
  - The person receiving the procedure was not eligible to receive the procedure on the date of service and the insurer, HMO, or PLHSO did not know of the ineligibility.

The bill has an indeterminate, likely insignificant impact to state revenues and expenditures. *See* Section V., Fiscal Impact Statement.

II. Present Situation:

Oversight of the Practice of Dentistry in Florida

The Board of Dentistry within the Department of Health (DOH) is the state's regulatory board for the practice of dentistry, dental hygienists, and dental assistants under the Dental Practice Act.[1] A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.[2]

State Regulation of Health Insurers, Health Maintenance Organizations, and Prepaid Limited Health Service Organizations

The Office of Insurance Regulation (OIR),[3] is responsible for all activities concerning insurers and other risk bearing entities, such as health maintenance organizations (HMOs) or prepaid limited health service organizations, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code.[4] To transact business in Florida, a health insurer or other entity subject to regulation by the OIR must obtain a certificate of authority or license from the OIR.[5]

The Agency for Health Care Administration (Agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Prior to receiving a certificate of authority from the OIR, an

[1] Section 466.004, F.S.
[2] Section 466.003(3), F.S.
[3] The OIR is a unit under the Financial Services Commission, which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. Commission members serve as the agency head for purposes of rulemaking under ch. 120, F.S. *See* s. 20.121(3), F.S.
[4] Section 20.121(3)(a), F.S.
[5] Sections 624.401 and 641.49, F.S.

HMO must receive a Health Care Provider Certificate from the Agency.[6] As part of the certification process used by the Agency, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.[7]

Dental Plans

An individual or group health dental plan is considered a product within the accident and health line of business.[8] A dental plan provides benefits for routine dental examinations, preventive dental work, and dental procedures needed to treat tooth decay and diseases of the teeth and jaw.[9]

According to the OIR, there are plans on the federal exchange that offer dental coverage for either an adult or child or both embedded in a policy or contract. There are plans on the exchange that offer standalone dental coverage, and such coverage may vary by county. Typically, insurers and HMOs submit rate filings for policies or contracts in June and finalize such filings by August for the following calendar plan year.[10]

Oversight of Health Insurer Contracts with Dentists

A contract between a health insurer and a dentist licensed under chapter 466, F.S., for the provision of services to an insured of the health insurer may not contain a provision that requires the dentist to provide services to the insured of the health insurer at a fee set by the health insurer unless such services are covered services under the applicable contract.[11] The term "covered services" means dental care services for which a reimbursement is available under the insured's policy, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.[12]

Oversight of HMO Contracts with Dentists

A contract between an HMO and a dentist licensed under chapter 466, F.S., for the provision of services to a subscriber of the HMO may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract.[13] The term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods,

[6] Section 641.495, F.S.
[7] *Id.*
[8] Pursuant to s. 624.603, F.S., health insurance is insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Health insurance does not include workers' compensation coverages, except as provided in s. 624.406(4), F.S.
[9] Office of Insurance Regulation, Accident and Health, Year-to-Date Rate Change Report (Jan. 31, 2024). ytd-rate-changes-as-of-january-2024.pdf (floir.com) (last visited Feb. 15, 2024).
[10] Correspondence with Kevin Jacobs, Deputy Chief of Staff, Office of Insurance Regulation (Feb. 2, 2024). (On file with Senate Banking and Insurance Committee.)
[11] Section 6217.6474, F.S.
[12] *Id.*
[13] Section 641.315(11), F.S.

annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.[14]

Oversight of Prepaid Limited Health Service Organizations

A PLHSO is any entity which, in return for a prepayment, provides limited health services to enrollees through an exclusive panel of providers.[15] Pursuant to s. 636.003, F.S., a PLHSO provides the following limited health services:

- Ambulance services;
- Dental care services;
- Vision care services;
- Mental health services;
- Substance abuse services;
- Chiropractic services;
- Podiatric care services; and pharmaceutical services.

The PLHSOs and their arrangements or contracts with providers are governed by s. 636.035, F.S., and are regulated by the OIR. A contract between a PLHSO and a dentist licensed under ch. 466, F.S., for the provision of services to a subscriber of the PHLSO, may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the PLHSO unless such services are covered services under the applicable contract. As used in subsection (7), the term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Payment of Claims

The Florida Insurance Code prescribes rights and responsibilities of health care providers, health insurers, and HMOs for the payment of claims. Florida's prompt payment laws govern payment of provider claims submitted to insurers and HMOs, including Medicaid managed care plans, in accordance with ss. 627.6131, 627.662, and 641.3155, F.S., respectively. The prompt pay provisions apply to HMO contracts and major medical policies offered by individual and group insurers licensed under ch. 624, F.S., including preferred provider policies and an exclusive provider organizations, and specified contracts. The law prescribes a protocol for specified providers to use for the submission of their claims to an insurer or HMO, as well as a statutory process for insurers or HMOs to use for the payment or denial of the claims.

Denial of Claims

Coverage for medical services can be denied before or after the service has been provided, through denial of preauthorization requests, through denial of claims for payment, or a retroactive denial of payment. As a condition for coverage of some services, providers or insureds are required to request authorization prior to the provision of the procedure. The full

[14] *Id.*
[15] Section 636.003(7), F.S.

claim or certain lines of the claim may be denied, such as a surgery with charges for multiple procedures and supplies.

There are many possible reasons for claim denials.[16] Claims may be denied due to an incorrect diagnosis code, incomplete claim submission, or the submission of a duplicate claim. Eligibility issues can cause claims to be denied. For example, a claim may be submitted for a service provided prior to an individual's effective date of coverage or after it has been terminated. Finally, claim denials can occur when a determination is made that the service provided was not covered or it was not medically necessary. Denied claims[17] may be appealed.

After an insurer or HMO pays a claim, the insurer or HMO may conduct a claims audit to verify claims were paid appropriately and accurately. Such an audit can be triggered by a variety of reasons.[18] Some of these situations include new billing guidelines have been established by regulators; the provider has made significant changes to the original bill, such as the diagnosis of the patient; the plan is notified that the enrollee's coverage is terminated due to non-payment of premiums; or the plan is notified that the enrollee has other health insurance coverage. After the audit, an insurer or HMO may retrospectively deny a claim for a preauthorized service and try to recoup the payment from the provider. Reasons for the retroactive denial may include fraud, submission of incomplete or inaccurate information; nonpayment of premiums; exhaustion of benefits; coordination of benefits; or if the individual was not enrolled or eligible for coverage at the time services were rendered.[19] As a result, an insurer or HMO may try to recoup payment from a provider by retroactively denying a previously paid claim.

Group Health Plans Retroactive Termination of Coverage

Retroactive termination of insurance coverage to an earlier date due to an employee's discharge is an increasing problem for some providers and consumers. Some plans may allow an employer to cancel coverage of an employee retroactively more than 90 days post termination. Other plans will accept retroactive terminations for up to the preceding three months, if the plan has not paid any claims for the insurer or HMO during that period. If claims have been paid within the previous 60 days, the coverage termination date may be established as of the end of the month in which services were rendered.

When a provider is notified of a retroactive termination, the provider may have already verified that the insured or subscriber was covered, rendered services in reliance and expectation of payment, and even received payment. Retroactive terminations often result in the provider or the consumer bearing the loss, despite the verified eligibility.

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[16] KFF (a/k/a Kaiser Family Foundation), Private Insurance, *Claims Denials and Appeals in ACA Marketplace Plans in 2021* (Feb. 9, 2023), https://www.kff.org/private-insurance/issue-brief/claims-denials-and-appeals-in-aca-marketplace-plans/ (last visited Feb. 8, 2024).
[17] U.S. Department of Health and Human Services, HealthCare.gov, Health Insurance Marketplace, *Appealing a health plan decision*, https://www.healthcare.gov/appeal-insurance-company-decision/ (last visited Feb. 8, 2024).
[18] LW Consulting, Inc., *10 Factors that Could Trigger an Audit of Your Medical Records*, https://lw-consult.com/10-factors-that-could-trigger-an-audit-of-your-medical-records/ (last visited Feb. 8, 2024).
[19] Health First Health Plans, *Provider Directory* (July 19, 2022), https://hf.org/sites/default/files/2022-09/hfhp_indiv_directory.pdf (last visited Feb. 8, 2024).

Federal Subsidized Individual Policies or Contracts and Grace Periods

The federal Patient Protection and Affordable Care Act (PPACA)[20] guarantees access to coverage and mandates certain essential health benefits, including pediatric dental coverage,[21] and other requirements. To address affordability issues, federal premium tax credits and cost-sharing subsidies are available to assist eligible low and moderate-income individuals to purchase qualified health plans (QHPs) on a state or federal exchange (exchange).[22] For plan year 2024, Florida enrollees accounted for about 20 percent (4,211,902 individuals) of the 21.2 million total individuals) enrolled through the state and federal exchanges.[23] For plan year 2023, approximately 3,108,149 Floridians enrolled, and about 97 percent received tax credits.[24]

Under PPACA, insurers and HMOs must provide a grace period[25] of at least three consecutive months[26] before cancelling the policy or contract of a federally subsidized enrollee who is delinquent if the enrollee previously paid one-month's premium. During the grace period, the insurer or HMO must pay all appropriate claims for services provided during the first month of the grace period. For the second and third months, an insurer may pend claims. Insurers or HMOs must notify providers that may be affected that an enrollee has lapsed in his or her payment of premiums and there is a possibility the insurer or HMO may deny the payment of claims incurred during the second and third months.[27]

If the insured or subscriber resolves all outstanding premium payments by the end of the grace period, then the pended claims would be paid as appropriate. If not, the claims for the second and third month would be denied. If coverage is terminated, the termination date is the last day of the first month of the grace period and the insurer may not recoup any payment for claims made during the first month of the grace period. At the end of grace period, the provider may seek payment for the medical services the insurer denied for months two and three. According to a

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[20] *The Patient Protection and Affordable Care Act* (PPACA) (Pub. Law No. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. Law No. 111–152), which amended several provisions of the PPACA, was enacted on March 30, 2010.

[21] Dental coverage is an essential health benefit for children under age 18, and must be available for a child either as part of a health plan or as a separate dental plan. *See* U.S. Department of Health and Human Services, HealthCare.gov, *Health benefits & coverage, Dental Coverage in the Marketplace*, https://www.healthcare.gov/coverage/dental-coverage/ (last visited Feb. 8, 2024).

[22] In general, individuals and families may be eligible for the premium tax credit if their household income for the year is at least 100 percent but no more than 400 percent of the federal poverty line for their family size. *See* Internal Revenue Service, *Questions and Answers on the Premium Tax Credit*, https://www.irs.gov/affordable-care-act/individuals-and-families/questions-and-answers-on-the-premium-tax-credit (last visited Feb. 8, 2024).

[23] U.S. Centers for Medicare and Medicaid Services, *Marketplace 2024 Open Enrollment Period Report: Final National Snapshot* (Jan. 24, 2024), https://www.cms.gov/newsroom/fact-sheets/marketplace-2024-open-enrollment-period-report-final-national-snapshot (last visited Feb. 8, 2024).

[24] U.S. Centers for Medicare and Medicaid Services, *Effectuated Enrollment: Early 2023 Snapshot and Full Year 2022 Average* (March 2023), https://www.cms.gov/files/document/early-2023-and-full-year-2022-effectuated-enrollment-report.pdf (last visited Feb. 8, 2024).

[25] Example of grace period: Premium is not paid in May. Premium payments are made in June and July. Grace period would end July 31. Coverage would be cancelled retroactively to the last day of May. *See* U.S. Centers for Medicare and Medicaid Services, How to apply & enroll, *Premium payments, grace periods, & losing coverage*, https://www.healthcare.gov/apply-and-enroll/health-insurance-grace-period/ (last visited Feb. 8, 2024).

[26] 45 C.F.R. s. 155.430.

[27] 45 C.F.R. s. 156.270.

2014 survey, 48 percent of the providers not participating with any PPACA exchange products cited concerns about assuming financial liability during the grace period as a reason for their decision.[28]

Grace Periods for Policies or Contracts without a Federal Subsidy

The federal regulation governing grace periods for federally subsidized[29] policies or contracts does not affect policies or contracts of individuals who are not enrolled in an exchange QHP or who are enrolled in an exchange QHP and do not receive a subsidy. The grace period for these individual policies or contracts remain at the length required under Florida law,[30] which varies by the duration of the premium payment interval. During the grace period, the policy or contract stays in force. The policy is in force during the grace period, thus the insurer or HMO must affirm that an individual is insured, even when the payment is late and remains unpaid during the grace period. If the insurer or HMO does not receive the full payment of the premium by the end of the grace period, coverage terminates as of the grace period start date and the insurer or HMO may retroactively deny any claims incurred during the grace period.

Division of State Group Insurance

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance (DSGI), administers the state group health insurance program under a cafeteria plan consistent with s. 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans and insured (HMOs), as well as a pharmacy benefits manager for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S. The 2024 State Group Insurance Program offers dental plans that cover various types of benefits and services, some plans have annual deductibles, and some plans have annual maximum benefits.[31]

Virtual Credit Card Payments and Fees

March 2022 Federal Guidance Letter[32]

[28] Tracy Gnadinger, Health Affairs, *Health Policy Brief: The Ninety-Day Grace Period*, (Oct. 16, 2014) *available at* http://healthaffairs.org/blog/2014/10/17/health-policy-brief-the-ninety-day-grace-period/ (last viewed Feb. 8, 2024).
[29] In general, individuals and families may be eligible for the Premium Tax Credit if their household income for the year is at least 100 percent but no more than 400 percent of the federal poverty line for their family size. Questions and answers on the Premium Tax Credit | Internal Revenue Service (irs.gov) (Feb. 9, 2024) (last visited Feb. 19,, 2024).
[30] Sections 627.608 and 641.31(15), F.S. The grace period of an individual policy must be a minimum of seven days for weekly premium; 10 days for a monthly premium; and 31 days for all other periods. The grace period of a HMO contract must be at least 10 days. For group policies, if cancellation is due to nonpayment of premium, the insurer may not retroactively cancel the policy to a date prior to the date that notice of cancellation was provided to the policyholder unless the insurer mails notice of cancellation to the policyholder prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's last address as shown by the records of the insurer and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due. *See also* Section 627.6645, F.S.
[31] Department of Management Services, Division of State Group Insurance 2024 Dental_Plan Comparison https://dms-media.ccplatform.net/content/download/160521/file/2024_Dental_Plan_Comparison(Final).pdf
[32] Department of Health and Human Services, Guidance Letter 2022-04 - Health plans' payment of health care claims using Virtual Credit Cards (VCCs) and adopted Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards for Health Care Electronic Funds Transfers (EFT) and Electronic Remittance Advice (ERA) transactions; 45 Code of Federal Regulations (CFR) ss. 162.1601 and 162.1602(d) FAQs (Mar. 22, 2022) (last visited Feb. 19, 2024).

In lieu of sending paper checks or paying health care claims using electronic funds transfer, some health plans (insurers, HMOs, or PLHSO) pay claims by sending providers a single use credit card number. Providers must manually enter virtual credit cards (VCC) into their point-of-sale (POS) processing terminals to receive payments from the card processing networks. Card processing networks typically charge a fees of a percent value of each payment. When processing various electronic payment methods, health plans often engage with business associates or vendors to conduct transactions, or parts thereof, on their behalf.

A health care electronic funds transfer (EFT) is the transmission of any of the following from a health plan to a provider:

- Payment;
- Information about the transfer of funds; or
- Payment processing information.[33]

Wire transfer, VCC, and the Automated Clearing House (ACH) Network are types of electronic payment delivery methods. The U.S. Department of Health and Human Services (HHS) has only adopted standards[34] that apply to EFT transmissions through the ACH Network. The Department of Health and Human Services has not promulgated Health Insurance Portability and Accountability Act (HIPAA) rules governing claims payments made with VCCs. Therefore, HHS does not regulate common business practices associated with VCC payments, including fees assessed by health plans or credit card networks for VCC payments.

July 2022 Federal Guidance Letter[35]

The HHS states that the act of charging fees, in and of itself, for EFT and electronic remittance advice transactions is not prohibited under HIPPA. The guidance letter also notes that HIPAA does not require a health plan to comply with a provider's request for health care payments via paper check. The only payment method that HIPAA regulations require health plans to provide, when requested by a provider to do so, is EFT through the ACH Network.

Virtual Credit Card Fees

The American Dental Association (ADA) notes virtual credit card companies may market the quicker reimbursement as a benefit for dentists to use the credit/virtual card; however, dentists may incur a higher processing fee for virtual credit cards than a traditional debit or credit card transaction.[36] The ADA suggests that a dental office can request to opt out of using the card and

[33] 45 C.F.R. s. 162.1601. The preamble to the interim rule with comment period provides that the health care EFT standards do not apply to claim payments made via EFT outside of the ACH Network. Health plans are not required to send health care EFT through the ACH Network. A health plan may decide to transmit a health care EFT via FEdwire or via a payment card network.

[34] The Health Insurance Portability and Accountability Act of 1996 (HIPAA) includes provisions to establish national standards for electronic health care transactions and national identifiers for providers, health plans, and employers. It also defines requirements for the privacy and security of protected health information. https://aspe.hhs.gov/reports/health-insurance-portability-accountability-act-1996 (last visited Feb. 19, 2024).

[35] Department of Health and Human Services, Guidance Letter 2022-04 - Health plans' payment of health care claims using Virtual Credit Cards (VCCs) and adopted Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards for Health Care Electronic Funds Transfers (EFT) and Electronic Remittance Advice (ERA) transactions; 45 Code of Federal Regulations (CFR) §§ 162.1601 and 162.1602(d) FAQs (July 14, 2022) (last visited Feb. 19, 2022).

[36] American Dental Association, *Credit/Virtual Card Payment (2021)*, https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/dental-

instead receive a paper check as payment for services rendered.[37] The ADA suggests that a dental office may need to contact the card issuing company and not necessarily the dental plan to resolve this payment issue.[38]

Transparency in Dental Benefits Contracting Model Act

The National Council of Insurance Legislators (NCOIL) is a legislative organization comprised principally of legislators serving on state insurance and financial institutions committees around the nation. The NCOIL writes model laws in insurance, works to both preserve the state jurisdiction over insurance as established by the McCarran-Ferguson Act 74 years ago, and to serve as an educational forum for public policy makers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making state policy when it comes to insurance and educate state legislators on current and perennial insurance issues.[39]

On December 12, 2020 the Executive Committee of the National Council on Insurance Legislators adopted the Transparency in Dental Benefits Contracting Model Act.[40] Provisions in the Model Act include prior authorizations payments and virtual credit card claim payment and transaction fee options and regulations.[41] A representative of the Florida Dental Association noted that 21 states have enacted legislation to address credit or virtual card payments.[42]

III. Effect of Proposed Changes:

Credit Card Payments and Fees (Sections 1, 3, and 5)

Section 1 amends s. 627.6131, F.S., relating to claims; **Section 3** amends s. 636.032, F.S., relating to acceptable payments; and, **Section 5** amends s. 641.315, F.S., relating to provider contracts.

The bill prohibits a health insurer, health maintenance organization (HMO) or prepaid limited health service organization (PLHSO) from specifying credit card payment as the only acceptable method for payments to the dentist. The bill requires a health insurer, HMO or PLHSO to provide a written notice to the dentist and obtain written consent provided through the signature of the dentist or a checked box, before the payment of a claim to a dentist through electronic funds transfer, including but not limited to, virtual credit card payments the following information:

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insurance/ada_credit_virtual_card_payment.pdf?rev=36fd0dc0475a41eba0446a1b1f67cbfc&hash=833CFBB660D3A5232CF8FB0F851A17A2 (last visited Feb. 9, 2024).

[37] *Id*.

[38] *Id*.

[39] History & Purpose - NCOIL (last visited Feb. 15, 2024).

[40] Dental-Model-Adopted-12-12-20.pdf (ncoil.org) (last visited Feb. 15, 2024).

[41] *Id*.

[42] Correspondence from Joe Ann Hart, Florida Dental Association (Feb. 1, 2024). There are 21 states that have passed laws related to virtual credit card fees (*Alabama, Arizona, Colorado, Connecticut, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, Oregon, South Dakota, Texas, Utah, and Vermont*) (on file with Senate Banking and Insurance Committee). *See also* American Dental Association, Dental Insurance Reform, Virtual Credit Cards, *Virtual Credit Card – Claim Payment Restrictions, State Law* (2021), https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/dental-insurance/ada_dental_insurance_reform_virtual_credit_cards.pdf (last visited Feb. 9, 2024).

- The fee, if any, associated with the electronic funds transfer; and
- The available methods of payment of claims by the health insurer, HMO or PLHSO including instructions to the dentist on how to select an alternative payment.

Further, the bill:
- Prohibits a health insurer, HMO or PLHSO that pays a claim to a dentist through an Automated Clearing House (ACH) transfer to charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee;
- Provides that these provisions may not be waived, voided, or nullified by contract;
- Authorizes the OIR to enforce these provisions pursuant to their general powers provided in s. 624.307, F.S.; and
- Authorizes the Financial Services Commission to adopt rules.

Limitations on Insurers, HMOs, or PLHSOs Denying Payment of Claims for Procedures Included in Prior Authorizations (Sections 1, 4, and 5)

Section 1 amends s. 627.6131, F.S., relating to claims; **Section 4** amends s. 636.035, F.S., relating to provider arrangements; and **Section 5** amends, s. 641.315, F.S., relating to provider contracts.

The bill prohibits an insurer, HMO or PLHSO from denying any claim subsequently submitted by a dentist for procedures that were included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:
- Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization;
- The documentation provided by the person submitting the claim fails to support the claim as originally authorized;
- Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care;
- Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued; and
- The denial of the claim was due to one of the following:
  - Another payor is responsible for payment;
  - The dentist has already been paid for the procedures identified in the claim;
  - The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer; and
  - The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

Further, the bill provides these provisions may not be waived, voided, or nullified by contract. Furthermore, any contractual clause in conflict with these provisions or that purports to waive any requirements of these provisions is null and void. The bill authorizes the Office of Insurance Regulation (OIR) to enforce these provisions pursuant to their general powers provided in s. 624.307, F.S., and authorizes the Financial Services Commission to adopt rules.

Provider Contracts and Covered Services (Sections 2, 4, and 5)

Section 2 amends s. 627.6474, F.S., relating to provider contracts; **Section 4** amends s. 636.035, F.S., relating to provider arrangements; and **Section 5** amends, s. 641.315, F.S., relating to provider contracts.

The bill revises the definition of covered services to mean dental care services for which a reimbursement is available under the contract or agreement of the insurer, HMO or PLHSO, notwithstanding the application of contractual limitations, such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation. As a result, if an insured or subscriber reaches their benefit limits prior to the end of plan year, the dentist is not required to bill the insured or subscriber at the negotiated rate. The dentist may charge a higher rate.

Effective Date (Section 6)

Provides the bill is effective January 1, 2025.

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:

To the extent the bill applies to contracts and insurance policies entered into or renewed before the effective date of January 1, 2025, the bill could impair those contracts. Article I, s. 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. The severity of the impairment is a key issue when evaluating whether a state law impairs a contract. In *Exxon Corp. v Eagerton*,

462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers. This exception extends to laws that are "reasonable and necessary to serve an important public purpose,"[43] to include protecting the public's health, safety or welfare. For a statute to offend the constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect. Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts. The balancing process focuses on whether "the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective."[44]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insureds, subscribers, or enrollees that have exhausted their dental policy limits prior to the end of the policy or contract period will be negatively impacted in circumstances where they cannot obtain additional services at the negotiated rate and the dentist chooses to use a higher rate.

Dentists may experience savings in fees if they opt out of the payment of claims by credit cards. Further, dentists may realize additional revenues if an insurer, health maintenance organization (HMO) or prepaid limited health service organization (PLHSO) is limited in their ability to subsequently deny claims they previously authorized.

The impact on insurers, HMOs or PLHSOs is indeterminate. While the bill establishes specific criteria for claims denial and service coverage, which could improve clarity for providers, compliance may result in costs. These costs include investments in systems and staff training by insurers, PLHSOs, and HMOs to ensure compliance.

[43] *Searcy, Denney, Scarola, Barnhart & Shipley, Etc. v. State*, 209 So. 3d 1181 (Fla. 2017) at 1192 (quoting Pomponio, *Pomponio v. Claridge of Pompano Condominium*, 378 So. 2d 774 (Fla. 1980))
[44] *Id.*

Federal regulations govern the grace period and payment of claims of individuals receiving federally subsidized products on the exchange. This bill would not apply to such claims.
The provisions of the bill would not apply to ERISA (Federal Employee Retirement Income Security Act of 1974)[45] self-insured plans. ERISA preempts the regulation of such plans by the state.

C. Government Sector Impact:

The bill has an indeterminate, likely insignificant impact to state revenues and expenditures. The Office of Insurance Regulation (OIR) estimates the bill could increase enforcement action which would necessitate recurring funds of $30,000 to upgrade positions in OIR's Legal and Market Regulations offices.[46] This can be handled within existing resources.

If the provisions lead to an increase in appeals or legal challenges related to denied claims, it could necessitate additional resources for adjudication processes, potentially adding to state expenditures.

The bill does not impact the Division of State Group Insurance, as there is no expansion of services within the bill.[47] However, an increase in premium costs for state agencies who provide primary dental coverage, resulting from reimbursement requirements stipulated in the bill, could adversely affect state government expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.6131, 627.6474, 636.032, 636.035, and 641.315.

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 Fiscal Policy on February 22, 2024:

[45] 29 U.S.C. 1001 *et seq.* (1974).
[46] Office of Insurance Regulation, *Senate Bill Agency Legislative Analysis of SB 892* (Jan. 11, 2024) (on file with the Senate Committee on Agriculture, Environment, and General Government).
[47] Email from Jake Holmgreen, Deputy Legislative Affairs Director, Florida Department of Management Services to Eric Lloyd, Policy Chief, House Subcommittee on Insurance and Banking (Jan. 29, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

The committee substitute:

- Requires the dentist to provide written consent, relating to the method of payment, to bear the signature of the dentist or other specified forms; and
- Changes the effective date from December 1, 2024, to January 1, 2025.

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 12, 2024:

The committee substitute :

- Clarifies a health insurer, prepaid limited health service organization (PLHSO), or health maintenance organization (HMO) who uses electronic funds transfers (EFT) to pay claims, must notify the dentist of such practice and must obtain written consent from the dentist or dental practice prior to using EFT;
- Clarifies EFT includes, but is not limited to virtual credit card payments; and
- Revises the effective date to December 1, 2024.

CS by Banking and Insurance Feb. 5, 2024:

The committee substitute eliminates a provision in the bill that would authorize a health insurer, a prepaid limited health service organization or a health maintenance organization to charge a reasonable fee for other value-added services related to automatic clearing house (ACH) transfers.

B. Amendments:

None.

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	.	
02/25/2024	.	
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	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 95 - 383

and insert:

entire practice. For purposes of this paragraph, the dentist's written consent, which may be given through e-mail, must bear the signature of the dentist. Such signature includes an electronic or digital signature if the form of signature is recognized as a valid signature under applicable federal law or state contract law or an act that demonstrates express consent,

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including, but not limited to, checking a box indicating consent. The insurer or dentist may not require that a dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the health insurer to the dentist must include all of the following:

1. The fees, if any, associated with the electronic funds transfer.

2. The available methods of payment of claims by the health insurer, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health insurer that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(21)(a) A health insurer may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior

authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this

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subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 2. Subsection (2) of section 627.6474, Florida Statutes, is amended to read:

627.6474 Provider contracts.—

(2) A contract between a health insurer and a dentist licensed under chapter 466 for the provision of services to an insured may not contain a provision that requires the dentist to provide services to the insured under such contract at a fee set by the health insurer unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the insured's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Section 3. Section 636.032, Florida Statutes, is amended to read:

636.032 Acceptable payments.—

(1) Each prepaid limited health service organization may accept from government agencies, corporations, groups, or individuals payments covering all or part of the cost of contracts entered into between the prepaid limited health

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service organization and its subscribers.

(2)(a) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber may not specify credit card payment as the only acceptable method for payments from the prepaid limited health service organization to the dentist.

(b) When a prepaid limited health service organization employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the prepaid limited health service organization shall notify the dentist as provided in this paragraph and obtain the dentist’s consent in writing before employing the electronic funds transfer. The dentist’s written consent described in this paragraph applies to the dentist’s entire practice. For purposes of this paragraph, the dentist’s written consent, which may be given through e-mail, must bear the signature of the dentist. Such signature includes an electronic or digital signature if the form of signature is recognized as a valid signature under applicable federal law or state contract law or an act that demonstrates express consent, including, but not limited to, checking a box indicating consent. The prepaid limited health service organization or dentist may not require that the dentist’s consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the prepaid limited health service organization to the dentist must include all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the

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prepaid limited health service organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A prepaid limited health service organization that pays a claim to a dentist through Automatic Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

Section 4. Subsection (13) of section 636.035, Florida Statutes, is amended, and subsection (15) is added to that section, to read:

636.035 Provider arrangements.—

(13) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the prepaid limited health service organization may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the prepaid limited health service organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available

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under the subscriber's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

(15)(a) A prepaid limited health service organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the dental service claim was due to one of

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the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the prepaid limited health service organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the prepaid limited health service organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 5. Subsection (11) of section 641.315, Florida Statutes, is amended, and subsections (13) and (14) are added to that section, to read:

641.315 Provider contracts.—

(11) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization

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may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

(13)(a) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization may not specify credit card payment as the only acceptable method for payments from the health maintenance organization to the dentist.

(b) When a health maintenance organization employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the health maintenance organization shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written consent described in this paragraph applies to the dentist's entire practice. For purposes of this paragraph, the dentist's written consent, which may be given through e-mail, must bear the signature of the dentist. Such signature includes an electronic or digital signature if

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the form of signature is recognized as a valid signature under applicable federal law or state contract law or an act that demonstrates express consent, including, but not limited to, checking a box indicating consent. The health maintenance organization or dentist may not require a dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the health maintenance organization to the dentist must include all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the health maintenance organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health maintenance organization that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or which purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(14)(a) A health maintenance organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances

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applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health maintenance organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health

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maintenance organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) The subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or which purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 6. This act shall take effect January 1, 2025.

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

And the title is amended as follows:

Delete lines 10 - 61

and insert:

practice; requiring the dentist's consent to bear the signature of the dentist; specifying the form of such signature; prohibiting the insurer and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a health insurer from charging a fee to transmit a payment to a dentist through Automated Clearing House (ACH) transfer unless the dentist has consented to such fee; providing construction; authorizing the Office of Insurance Regulation of the Financial Services Commission to enforce certain provisions; authorizing the commission to adopt rules;

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prohibiting a health insurer from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 627.6474, F.S.; revising the definition of the term "covered services"; amending s. 636.032, F.S.; prohibiting a contract between a prepaid limited health service organization and a dentist from containing certain restrictions on payment methods; requiring the prepaid limited health service organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through electronic funds transfer; providing that a dentist's consent applies to the dentist's entire practice; requiring the dentist's consent to bear the signature of the dentist; specifying the form of such signature; prohibiting the limited health service organization and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a prepaid limited health service organization from charging a fee to transmit a payment to a dentist through ACH transfer unless the dentist has consented to such fee; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 636.035, F.S.; revising the definition of the term "covered services"; prohibiting a prepaid limited health

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service organization from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 641.315, F.S.; revising the definition of the term "covered services"; prohibiting a contract between a health maintenance organization and a dentist from containing certain restrictions on payment methods; requiring the health maintenance organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through electronic funds transfer; providing that the dentist's consent applies to the dentist's entire practice; requiring the dentist's consent to bear the signature of the dentist; specifying the form of such signature; prohibiting the health maintenance

By the Appropriations Committee on Agriculture, Environment, and General Government; the Committee on Banking and Insurance; and Senator Harrell

A bill to be entitled

An act relating to dental insurance claims; amending s. 627.6131, F.S.; prohibiting a contract between a health insurer and a dentist from containing certain restrictions on payment methods; requiring a health insurer to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through electronic funds transfer; providing that the dentist's consent applies to the dentist's entire practice; prohibiting the insurer and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a health insurer from charging a fee to transmit a payment to a dentist through Automated Clearing House (ACH) transfer unless the dentist has consented to such fee; providing construction; authorizing the Office of Insurance Regulation of the Financial Services Commission to enforce certain provisions; authorizing the commission to adopt rules; prohibiting a health insurer from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 627.6474, F.S.; revising the definition of the term "covered services"; amending s. 636.032, F.S.; prohibiting a contract between a prepaid limited health service organization and a dentist from containing certain restrictions on payment methods;

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

requiring the prepaid limited health service organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through electronic funds transfer; providing that the dentist's consent applies to the dentist's entire practice; prohibiting the limited health service organization and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a prepaid limited health service organization from charging a fee to transmit a payment to a dentist through ACH transfer unless the dentist has consented to such fee; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 636.035, F.S.; revising the definition of the term "covered services"; prohibiting a prepaid limited health service organization from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; amending s. 641.315, F.S.; revising the definition of the term "covered services"; prohibiting a contract between a health maintenance organization and a dentist from containing certain restrictions on payment methods; requiring the health maintenance organization to make certain notifications and obtain a dentist's consent before paying a claim to the dentist through

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

electronic funds transfer; providing that the dentist's consent applies to the dentist's entire practice; prohibiting the health maintenance organization and dentist from requiring consent on a patient-by-patient basis; specifying the requirements of a certain notification; prohibiting a health maintenance organization from charging a fee to transmit a payment to a dentist through ACH transfer unless the dentist has consented to such fee; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; prohibiting a health maintenance organization from denying claims for procedures included in a prior authorization; providing exceptions; providing construction; authorizing the office to enforce certain provisions; authorizing the commission to adopt rules; providing an effective date.

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

Section 1. Subsections (20) and (21) are added to section 627.6131, Florida Statutes, to read:

627.6131 Payment of claims.—

(20)(a) A contract between a health insurer and a dentist licensed under chapter 466 for the provision of services to an insured may not specify credit card payment as the only acceptable method for payments from the health insurer to the dentist.

(b) When a health insurer employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the health insurer shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written consent described in this paragraph applies to the dentist's entire practice. The insurer or dentist may not require that a dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the health insurer to the dentist must include all of the following:

1. The fees, if any, associated with the electronic funds transfer.

2. The available methods of payment of claims by the health insurer, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health insurer that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(21)(a) A health insurer may not deny any claim

subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health insurer by the dentist, patient, or other person not related to the insurer.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health insurer did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 2. Subsection (2) of section 627.6474, Florida Statutes, is amended to read:

627.6474 Provider contracts.—

(2) A contract between a health insurer and a dentist licensed under chapter 466 for the provision of services to an insured may not contain a provision that requires the dentist to provide services to the insured under such contract at a fee set by the health insurer unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the insured's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

Section 3. Section 636.032, Florida Statutes, is amended to

read:

636.032 Acceptable payments.—

(1) Each prepaid limited health service organization may accept from government agencies, corporations, groups, or individuals payments covering all or part of the cost of contracts entered into between the prepaid limited health service organization and its subscribers.

(2)(a) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber may not specify credit card payment as the only acceptable method for payments from the prepaid limited health service organization to the dentist.

(b) When a prepaid limited health service organization employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the prepaid limited health service organization shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written consent described in this paragraph applies to the dentist's entire practice. The prepaid limited health service organization or dentist may not require that the dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the prepaid limited health service organization to the dentist must include all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the

prepaid limited health service organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A prepaid limited health service organization that pays a claim to a dentist through Automatic Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

Section 4. Subsection (13) of section 636.035, Florida Statutes, is amended, and subsection (15) is added to that section, to read:

636.035 Provider arrangements.—

(13) A contract between a prepaid limited health service organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the prepaid limited health service organization may not contain a provision that requires the dentist to provide services to the subscriber of the prepaid limited health service organization at a fee set by the prepaid limited health service organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available

under the subscriber's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

(15)(a) A prepaid limited health service organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the dental service claim was due to one of

the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the prepaid limited health service organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the prepaid limited health service organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or that purports to waive any requirements of this subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 5. Subsection (11) of section 641.315, Florida Statutes, is amended, and subsections (13) and (14) are added to that section, to read:

641.315 Provider contracts.—

(11) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization

may not contain a provision that requires the dentist to provide services to the subscriber of the health maintenance organization at a fee set by the health maintenance organization unless such services are covered services under the applicable contract. As used in this subsection, the term "covered services" means dental care services for which a reimbursement is available under the subscriber's contract, notwithstanding ~~or for which a reimbursement would be available but for~~ the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

(13)(a) A contract between a health maintenance organization and a dentist licensed under chapter 466 for the provision of services to a subscriber of the health maintenance organization may not specify credit card payment as the only acceptable method for payments from the health maintenance organization to the dentist.

(b) When a health maintenance organization employs the method of claims payment to a dentist through electronic funds transfer, including, but not limited to, virtual credit card payment, the health maintenance organization shall notify the dentist as provided in this paragraph and obtain the dentist's consent in writing before employing the electronic funds transfer. The dentist's written consent described in this paragraph applies to the dentist's entire practice. The health maintenance organization or dentist may not require a dentist's consent as described in this paragraph be made on a patient-by-patient basis. The notification provided by the health

maintenance organization to the dentist must include all of the following:

1. The fees, if any, that are associated with the electronic funds transfer.

2. The available methods of payment of claims by the health maintenance organization, with clear instructions to the dentist on how to select an alternative payment method.

(c) A health maintenance organization that pays a claim to a dentist through Automated Clearing House transfer may not charge a fee solely to transmit the payment to the dentist unless the dentist has consented to the fee.

(d) This subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or which purports to waive any requirements of this subsection is null and void.

(e) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(f) The commission may adopt rules to implement this subsection.

(14)(a) A health maintenance organization may not deny any claim subsequently submitted by a dentist licensed under chapter 466 for procedures specifically included in a prior authorization unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached subsequent to issuance of the prior authorization.

2. The documentation provided by the person submitting the

claim fails to support the claim as originally authorized.

3. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. Subsequent to the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time have required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was issued.

5. The denial of the claim was due to one of the following:

a. Another payor is responsible for payment.

b. The dentist has already been paid for the procedures identified in the claim.

c. The claim was submitted fraudulently, or the prior authorization was based in whole or material part on erroneous information provided to the health maintenance organization by the dentist, patient, or other person not related to the organization.

d. The person receiving the procedure was not eligible to receive the procedure on the date of service and the health maintenance organization did not know, and with the exercise of reasonable care could not have known, of his or her ineligibility.

(b) The subsection may not be waived, voided, or nullified by contract, and any contractual clause in conflict with this subsection or which purports to waive any requirements of this

subsection is null and void.

(c) The office has all rights and powers to enforce this subsection as provided by s. 624.307.

(d) The commission may adopt rules to implement this subsection.

Section 6. This act shall take effect December 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

Feb. 22 2024
Meeting Date

Fiscal Policy
Committee

892
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joe Anne Hart

Phone 850-224-1089

Address 118 E. Jefferson St
Street

Email jahart@floridadental.org

Tally FL 32311
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] 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 Dental Association

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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Feb. 22 2024
Meeting Date

Fiscal Policy
Committee

892
Bill Number or Topic

547364
Amendment Barcode (if applicable)

Name Joe Anne Hart

Phone 850.224.1089

Address 118 N. Jefferson St.
Street

Email jahart@floridadental.org

Tall 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 Dental Association

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

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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

2-22-2024
Meeting Date

Fiscal Policy
Committee

SB892
Bill Number or Topic

547364
Amendment Barcode (if applicable)

Name Joy Ryan

Phone 850-425-4000

Address
Street

Email joy@meenanlawfirm.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:
- Florida Insurance Council &
- AHIP

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 964
INTRODUCER:	Appropriations Committee on Health and Human Services; Banking and Insurance Committee; and Senator Calatayud
SUBJECT:	Coverage for Biomarker Testing
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Barr	McKnight	AHS	**Fav/CS**
3.	Johnson	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 964 requires the Florida Medicaid program and the Division of State Group Insurance program to provide coverage for biomarker testing for the diagnosis, treatment, management, and ongoing monitoring of disease or condition of an enrollee or insured, respectively to guide treatment decisions when such testing provides clinical utility as demonstrated by medical and scientific evidence.

The bill directs the Agency for Health Care Administration to include the rate impact from this act in the Medicaid managed care program rates that take effect October 1, 2024.

The bill may have an indeterminate fiscal impact on both the Florida Medicaid program and the Division of State Group Insurance. *See* Section V., Fiscal Impact Statement.

The bill has an effective date of July 1, 2024.

II. Present Situation:

Biomarkers[1] and Tumor Markers[2]

A biomarker is a biological molecule found in blood, other body fluids, or tissues that is a sign of a normal or abnormal process, or of a condition or disease. A biomarker may be used to see how well the body responds to a treatment for a disease or condition.

A tumor marker is anything present in or produced by cancer cells or other cells of the body in response to cancer or certain benign (noncancerous) conditions. Tumor markers have traditionally been proteins or other substances that are made at higher amounts by cancer cells than normal cells. These can be found in the blood, urine, tumors, or other tissues or bodily fluids of some patients with cancer. Increasingly, however, genomic markers (such as tumor gene mutations, patterns of tumor gene expression, and nongenetic changes in tumor DNA) are being used as tumor markers. These markers are found both in tumors themselves and in tumor fragments shed into bodily fluids. Many different tumor markers have been characterized and are in clinical use.[3] Some are associated with only one type of cancer, whereas others are associated with multiple cancer types.

Biomarker testing is a method to look for genes, proteins, and other substances (biomarkers or tumor markers) that can provide information about cancer and other conditions.

Application of Tumor Markers in Cancer Care[4]

Tumor markers that indicate whether someone is a candidate for a particular targeted therapy[5] are sometimes referred to as biomarkers for cancer treatment. Tumor markers can provide a wide variety of information that is important for cancer care, such as:

- Helping to diagnose cancer.
- The type of cancer.
- The stage of the cancer.
- An estimate of prognosis.
- Determination of what treatment may be effective. How well the treatment is working.
- Whether cancer has returned.

Types of Tumor Marker Tests

A number of tumor marker tests are currently being used for a wide range of cancer types.[6] Many tumor marker tests are conducted by commercial and academic laboratories. Sometimes cancer centers use a tumor marker test developed within a single clinical laboratory to meet a specific medical need. All tumor markers are tested in laboratories that meet standards set by the Clinical Laboratory Improvement Amendments program.[7]

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[1] Biomarker Testing for Cancer Treatment - NCI (last visited Jan. 25, 2024).
[2] Tumor Markers - NCI (cancer.gov) (last visited Jan. 28, 2024).
[3] Tumor Marker Tests in Common Use - NCI (cancer.gov) (last visited Jan. 24, 2024).
[4] Tumor Markers - NCI (cancer.gov) (last visited Jan. 28, 2024).
[5] This is a type of treatment that uses drugs or other substances to target specific molecules that cancer cells need to survive and spread. *See* Definition of targeted therapy - NCI Dictionary of Cancer Terms - NCI (last visited Jan. 27, 2024).
[6] Tumor Marker Tests in Common Use - NCI (cancer.gov) (last visited Jan. 23, 2024).
[7] Clinical Laboratory Improvement Amendments (CLIA) | CDC (last visited Jan. 23, 2024).

Division of State Group Insurance

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group health insurance program under a cafeteria plan consistent with s. 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans and insured (HMOs), as well as a pharmacy benefits manager for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S.

Florida's Medicaid Program[8]

Administration of the Program

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 federal Centers for Medicare and Medicaid Services (CMS) and maintaining any Medicaid waivers needed to operate the Florida Medicaid program as directed by the Florida Legislature.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs; it 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 a formal waiver of the requirements codified in the SSA. Federal waivers give states flexibility not afforded through their Medicaid state plan.

In Florida, most Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program. The SMMC program has three components: Managed Medical Assistance (MMA), Long-Term Care (LTC), and Dental. Florida's SMMC program benefits are authorized through federal waivers and are specifically required by the Florida Legislature in ss. 409.973 and 409.98, F.S.

Mandatory Medicaid Coverage

Section 409.905, F.S., relating to mandatory Medicaid services, provides that the AHCA may make payments for delineated services, which are required of the state by Title XIX of the Social Security Act. Currently, the Florida Medicaid program covers biomarker testing under s. 409.905(7), F.S., as a mandatory service under the category of "Independent Laboratory Services." Florida Medicaid reimburses eligible providers for biomarker testing services in accordance with Rule 59G-4.190, F.A.C., the Laboratory Services and Coverage Policy, and Rule 59G-4.002, F.A.C., the Independent and Practitioner Laboratory Fee Schedules.

An eligible recipient must be enrolled in the Florida Medicaid program on the date of service, and the services provided must be determined medically necessary, not duplicative of another service, and meet the criteria of the policy. When determining coverage or if it is appropriate to

[8] Agency for Health Care Administration, 2024 Legislative Bill Analysis, *House Bill 885* (Jan. 19, 2024)(on file with the Senate Appropriations Committee on Health and Human Services)

add a code to a Medicaid fee schedule, the AHCA considers clinical and practice guidelines as well as costs and maintaining budget neutrality.

The SMMC plans have the flexibility to cover services above and beyond the AHCA's coverage policies, but they may not be more restrictive.

Medically Necessary or Medical Necessity.[9] Under Florida's Medicaid program, for a medical or allied care, goods, or services furnished or ordered to be considered medically necessary or a medical necessity, it must meet the following conditions:

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.
- Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs.
- Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational.
- Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide.
- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.
- The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.
- Medically necessary or medical necessity for inpatient hospital services requires that those services furnished in a hospital on an inpatient basis could not, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient facility of a different type.

Federal and State Insurance Coverage for Biomarker Testing

In 2020 and 2022, the federal CMS issued a national coverage determination[10] and local coverage determination[11] that increased access to comprehensive biomarker testing and next-generation sequencing for Medicare beneficiaries.
Since 2021, four states have enacted laws mandating coverage of testing, diagnosis, treatment, management, or monitoring of a medical condition, including the following states[12]:

- Louisiana Senate Bill 84 requires broad health insurance coverage for genetic and molecular testing for cancer only.[13]

[9] Agency for Health Care Administration, Florida Medicaid, Definitions Policy (Aug. 2017) Definitions of commonly used terms that are applicable to all sections of Rule 59G, F.A.C., unless otherwise specified.
[10] NCD - Next Generation Sequencing (NGS) (90.2) (cms.gov) (last visited Jan. 20, 2024).
[11] LCD - Genomic Sequence Analysis Panels in the Treatment of Solid Organ Neoplasms (L37810) (cms.gov) (last visited Jan 20, 2024).
[12] State Legislation Requiring Coverage of Biomarker Testing Gains Momentum (accc-cancer.org) (Sep. 30, 2022) (last visited Jan. 24, 2024).
[13] LA SB84 | 2021 | Regular Session | LegiScan (last visited Jan. 24, 2024).

- Illinois House Bill 1779 requires state-regulated insurance and managed care plans to cover biomarker testing for the purposes of diagnosis, treatment, management, or monitoring of any medical condition.[14]
- Arizona House Bill 2144 requires health insurance coverage for biomarker testing for the purposes of diagnosis, treatment, management, or monitoring of any medical condition.[15]
- Rhode Island Senate Bill 2201 requires state-regulated individual and group health insurance plans to cover biomarker testing for the purposes of diagnosis, treatment, management, or monitoring of any medical condition.[16]

Recent Studies on the Long-Term Cost Impacts of Biomarker Testing

A 2022 study found the addition of biomarker testing (liquid biopsy) for non-small cell lung cancer resulted in incremental cost savings of $3,065 per patient compared to tissue biopsy alone. Increased detection of actionable alterations, using liquid biopsy, was also associated with more patients being treated with targeted therapy. Major drivers of cost-effectiveness were drug acquisition costs and prevalence of actionable alterations.[17]

A 2018 study found that biomarker testing for non-small cell lung cancer, instead of single-gene testing, decreased expected testing procedure related costs to the health plan payer by $24,651. First-line and maintenance treatment costs increased by $842,205, offset by a $385,000 decrease in second-line treatment and palliative care costs. Over 5 years, total budget impact was $432,554 ($0.0072 per member per month).[18]

III. Effect of Proposed Changes:

The bill creates the following definitions for Sections 1 and 2 of the bill relating to the State Group Insurance Program and the Medicaid program, respectively:

- "Biomarker" means a defined characteristic that is measured as an indicator of normal biological processes, pathogenic processes, or responses to an exposure or intervention, including therapeutic interventions. "Biomarker testing" means an analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker.
- "Clinical utility" means that the test result provides information used in the formulation of a treatment or in a monitoring strategy that impacts a patient's outcome and informs the clinical decision.

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[14] IL HB1779 | 2021-2022 | 102nd General Assembly | LegiScan (last visited Jan. 24, 2024).
[15] AZ HB2144 | 2022 | Fifty-fifth Legislature 2nd Regular | LegiScan (last visited Jan. 24, 2024).
[16] RI S2201 | 2022 | Regular Session | LegiScan (last visited Jan. 24, 2024).
[17] Ezeife DA, Spackman E, Juergens RA, Laskin JJ, Agulnik JS, Hao D, Laurie SA, Law JH, Le LW, Kiedrowski LA, Melosky B, Shepherd FA, Cohen V, Wheatley-Price P, Vandermeer R, Li JJ, Fernandes R, Shokoohi A, Lanman RB, Leighl NB. The economic value of liquid biopsy for genomic profiling in advanced non-small cell lung cancer. Ther Adv Med Oncol. 2022 Jul 26;14:17588359221112696. doi: 10.1177/17588359221112696. PMID: 35923926; PMCID: PMC9340413. The economic value of liquid biopsy for genomic profiling in advanced non-small cell lung cancer - PubMed (nih.gov) (last visited Jan. 27, 2024).
[18] Yu TM, Morrison C, Gold EJ, Tradonsky A, Arnold RJG. Budget Impact of Next-Generation Sequencing for Molecular Assessment of Advanced Non-Small Cell Lung Cancer. Value Health. 2018 Nov;21(11):1278-1285. doi: 10.1016/j.jval.2018.04.1372. Epub 2018 Jun 8. PMID: 30442274. https://pubmed.ncbi.nlm.nih.gov/30442274/ (last visited Jan. 28, 2024).

- "Nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy.

Section 1 amends s. 110.12303, F.S., relating to the State Group Insurance program (program) to mandate coverage of biomarker testing for policies issued on or after January 1, 2025. This coverage would include the diagnosis, treatment, management, or ongoing monitoring of an insured's disease or condition to guide treatment decisions when such testing provides clinical utility to the insured as demonstrated by medical and scientific evidence, including but not limited to, any of the following:

- Labeled indications for a test approved or cleared by the United States Food and Drug Administration (FDA) or indicated tests for an FDA-approved drug.
- Federal Centers for Medicare and Medicaid Services (CMS) national coverage determinations or Medicare Administrative Contractor local coverage determinations.
- Nationally recognized clinical practice guidelines.

The program is required to outline a process for insureds and providers to access a process to request an authorization for biomarker testing.

The biomarker testing services may not be construed to require coverage of biomarker testing for screening purposes.

Section 2 amends s. 409.906, F.S., relating to optional Medicaid services to authorize the Agency for Health Care Administration (AHCA) to pay for biomarker testing for diagnosis, treatment, management, or ongoing monitoring of a recipient's disease or condition to guide treatment decisions when such testing provides clinical utility to the recipient as demonstrated by medical and scientific evidence, including but not limited to, any of the following:

- Labeled indications for a test approved or cleared by the United States FDA or indicated tests for an FDA-approved drug.
- Federal CMS national coverage determinations or Medicare Administrative Contractor local coverage determinations.
- Nationally recognized clinical practice guidelines.

The AHCA is also required to outline a process for enrollees and providers to access a process to request an authorization for biomarker testing.

The biomarker testing services may not be construed to require coverage of biomarker testing for screening purposes.

Section 3 creates s. 409.9745, F.S., to require managed care plans to provide coverage for biomarker testing for enrollees, as authorized under s. 409.906, F.S., at the same scope, duration, and frequency as the Medicaid program provides for other medically necessary treatments.

Managed care plans are required to outline a process for enrollees and providers to access a process for requesting authorization of biomarker testing.

The bill provides that this provision may not be construed to require coverage of biomarker testing for screening purposes.

Section 4 directs the AHCA to include the rate impact of this act in the Medicaid managed care program rates that take effect October 1, 2024.

Section 5 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill requires the Medicaid fee for service and the Medicaid managed care plans and the State Group Insurance program to cover biomarker testing for diagnosis, treatment, management, and ongoing monitoring of a disease or condition of an enrollee to guide treatment decisions when such testing provides clinical utility to the recipient and must be demonstrated by medical and scientific evidence, *including but not limited* to:

- Labeled indications for a test approved or cleared by the United States Food and Drug Administration (FDA) or indicated tests for an FDA-approved drug.
- Federal Centers for Medicare and Medicaid Services national coverage determinations or Medicare Administrative Contractor local coverage determinations.
- *Nationally recognized clinical practice guidelines*.

Use of the term "including but not limited to" indicates that the bill does not provide an all-inclusive list for medical and scientific evidence, and it is unclear who would determine the credibility or admissibility of it. Further, the term, "nationally recognized clinical practice guidelines," does not provide specific named guidelines or examples. The bill provides no rulemaking authority, guidance or standards for the Agency for Health Care Administration or the State Group Insurance program to use for establishing this additional criteria. Thus, this additional, unspecified medical and scientific evidence or guidelines for determining coverage may be an unlawful delegation of legislative authority.

The Legislature may not delegate its constitutional duties to another branch of government.[19] While the Legislature must make fundamental policy decisions, it may delegate the task of implementing that policy to executive agencies with "some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."[20] Moreover, the Legislature can permit "administration of legislative policy by an agency with the expertise and flexibility to deal with complex and fluid conditions."[21]

Florida courts have found an unlawful delegation of legislative authority in the following instances:

- Where the Legislature allowed the Department of State to "in its discretion allow such a candidate to withdraw…";[22] and
- Where the Legislature created a criminal penalty for escape from certain classifications of juvenile detention facilities, but delegated the classification (or determination whether to classify at all) to an agency.[23]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. The mandated coverage is anticipated to reduce the overall costs of care of an enrollee, insured, or subscriber as a result of the use of a more targeted, optimal treatment protocol.

C. Government Sector Impact:

Florida's Medicaid Program[24]

The bill would limit the Agency for Health Care Administration's (AHCA) ability to determine coverage of biomarker testing using the current established process. The bill could have both a significant operational and fiscal impact on the Medicaid Program as it would require the AHCA to cover all codes that meet the clinical criteria defined by the bill. However, expanding the number of biomarker tests covered under the Florida Medicaid program may result in future cost savings from the use of more targeted, optimal treatment protocols for diseases.

The bill mandates specific criteria by which biomarker testing must be evaluated for coverage by Florida Medicaid. Currently, the AHCA does not define "specific nationally

[19] See FLA. CONST. art. II, s. 3.
[20] Askew v. Cross Key Waterways, 372 So.2d 913, 925 (Fla. 1978).
[21] Microtel, Inc. v. Fla. Public Serv. Comm'n., 464 So.2d 1189, 1191 (Fla. 1991).
[22] Fla. Dep't. of State, Div. of Elections v. Martin, 916 So.2d 763 (Fla. 2005).
[23] D.P. v. State, 597 So.2d 952 (Fla. 1st DCA, 1992)(disapproved on other grounds).
[24] Correspondence from Patrick Steele, Legislative Affairs Director, Agency for Health Care Administration (Feb. 1, 2024). On file with Senate Banking and Insurance Committee staff.

recognized clinical practice guidelines" in rule for determining coverage. Covered services must be medically necessary as defined by Rule 59G-1.010, F.A.C., not duplicate another service, and meet the criteria in the service specific coverage policy. When determining coverage or if it is appropriate to add a code to a FFS Medicaid fee schedule, the AHCA considers clinical and practice guidelines as well as costs and maintaining budget neutrality.

Typically, the AHCA does not cover every code designated by the American Medical Association (AMA) for a covered service. For example, the Agency covers integumentary and wound care supplies under s. 409.906 F.S., Optional Medicaid services. There are a total of 87 skin substitute procedure codes listed in the AMA Current Procedural Terminology (CPT) codebook. Of these, Florida Medicaid covers a total of 26 CPT codes.

There are numerous biomarker tests that are Propriety Laboratory Analyses (PLA) CPT codes. A PLA code is a descriptor for a lab or manufacturer that wants to identify its proprietary test more specifically. Florida Medicaid currently covers 46 non-PLA biomarker CPT codes under the Laboratory Services Fee Schedule that are listed on the federal Centers for Medicare and Medicaid Services List for Billing and Coding: Biomarkers for Oncology. Florida Medicaid does not typically include PLA codes on FFS fee schedules.

As currently written, the bill requires the AHCA to cover every biomarker test when the medical and scientific evidence, as outlined in the bill, indicates clinical utility to the recipient. This requirement will have a significant fiscal impact to the Medicaid program which is indeterminate and on-going as the number of PLA and non-PLA codes that could meet this criteria is unknown. The impact will be ongoing as the bill will require the AHCA to cover a biomarker test every time a new test meets the criteria outlined in the bill.

State Group Insurance

The fiscal impact of the mandated coverage on the State Group Insurance is indeterminate and may range from zero to $1.6 million annually.[25] It is unclear what particular biomarker tests are currently covered and the criteria that is used to determine coverage of such testing.

VI. Technical Deficiencies:

The additional coverage mandates and criteria for coverage created in ss. 409.906 and 409.9745, F.S. appear to conflict with current coverage requirements of s. 409.905, F.S. Currently, s. 409.905, F.S., relating to the federal mandatory services, requires Florida's fee for service and Statewide Medicaid Managed Care to provide coverage for biomarker testing, subject to medical necessity and other requirements. However, the bill requires Medicaid to provide coverage for

[25] Department of Management Services, 2024 Legislative Bill Analysis, *Committee Substitute for House Bill 885* (Feb. 5, 2024)(on file with the Senate Appropriations Committee on Health and Human Services)

biomarker testing under the optional services required by the state but subject to an appropriation, pursuant to s. 409.906, F.S. This would apply to fee for service, as well as managed care plans. Like mandatory federal services, optional services under the Medicaid program are subject to medical necessity and other requirements. However, the bill requires coverage of biomarker testing when the testing provides *clinical utility*, which appears to be a different standard than medical necessity.

The bill provides that the medical and scientific evidence that may be used to determine if biomarker testing provides clinical utility "includes, but is not limited to" certain specified items. The use of the phrase "includes, but is not limited to" results in the bill being unclear what the additional medical and scientific evidence would be that would require the coverage of a biomarker test.

VII. Related Issues:

The bill takes effect on July 1, 2024. However, the Medicaid provider reimbursement fee schedules are set on a plan year beginning October 1.

VIII. Statutes Affected:

This bill substantially amends sections 110.12303 and 409.906 of the Florida Statutes.

This bill creates section 409.9745 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 February 13, 2024:
The committee substitute directs the Agency for Health Care Administration to include the rate impact from this act in the Medicaid managed care program rates that take effect October 1, 2024.

CS by Banking and Insurance on February 6, 2024:
The committee substitute excludes commercial policies and contracts from the coverage mandate. Such coverage is mandated for the Medicaid fee for service program and the managed care plans and State Group Insurance.

B. Amendments:

None.

By the Appropriations Committee on Health and Human Services; the Committee on Banking and Insurance; and Senator Calatayud

603-03307-24 2024964c2

A bill to be entitled

An act relating to coverage for biomarker testing; amending s. 110.12303, F.S.; defining terms; requiring the Department of Management Services to provide coverage of biomarker testing for specified purposes for state employees' state group health insurance plan policies issued on or after a specified date; specifying circumstances under which such coverage may be provided; requiring state group health insurance plans to provide enrollees and participating providers with a clear and convenient process for authorization requests for biomarker testing; requiring that such process be readily accessible online; providing construction; amending s. 409.906, F.S.; defining terms; authorizing the Agency for Health Care Administration to pay for biomarker testing under the Medicaid program for specified purposes, subject to specific appropriations; specifying circumstances under which such payments may be made; requiring that Medicaid recipients and participating providers be provided a clear and convenient process for authorization requests for biomarker testing; requiring that such process be readily accessible online; providing construction; authorizing the agency to seek federal approval for biomarker testing payments; creating s. 409.9745, F.S.; requiring managed care plans under contract with the agency in the Medicaid program to provide coverage for biomarker testing for Medicaid recipients in a certain manner;

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

603-03307-24 2024964c2

requiring managed care plans to provide Medicaid recipients and health care providers with a clear and convenient process for authorization requests for biomarker testing; requiring that such process be readily accessible on the managed care plan's website; providing construction; 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. Subsection (5) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(5)(a) As used in this subsection, the term:

1. "Biomarker" means a defined characteristic that is measured as an indicator of normal biological processes, pathogenic processes, or responses to an exposure or intervention, including therapeutic interventions. The term includes, but is not limited to, molecular, histologic, radiographic, or physiologic characteristics but does not include an assessment of how a patient feels, functions, or survives.

2. "Biomarker testing" means an analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker. The term includes, but is not limited to, single analyte tests, multiplex panel tests, protein expression, and

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

whole exome, whole genome, and whole transcriptome sequencing performed at a participating in-network laboratory facility that is certified pursuant to the federal Clinical Laboratory Improvement Amendment (CLIA) or that has obtained a CLIA Certificate of Waiver by the United States Food and Drug Administration for the tests.

3. "Clinical utility" means the test result provides information that is used in the formulation of a treatment or monitoring strategy that informs a patient's outcome and impacts the clinical decision.

(b) For state group health insurance plan policies issued on or after January 1, 2025, the department shall provide coverage of biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition to guide treatment decisions if medical and scientific evidence indicates that the biomarker testing provides clinical utility to the enrollee. Such medical and scientific evidence includes, but is not limited to:

1. A labeled indication for a test approved or cleared by the United States Food and Drug Administration;

2. An indicated test for a drug approved by the United States Food and Drug Administration;

3. A national coverage determination made by the Centers for Medicare and Medicaid Services or a local coverage determination made by the Medicare Administrative Contractor; or

4. A nationally recognized clinical practice guideline. As used in this subparagraph, the term "nationally recognized clinical practice guideline" means an evidence-based clinical practice guideline developed by independent organizations or

medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy. Guidelines developed by such organizations or societies establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

(c) Each state group health insurance plan shall provide enrollees and participating providers with a clear and convenient process to request authorization for biomarker testing. Such process must be made readily accessible online to all enrollees and participating providers.

(d) This subsection does not require coverage of biomarker testing for screening purposes.

Section 2. Subsection (29) is added to section 409.906, Florida Statutes, to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to

comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(29) BIOMARKER TESTING SERVICES.—

(a) As used in this subsection, the term:

1. "Biomarker" means a defined characteristic that is measured as an indicator of normal biological processes, pathogenic processes, or responses to an exposure or intervention, including therapeutic interventions. The term includes, but is not limited to, molecular, histologic, radiographic, or physiologic characteristics but does not include an assessment of how a patient feels, functions, or survives.

2. "Biomarker testing" means an analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker. The term includes, but is not limited to, single analyte tests, multiplex panel tests, protein expression, and whole exome, whole genome, and whole transcriptome sequencing performed at a participating in-network laboratory facility that is certified pursuant to the federal Clinical Laboratory Improvement Amendment (CLIA) or that has obtained a CLIA Certificate of Waiver by the United States Food and Drug Administration for the tests.

3. "Clinical utility" means the test result provides information that is used in the formulation of a treatment or monitoring strategy that informs a patient's outcome and impacts the clinical decision.

(b) The agency may pay for biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a recipient's disease or condition to guide treatment decisions if medical and scientific evidence indicates that the biomarker testing provides clinical utility to the recipient. Such medical and scientific evidence includes, but is not limited to:

1. A labeled indication for a test approved or cleared by the Unites States Food and Drug Administration;

2. An indicated test for a drug approved by the United States Food and Drug Administration;

3. A national coverage determination made by the Centers for Medicare and Medicaid Services or a local coverage determination made by the Medicare Administrative Contractor; or

4. A nationally recognized clinical practice guideline. As used in this subparagraph, the term "nationally recognized clinical practice guideline" means an evidence-based clinical practice guideline developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy. Guidelines developed by such organizations or societies establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

(c) Recipients and participating providers must be provided access to a clear and convenient process to request authorization for biomarker testing as provided under this subsection. Such process must be made readily accessible online to all recipients and participating providers.

(d) This subsection does not require coverage of biomarker testing for screening purposes.

(e) The agency may seek federal approval necessary to implement this subsection.

Section 3. Section 409.9745, Florida Statutes, is created to read:

409.9745 Managed care plan biomarker testing.—

(1) A managed care plan must provide coverage for biomarker testing for recipients, as authorized under s. 409.906, at the same scope, duration, and frequency as the Medicaid program provides for other medically necessary treatments.

(2) The managed care plan shall provide recipients and health care providers with access to a clear and convenient process to request authorization for biomarker testing as provided under this section. Such process must be made readily accessible on the managed care plan's website.

(3) This section does not require coverage of biomarker testing for screening purposes.

Section 4. The Agency for Health Care Administration is directed to include the rate impact of this act in the applicable Medicaid managed medical assistance program and long-term care managed care program rates that become effective on October 1, 2024.

Section 5. This act shall take effect October 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

964
Bill Number or Topic

Amendment Barcode (if applicable)

Name Susan Harbin

Phone

Address
Street

Email susan.harbin@cancer.org

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:
American Cancer Society Cancer Action Network

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

02/22/24
Meeting Date

Fiscal Policy
Committee

SB 904
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ashley Lyerly

Phone 205-908-2266

Address 55 W. Wacker Dr.
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Email Ashley.Lyerly@lung.org

Chicago IL 60601
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 American Lung 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 994
INTRODUCER:	Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Burgess
SUBJECT:	Student Transportation Safety
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Wells	Jerrett	ATD	**Fav/CS**
3.	Johnson	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 994 revises statutory provisions relating to the camera enforcement of traffic infractions related to passing of a stopped school bus. Specifically, the bill:

- Authorizes a private vendor or manufacturer of a school bus infraction detector system to receive a fixed amount of collected proceeds for services rendered regarding a school bus infraction detection system.
- Revises required signage on school buses with infraction detection system.
- Allocates civil penalties to the appropriate school district to pay for the program and other student transportation safety enhancements.
- Provides that the collection of evidence from a school bus infraction detection system does not constitute remote surveillance.
- Limits the use of video and images from the system to specified purposes.
- Requires specified traffic penalties to be remitted to a school district.

The bill does not appear to have a fiscal impact on the public, but may have a positive fiscal impact on the private sector. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

II. Present Situation:

Use of Cameras for Traffic Enforcement

Florida law expressly preempts to the state the regulation of the use of cameras for enforcing the Florida Uniform Traffic Control Law.[1] The only cameras currently authorized to enforce traffic laws are traffic infraction detectors (commonly known as red light cameras),[2] speed detection systems used to enforce school zone speed limits for violations in excess of 10 miles per hour over the speed limit,[3] and school bus infraction detection systems.[4]

School Bus-Related Traffic Laws

Pursuant to s. 316.172, F.S., a school bus must stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.[5] When possible, school buses should not stop where visibility is obscured for a distance of 200 feet from the bus.[6]

When approaching a stopped school bus displaying a stop signal, a driver must bring his or her vehicle to a full stop until the bus's signal is withdrawn.[7] However, a driver is not required to stop if his or her vehicle is traveling in the opposite direction of a stopped school bus on a divided highway with an unpaved space of at least five feet, a raised median, or a physical barrier.[8]

A person cited for failing to stop for a school bus displaying a stop signal pursuant to s. 316.172(1)(a), F.S., commits a moving violation and is subject to a $200 civil penalty.[9] A person cited for a moving violation may either pay the civil penalty or request a hearing to contest the citation.[10] Additionally, any person who is convicted, pleads nolo contendere, or is subject to the court withholding adjudication for such violation must attend a driver improvement course.[11]

A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal pursuant to s. 316.172(1)(b), F.S., also commits a moving violation; however, he or she is subject to a $400 civil penalty[12] and must attend a mandatory hearing,[13] and attend a driver improvement course.[14]

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[1] Section 316.0076, F.S.; ch. 316, F.S., is the Florida Uniform Traffic Control Law.
[2] Section 316.0083, F.S..
[3] Section 316.1896, F.S.
[4] Section 316.173, F.S.
[5] Section 316.172(3), F.S.
[6] *Id*.
[7] Section 316.172(1)(a), F.S.
[8] Section 316.172(2), F.S.
[9] In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV must suspend the driver license of the person for not less than 180 days and not more than 1 year. Section 318.18(5)(a), F.S.
[10] Section 318.14, F.S.
[11] Sections 322.0261(4)(a) and(c), F.S.
[12] In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV must suspend the driver license of the person for not less than 360 days and not more than 2 years. Section. 318.18(5)(a), F.S.
[13] Sections. 316.172(1)(b) and 318.19(3), F.S.
[14] Sections 322.0261(4)(a) and (c), F.S.

A driver who illegally passes a stopped school bus and:

- Does not cause serious bodily injury or death to another, will receive four points on his or her driver license record.[15]
- Causes serious bodily injury or death to another, will receive six points on his or her driver license record and must:[16]
  - Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents;
  - Participate in a victim's impact panel session; if such panel does not exist, the driver must attend a driver improvement course approved by the Department of Highway Safety and Motor Vehicles (DHSMV) relating to the rights of vulnerable road users relative to vehicles on the roadway;[17] and
  - Pay a $1,500 fine and have his or her driver license suspended for at least one year.[18]

When a driver accumulates a specified number of points on his or her driving record within a certain time period, his or her license is suspended, as follows:

- 12 points in 12 months – 30-day suspension.
- 18 points in 18 months – 3-month suspension.
- 24 points in 36 months – 12-month suspension.[19]

School Bus Stop Arm Traffic Citations

The Florida Department of Education created a statewide survey for bus drivers to complete regarding the illegal passing of their school buses. The 2023 survey showed that on a single day, 11,224 illegal passes were made based on the observations of 8,432 school bus drivers who completed the survey. Of these illegal passes, 568 were made on the right side of the bus where children generally enter and exit the vehicle, and 10,660 were made on the left side.[20]

School Bus Infraction Detection Systems

In 2023, the Legislature authorized the use of school bus infraction detection systems to enforce traffic violations for passing a stopped school bus loading or unloading passengers.[21]

That bill defined the term "school bus infraction detection system" to mean a camera system affixed to a school bus with two or more camera sensors or computers that produce a recorded video and two or more film or digital photographic still images for the purpose of documenting a motor vehicle being used or operated in a manner that allegedly violates s. 316.172(1)(a) or (b), F.S.[22]

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[15] Section 322.27(3)(d)4.a., F.S.
[16] Section 322.27(3)(d)4.b., F.S.
[17] Section 316.027(4)(b), F.S.
[18] Section 318.18(5)(d), F.S.
[19] Section 322.27(3), F.S.
[20] Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2023*, https://www.fldoe.org/core/fileparse.php/7585/urlt/2023illegalpassing.pdf (last visited January 3, 2024).
[21] CS/CS/SB 766; Chapter 2023-171, Laws of Fla.
[22] Section 316.003(78), F.S.

The 2023 law authorized school districts to contract with a private vendor or manufacturer to install a school bus infraction detection system on any school bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance of the system. The school district's decision to install school bus infraction systems must be based solely on the need to increase public safety.[23]

An individual may not receive a commission from any revenue collected from violations detected through the use of a school bus infraction detection system. A private vendor or manufacturer may not receive a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system. [24]

School district must ensure that each school bus infraction detection system meets State Board of Education (SBE) specifications and must be tested at regular intervals according to specifications prescribed by SBE rule.[25] Equipment acquired via an agreement entered into by a school district on or before December 31, 2023, is not required to meet SBE specifications until July, 1, 2024. [26]

Florida law provides that a school district that elects to install a school bus infraction detection system must enter into an interlocal agreement with one or more law enforcement agencies authorized to enforce traffic violations, within the school district. The interlocal agreement jointly establishes the responsibilities of enforcement and the reimbursement of costs associated with school bus infraction detection systems.[27]

On any school bus in which a school bus infraction detection system is installed and operational, the school district must post high-visibility reflective signage on the rear of the school bus indicating the use of such system, which must contain the following elements in substantially the following form:

- The words “STOP WHEN RED LIGHTS FLASH” or “DO NOT PASS WHEN RED LIGHTS FLASH.”
- The words “CAMERA ENFORCED.”
- A graphic depiction of a camera.[28]

If a school district that has never conducted a school bus infraction detection system program begins such a program, the school district must make a public announcement and conduct a public awareness campaign for at least 30 days before beginning enforcement. The school district must notify the public of the specific date on which the program will begin and, during the 30-day public awareness campaign, only a warning may be issued for a violation that is enforced by a school bus infraction detection system, and a civil penalty may not be imposed.[29]

[23] Section 316.173(1)(b), F.S.
[24] *Id.*
[25] The State Board of Education’s rules are in Rule 6A-3.003, F.A.C. The SBE was required to establish such specifications, by rule, on or before December 31, 2023.
[26] Section 316.173(1)(c) and (18), F.S.
[27] Section 316.173(1)(d), F.S.
[28] Section 316.173(2), F.S.
[29] Section 316.173(3), F.S.

Within 30 days after an alleged violation is recorded by a school bus infraction detection system, the school district or the private vendor or manufacturer with whom the school district has entered into a contract, must submit the following information to a law enforcement agency that has entered into an interlocal agreement with the school district and has traffic infraction enforcement jurisdiction at the location where the alleged violation occurred:

- A copy of the recorded video and images showing the motor vehicle's alleged violations;
- The motor vehicle's license plate number and the state of issuance of the motor vehicle's license plate; and
- The date, time, and location of the alleged violation.[30]

Within 30 days after receiving the information required above, the law enforcement agency, if it determines that the motor vehicle violated the laws relating to traffic stopping for a school bus, must send notice of violation to the registered owner of the motor vehicle involved in the violation specifying the remedies available under s. 318.14, F.S.,[31] and that the violator must pay the penalty under s. 318.18(5), F.S.,[32] or furnish an affidavit within 30 days after the date the notice of violation is sent in order to avoid court fees, costs, and the issuance of a uniform traffic citation. The notice of violation must be sent by first-class mail and include all of the following:

- A copy of one or more recorded images showing the motor vehicle involved in the violation, including an image showing the license plate of the motor vehicle;
- The date, time, and location of the violation;
- The amount of the civil penalty, the date by which the civil penalty must be paid, and instructions on how to pay the civil penalty;
- Instructions on how to request a hearing to contest liability or the notice of violation;
- A notice that the owner has the right to review, in person or remotely, the video and images recorded by the school bus infraction detection system which constitute a rebuttable presumption that the motor vehicle was used in violation of law;
- The time when, and the place or website at which, the recorded video and images may be examined and observed; and
- A warning that failure to pay the civil penalty or to contest liability within 30 days after the notice is mailed will result in the issuance of a uniform traffic citation.[33]

If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or an authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation.[34]

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[30] Section 316.173(4), F.S.

[31] Section 318.14, F.S., provides procedures for noncriminal traffic infractions.

[32] Section 318.18(5), F.S., provides a minimum penalty of $200 for a failure to stop for a school bus and a minimum penalty of $200 for passing a school bus on the side that children enter and exit if the violation is enforced by a school bus infraction detection system. In addition to these penalties, if the alleged offender is found to have committed the offense and it is enforced by a school bus infraction detection system, then the court must impose the civil penalty aforementioned plus an additional $25.

[33] Section 316.173(5), F.S.

[34] Section 316.173(6), F.S.

The civil penalties assessed and collected for a violation enforced by a school bus infraction detection system are remitted to the school district in which the violation occurred. Such civil penalties must be used for the installation or maintenance of school bus infraction detection systems on school buses, for any other technology that increases the safety of the transportation of students, or for the administration and costs associated with the enforcement of violations.[35]

If payment has not been made within 30 days after the notice of violation and if the registered owner has not submitted an affidavit supporting an exception, a uniform traffic citation must be issued, by certified mail, to the address of the registered owner of the motor vehicle involved in the violation.[36]

Delivery of the uniform traffic citation constitutes notification of a violation. If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or a duly authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the citation, such person waives any challenge or dispute as to delivery of the uniform traffic citation.[37]

In the case of joint ownership of a motor vehicle, the uniform traffic citation must be mailed to the first name appearing on the motor vehicle registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.[38] The uniform traffic citation mailed to the registered owner of the motor vehicle involved in the violation must be accompanied by information that was also included in the notice of violation.[39]

The registered owner of the motor vehicle involved in the violation is responsible and liable for paying the uniform traffic citation issued for a violation of the laws relating to traffic stopping for a school bus, unless the owner can establish that:

- The motor vehicle was, at the time of the violation, in the care, custody, or control of another person;
- A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation; or
- The motor vehicle's owner was deceased on or before the date of the alleged violation.[40]

The statute also provides requirements for establishing the above facts and provides mechanism for citing another person who had care, custody, and control of the motor vehicle.[41]

Florida law provides that the video and images by a school bus infraction detection system which are attached to or referenced in the traffic citation are evidence of a violation and are admissible in any proceeding. The recorded and video images raise a rebuttable presumption that the motor vehicle shown in the recorded and video images was used in violation of the laws relating to

[35] Section 316.173(7), F.S.
[36] Section 316.173(8), F.S.
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] Section 316.173(9), F.S.
[41] *See* sections 316.173(10)-(13), F.S.

stopping for a school bus.[42] Notwithstanding any other law, equipment deployed as part of a school bus infraction detection system may not be capable of automated or user-controlled remote surveillance.[43]

Any recorded video or still image obtained through the use of a school bus infraction detection system must be destroyed within 90 days after the final disposition of the recorded event. The vendor providing the school bus infraction detection system must provide the school district with written notice by December 31 of each year that such records have been destroyed. Registered motor vehicle owner information obtained as a result of the operation of a school bus infraction detection system is not the property of the manufacturer or vendor of the system and may be used only for specified purposes.[44]

To the extent practicable, a school bus infraction detection system may use necessary technology to ensure that personal identifying information contained in the video or still images recorded by the system which is not relevant to the alleged violation is sufficiently obscured so as not to reveal such personal identifying information. A notice of a violation or uniform traffic citation may not be dismissed solely because a recorded video or still images reveal personal identifying information as long as a reasonable effort has been made to comply with the privacy provisions.[45]

By October 1, 2023, and quarterly thereafter, each school district, in consultation with the law enforcement agencies with which it has interlocal agreements, operating a school bus infraction detection system must submit a report to the Department of Highway Safety and Motor Vehicles (DHSMV) detailing the results of the school bus infraction detection systems in the school district in the preceding quarter. The information submitted by the school district musts be submitted in form and manner determined by the DHSMV, and must include, the following:

- The number of school buses that have a school bus infraction detection system installed, including the date of installation and, if applicable, the date the systems were removed.
- The number of notices of violations issued and the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic citations, and the number that were paid.
- Data for each to determine the locations in need of safety improvements.
- Any other statistical data and information the DHSMV requires to complete its required report.[46]

By December 31, 2024, and annually thereafter, the DHSMV must submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, regarding the use and operation of school bus infraction detection systems along with the DHSMV's recommendations and any recommended legislation. The summary report must include a review of the information submitted to the DHSMV by the school districts and must describe the enhancement of traffic safety and enforcement programs.[47]

[42] Section 316.173(14), F.S.
[43] Section 316.173(16), F.S.
[44] *Id.*
[45] *Id.*
[46] Section 316.173(17)(a), F.S.
[47] Section 316.173(17)(c), F.S.

III. Effect of Proposed Changes:

The bill amends s. 316.173, F.S., relating to school bus infraction detection systems for the purpose of enforcing s. 316.172(1)(a) and (b), F.S.

Prohibition on Commissions and Fee-Sharing

The bill retains the existing prohibitions on:

- An individual receiving a commission from any revenue collected from violations detected through the use of a school bus infraction detection system; and
- A private vendor or manufacturer receiving fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system.

However, the bill authorizes a private vendor or manufacturer to receive a fixed amount of collected proceeds for service rendered in relation to the installation, operation, or maintenance of a school bus infraction detection system.

School Bus Signage

The bill revises requirements for signage posted on the rear of a school bus indicating use of a school bus infraction detection system by no longer requiring the signage to be high-visibility reflective.

Court Requirements

The bill provides that a court that has jurisdiction over traffic violations must determine whether a violation has occurred. If a court finds by a preponderance of the evidence that a violation has occurred, the court must uphold the violation. If the notice of violation is upheld, the court must require the $200 or $400 penalty, plus an additional $25,[48] and may also require the petitioner to pay costs, not to exceed $250.[49]

Civil Penalties

The bill provides that the civil penalties assessed and collected via the enforcement of a school bus infraction detection system must be remitted to the school district in which the violation occurred.

The bill revises the use for civil penalties assessed and collected for a violation enforced by a school bus infraction detection system. Such penalties must be used for the installation, operation, or maintenance of school bus infraction detection systems on school buses, including student transportation safety initiatives, driver recruitment and retention stipends, or other student transportation safety enhancements, or for administration and costs associated with the enforcement of the violations.

[48] These penalties are assessed pursuant to s. 318.18(5), F.S.
[49] This is the maximum county or municipal costs for red light camera violations going to a hearing. *See* s. 316.0083(5)(e), F.S.

The bill clarifies that the $25 civil penalty provided in s. 318.18(5)(c), F.S., applies to a notice of violation. The bill provides that this fee must be remitted to the participating school district operating the school bus with a school bus infraction detection system.

Use of Camera Footage

The bill provides that a school bus infraction detection system may not be used for remote surveillance, and the collection of evidence by a school bus infraction detection system to enforce violations does not constitute remote surveillance.

The bill provides that a school bus infraction detection system may only be used for traffic enforcement and for purposes of determining criminal or civil liability for incidents captured by the school bus infraction detection system incidental to the permissible use of the school bus infraction detection system.

Reporting Requirements

The bill revises the quarterly report requirements due to the DHSMV by making technical changes to the requirement that such report be made in in consultation with the law enforcement agencies with which the school district has interlocal agreements.

Effective Date

The bill takes effect upon becoming a 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:

Entities that install and operate school bus infraction detection systems may experience an increase in revenues associated with the addition of additional school bus infraction detection systems.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.173 and 318.18.

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 Transportation, Tourism, and Economic Development on February 13, 2024:
The committee substitute
- Removes the changes to the definition of "local hearing officer."
- Removes the authorization for charter schools and private schools to equip school bus infraction detection systems on their buses.
- Authorizes a vendor or manufacturer to receive a fixed amount of collected proceeds, instead of a fixed percentage of collected proceeds.
- Removes the authorization for traffic infraction enforcement officers and school safety officers to enforce violations.
- Revises signage provisions to remove the requirement for high-visibility signage.
- Removes administrative hearing provisions from the bill.
- Provides requirements for a traffic court to review violations.

CS by Transportation Committee on January 30, 2024:

The committee substitute removes the repeal of the prohibition against commissions from school bus infraction detection systems and stipulates that a private vendor or manufacturer of school bus infraction detection systems may receive a fixed percentage of the proceeds collected in relation to the installation, operation, or maintenance of such systems.

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 Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senator Burgess

606-03286-24 2024994c2

A bill to be entitled

An act relating to student transportation safety; amending s. 316.173, F.S.; providing construction; revising requirements for signage posted on the rear of a school bus indicating the use of a school bus infraction detection system; requiring a law enforcement agency to send a notice of violation to the registered owner involved in a violation within a specified timeframe after receiving certain information; requiring a court having jurisdiction over traffic violations to make a determination regarding whether a violation has occurred; requiring the court to uphold the violation if the court finds that a violation has occurred; requiring the court, if the violation is upheld, to require the petitioner to pay certain penalties and costs; revising the required uses for civil penalties assessed and collected for certain violations; prohibiting the use of school bus infraction detection systems for remote surveillance; providing construction; revising purposes for which video and images recorded as part of a school bus infraction detection system may be used; conforming provisions to changes made by the act; making technical changes; amending s. 318.18, F.S.; requiring that certain civil penalties be remitted to a participating school district operating a school bus with a school bus infraction detection system to be used for certain purposes; providing an effective date.

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

606-03286-24 2024994c2

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

Section 1. Paragraph (b) of subsection (1), paragraph (a) of subsection (2), subsections (5) and (7), paragraph (a) of subsection (16), and paragraph (a) of subsection (17) of section 316.173, Florida Statutes, are amended to read:

316.173 School bus infraction detection systems.—

(1)

(b) The school district may contract with a private vendor or manufacturer to install a school bus infraction detection system on any school bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance of the system. The school district's decision to install school bus infraction detection systems must be based solely on the need to increase public safety. An individual may not receive a commission from any revenue collected from violations detected through the use of a school bus infraction detection system. A private vendor or manufacturer may not receive a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system. This paragraph may not be construed to prohibit a private vendor or manufacturer from receiving a fixed amount of collected proceeds for service rendered in relation to the installation, operation, or maintenance of school bus infraction detection systems.

(2)(a) The school district must post ~~high-visibility reflective~~ signage on the rear of each school bus in which a

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school bus infraction detection system is installed and operational which indicates the use of such system. The signage must be in the form of one or more signs or stickers and must contain the following elements in substantially the following form:

1. The words "STOP WHEN RED LIGHTS FLASH" or "DO NOT PASS WHEN RED LIGHTS FLASH."

2. The words "CAMERA ENFORCED."

3. A graphic depiction of a camera.

(5) Within 30 days after receiving the information required in subsection (4), the law enforcement agency must, if it is determined ~~determines~~ that the motor vehicle violated s. 316.172(1)(a) or (b), ~~must~~ send a notice of violation to the registered owner of the motor vehicle involved in the violation specifying the remedies available under s. 318.14 and that the violator must pay the penalty under s. 318.18(5) or furnish an affidavit in accordance with subsection (10) within 30 days after the notice of violation is sent in order to avoid court fees, costs, and the issuance of a uniform traffic citation. The notice of violation must be sent by first-class mail and include all of the following:

(a) A copy of one or more recorded images showing the motor vehicle involved in the violation, including an image showing the license plate of the motor vehicle.

(b) The date, time, and location of the violation.

(c) The amount of the civil penalty, the date by which the civil penalty must be paid, and instructions on how to pay the civil penalty.

(d) Instructions on how to request a hearing to contest

liability or the notice of violation.

(e) A notice that the owner has the right to review, in person or remotely, the video and images recorded by the school bus infraction detection system which constitute a rebuttable presumption that the motor vehicle was used in violation of s. 316.172(1)(a) or (b).

(f) The time when, and the place or website at which, the recorded video and images may be examined and observed.

(g) A warning that failure to pay the civil penalty or to contest liability within 30 days after the notice is sent will result in the issuance of a uniform traffic citation. A court that has jurisdiction over traffic violations shall determine whether a violation of this section has occurred. If a court finds by a preponderance of the evidence that a violation occurred, the court must uphold the violation. If the notice of violation is upheld, the court must require the petitioner to pay the penalty previously assessed under s. 318.18(5), and may also require the petitioner to pay costs, not to exceed those established in s. 316.0083(5)(e).

(7) The civil penalties assessed and collected for a violation of s. 316.172(1)(a) or (b) enforced by a school bus infraction detection system must be remitted to the school district in which the violation occurred. Such civil penalties must be used for the installation, operation, or maintenance of school bus infraction detection systems on school buses, including student transportation safety initiatives, driver recruitment and retention stipends, or other student transportation safety enhancements ~~for any other technology that increases the safety of the transportation of students~~, or for

the administration and costs associated with the enforcement of violations as described in this section.

(16)(a)1. ~~Notwithstanding any other law, equipment deployed as part of~~ A school bus infraction detection system ~~as provided under this section~~ may not be used for ~~capable of automated or user-controlled~~ remote surveillance. The collection of evidence by a school bus infraction detection system to enforce violations of s. 316.172 does not constitute remote surveillance.

2. Video and images recorded as part of a ~~the~~ school bus infraction detection system may only be used for traffic enforcement and for purposes of determining criminal or civil liability for incidents captured by the school bus infraction detection system incidental to the permissible use of the school bus infraction detection system ~~to document violations of s. 316.172(1)(a) and (b) and may not be used for any other surveillance purposes~~.

3. To the extent practicable, a school bus infraction detection system must use necessary technology to ensure that personal identifying information contained in the video or still images recorded by the system which is not relevant to the alleged violation, including, but not limited to, the identity of the driver and any passenger of a motor vehicle, the interior or contents of a motor vehicle, the identity of an uninvolved person, a number identifying the address of a private residence, and the contents or interior of a private residence, is sufficiently obscured so as not to reveal such personal identifying information.

4. A notice of a violation or uniform traffic citation

issued under this section may not be dismissed solely because a recorded video or still images reveal personal identifying information as provided in subparagraph 3. as long as a reasonable effort has been made to comply with this subsection.

(17)(a) By October 1, 2023, and quarterly thereafter, each school district~~, in consultation with the law enforcement agencies with which it has interlocal agreements pursuant to this section,~~ operating a school bus infraction detection system must submit, in consultation with the law enforcement agencies with which it has interlocal agreements pursuant to this section, a report to the department which details the results of the school bus infraction detection systems in the school district in the preceding quarter. The information from the school districts must be submitted in a form and manner determined by the department, which the department must make available to the school districts by August 1, 2023, and must include at least the following:

1. The number of school buses that have a school bus infraction detection system installed, including the date of installation and, if applicable, the date the systems were removed.

2. The number of notices of violations issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic citations, and the number that were paid.

3. Data for each infraction to determine locations in need of safety improvements. Such data may ~~must~~ include, but is not limited to, global positioning system coordinates of the infraction, the date and time of the infraction, and the name of

the school that the school bus was transporting students to or from.

4. Any other statistical data and information required by the department to complete the report required by paragraph (c).

Section 2. Paragraph (c) of subsection (5) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(5)

(c) In addition to the penalty under paragraph (a) or paragraph (b), $65 for a violation of s. 316.172(1)(a) or (b). If the alleged offender is found to have committed the offense, the court shall impose the civil penalty under paragraph (a) or paragraph (b) plus an additional $65. The additional $65 collected under this paragraph shall be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be used as provided in s. 395.4036. If a violation of s. 316.172(1)(a) or (b) is enforced by a school bus infraction detection system pursuant to s. 316.173, the additional amount imposed on a notice of violation, on a ~~the~~ uniform traffic citation, or by the court under this paragraph must be $25, in lieu of the additional $65, and must be remitted to the participating school district and used pursuant to s. 316.173(7).

Section 3. This act shall take effect upon becoming a law.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 1040
INTRODUCER:	Fiscal Policy Committee; Regulated Industries Committee; and Senator Bradley
SUBJECT:	Veterinary Practices
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Fav/CS**
2.	Kraemer	Yeatman	FP	**Fav/CS**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1040 creates an act that may be cited as the Providing Equity in Telehealth Services (PETS) Act (PETS act), which establishes a framework for the practice of veterinary telehealth.

In Florida, the practice of "veterinary medicine" means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are licensed and regulated by the Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR), pursuant to ch. 474, F.S., relating to the statutory standards for veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in Florida meets minimum requirements for safe practice to protect public health and safety.[1]

Current law defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. Veterinarians are permitted to prescribe drugs in the course of veterinary practice; however, the veterinarian must be either personally acquainted with the keeping and caring of the animal and have recently seen the animal, or have made medically appropriate and timely visits to the premises where the animal is kept before prescribing drugs in the course of practice.

[1] Section 474.201, F.S.

The use of electronic communications to facilitate patient health care (telehealth) is not addressed in the practice act and is not specifically prohibited or authorized in Florida. However, medical doctors may practice telehealth in Florida and may establish a patient relationship with a patient evaluation via telehealth under certain circumstances.[2]

The regulatory framework for the PETS act establishes a framework for the practice of veterinary telehealth, provides in part as follows:

- Defines "veterinary telehealth" to mean the use of synchronous or asynchronous telecommunications technology (occurring or not occurring simultaneously) by a telehealth provider to provide health care services. This includes, but is 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.
- Authorizes a veterinarian to use veterinary telehealth to perform an initial patient evaluation to establish the veterinarian/client/patient relationship, if the evaluation is conducted using audiovisual communication at the same time that the evaluation occurs (synchronous, audiovisual communication); the evaluation may not be performed using audio-only communications, text messaging, questionnaires, chatbots, or other similar means;
- Requires that if the initial patient evaluation is performed using veterinary telehealth, certain information must be supplied to the client, including the veterinarian's contact information;
- Authorizes a veterinarian practicing veterinary telehealth to order, prescribe, or make available medicinal drugs or drugs as defined in s. 465.003, F.S., the Florida Pharmacy Act.
- Prohibits a veterinarian from using veterinary telehealth to prescribe a controlled substance as defined in ch. 893, F.S. (Drug Abuse Preventions and Control), unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits within the past year to the premises where the animal is kept.
- Allows veterinarians who are personally acquainted with the caring or keeping of an animal or group of animals for food-producing animal operations, who have recently seen the animals or made medically appropriate and timely visits to practice veterinary telehealth for these animals.
- Specifies that only Florida licensed veterinarians may practice veterinary telehealth, and grants the board jurisdiction over the practice of veterinary telehealth.

According to the Department of Business and Professional Regulation (DBPR), there is no impact expected on state or local government revenues and expenditures.[3] See Section V, Fiscal Impact Statement.

The bill has an effective date of July 1, 2024.

[2] *See* s. 456.47, F.S., relating to the use of telehealth to provide healthcare services.
[3] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 849 (identical to SB 1040* at 5 (Dec. 13, 2023) (on file with the Senate Committee on Regulated Industries).

II. Present Situation:

Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine to be potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners and that minimum requirements for the safe practice of veterinary medicine are necessary.[4] The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on Veterinary Medical Practice.[5] A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.[6] In Fiscal Year 2022-2023, there were 13,285 actively licensed veterinarians in Florida.[7]

Veterinary medicine[8] includes, with respect to animals:[9]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);[10] and
- Other branches or specialties of veterinary medicine.

The practice of veterinary medicine is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[11] Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.[12]

Eleven categories of persons are exempt from complying with ch. 474, F.S.:[13]

- Faculty veterinarians with assigned teaching duties at accredited[14] institutions;

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[4] *See* s. 474.201, F.S.
[5] S*ee* s. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.
[6] See s. 474.202(11), F.S.
[7] *See* Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2022-2023*, at page 18, at http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf (last visited Feb. 1, 2024).
[8] *See* s. 474.202(13), F.S.
[9] Section 474.202(1), F.S., defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[10] The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. *See* https://www.therio.org/ (last visited Feb. 1, 2024).
[11] Section 474.201, F.S. *See* s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.
[12] *See* s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings.
[13] *See* s. 474.203, F.S.
[14] Sections 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary

- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors[15] (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals, as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd and flock animals, with certain limitations; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons[16] that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods or techniques to diagnose or treat human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[17] of a licensed veterinarian;
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, and are assisting upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner;
- Employees, agents, or contractors of public or private animal shelters, humane organizations, or animal control agencies operated by a humane organization, county, municipality, or

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Graduates. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the United States and Canada, and may also approve foreign veterinary colleges. *See* https://www.avma.org/education/center-for-veterinary-accreditation/accreditation-policies-and-procedures-avma-council-education-coe/coe-accreditation-policies-and-procedures-accreditation (last visited Feb. 1, 2024). The AVMA Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational equivalency assessment certification program. *See* https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx (last visited Feb. 1, 2024). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of degree-granting colleges and universities. See http://chea.org/about (last visited Feb. 1, 2024).

[15] A preceptor is a skilled practitioner or faculty member, who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. See https://www.merriam-Webster.com/dictionary/preceptor#medicalDictionary (last visited Feb. 1, 2024).

[16] *See* s. 474.203(6), F.S., which states that the exemption applies to "[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof. . . ."

[17] The term "responsible supervision" is defined in s. 474.202(10), F.S., as the "control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services" delegated to unlicensed personnel.

incorporated political subdivision, whose work is confined solely to implanting radio frequency identification device microchips in dogs and cats in accordance with s. 823.15, F.S;[18]

- Paramedics or emergency medical technicians providing emergency medical care to a police canine[19] injured in the line of duty while at the scene of the emergency or while the police canine is being transported to a veterinary clinic or similar facility; and
- Veterinarians who hold an active license to practice veterinary medicine in another jurisdiction in the United States, are in good standing in such jurisdiction, and who perform dog or cat sterilization services or routine preventative health services at the time of sterilization as an unpaid volunteer under the responsible supervision of a veterinarian licensed in Florida. Out-of-state veterinarians practicing pursuant to this exemption are not eligible to apply for premises permits for veterinary establishments.

Persons who are eligible faculty veterinarians, intern veterinarians, resident veterinarians, or state or federal veterinarians exempt from complying with ch. 474, F.S., are deemed to be duly licensed practitioners authorized to prescribe drugs or medicinal supplies.[20]

Veterinarian/Client/Patient Relationship

The practice act defines a "patient" as any animal for which a veterinarian practices veterinary medicine.[21]

The practice act defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment.[22]

Veterinarians are permitted to prescribe drugs in the course of veterinary practice, but may be disciplined by the board for certain related violations, including ordering, prescribing, or making available medicinal drugs or drugs[23] or controlled substances[24] for use other than for the specific treatment of animal patients for which there is a documented VCPR and without:

- Having sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;

[18] *See* s. 823.15(5), F.S., which authorizes such persons to perform microchipping of dogs and cats.
[19] Section 401.254, F.S., defines the term "police canine" as "any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; the enforcement of laws; the investigation of fires; or the apprehension of offenders." A paramedic or an emergency medical technician who acts in good faith to provide emergency medical care to an injured police canine is immune from criminal or civil liability.
[20] *See* s. 474.203, F.S. (flush left language).
[21] Section 474.202(8), F.S.
[22] Section 474.202(12), F.S.
[23] Section 465.003(8), F.S.
[24] Section 893.02(4), F.S.

- Being available to provide for follow-up care and treatment in case of adverse reactions or failure of the regimen of therapy; and
- Maintaining records which document patient visits, diagnosis, treatment, and other relevant information required under the practice act.[25]

Veterinary Telemedicine

The use of electronic communications to facilitate patient health care (veterinary telemedicine) is not addressed in the practice act and is neither specifically prohibited nor is it specifically authorized for practitioners of veterinary medicine in Florida statute.[26]

According to research conducted by the American Veterinary Medical Association (AVMA), almost one-third of all pets in the U.S. do not regularly see a veterinarian.[27] The reasons for this include cost of veterinary care, logistical obstacles, and a shortage of licensed veterinarians.[28]

Veterinary telemedicine has been found to "help pet owners avoid additional expenses related to unnecessary time off work or transportation and may provide cost-effective options. Telemedicine can also address problems with bringing pets to clinics that may be faced by many pet owners, such as seniors, disabled individuals, those without transportation, and owners of fearful, large, or potentially aggressive pets."[29]

"Interest in veterinary telemedicine has grown significantly in recent years, driven in part by a critical shortage of veterinary professionals in the workforce and boosted by COVID-19 pandemic emergency orders that temporarily suspended legal barriers to veterinary telemedicine."[30]

Expanding access to veterinary telemedicine may alleviate some of these problems, including, "industry problems with workforce shortages of veterinary professionals, increased caseloads, and limited work-life balance."[31]

In the human health setting, a 50 state survey conducted by the AVMA found that "all states allow a physician to establish a relationship with a new patient over telemedicine."[32] However, the same approach does not appear to exist with veterinary medicine.

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[25] Section 474.214(1)(y), F.S.
[26] Fla. Admin. Code 64B8-9.0141. Currently, medical doctors may practice telemedicine in Florida when in a patient relationship with a patient evaluation, under certain circumstances.
[27] Malinda Larkin, *New, Old Challenges Beg for Radical Change in Veterinary Profession*, JAVMA News (Dec. 3, 2020), https://www.avma.org/javma-news/2020-12-15/new-old-challenges-beg-radical-change-veterinary-profession (last visited Jan. 31, 2024).
[28] The Veterinary Care Accessibility Project, *Veterinary Care Accessibility Score*, https://www.accesstovetcare.org/ (last visited Jan. 31, 2024).
[29] Camille DeClementi, Jennifer Hobgood, and Diana Ferguson, *IN THE CARDS: BETTING ON VETERINARY TELEMEDICINE LEGAL REFORM*, Florida Bar Journal, (Dec. 2022), https://www.floridabar.org/the-florida-bar-journal/in-the-cards-betting-on-veterinary-telemedicine-legal-reform/ (last visited Jan. 31, 2024).
[30] *Id.*
[31] *Id.*
[32] American Medical Association, *50-State Survey: Establishment of a Patient-Physician Relationship Via Telemedicine*, https://www.ama-assn.org/system/files/2018-10/ama-chart-telemedicine-patient-physician-relationship.pdf (last visited Jan. 31, 2024).

Opponents of veterinary telemedicine argue that animals cannot articulate symptoms like humans, making physical examinations necessary to diagnose animal ailments. However, it has been found that "while animals cannot verbally communicate, they provide behavioral signals, which can potentially be more informative than seeing an animal in an unfamiliar place where the animal is not behaving as it customarily would. In a clinic setting, dogs and cats may become extremely fearful and withdrawn, and, in a situation that they perceive as threatening, animals may mask their pain as a survival mechanism."[33]

Veterinary Telemedicine during the COVID-19 Pandemic

On March 24, 2020, the U.S. Food and Drug Administration (FDA) announced that it would temporarily suspend enforcement of certain prescription limitations in order to allow veterinarians to better utilize telemedicine to address animal health needs during the COVID-19 pandemic. Specifically, the FDA provided guidance related to suspending the enforcement of the animal examination and premises visit VCPR requirements relevant to FDA regulations governing extra-label drug use in animals[34] and veterinary feed directive drugs.[35] This allowed veterinarians to prescribe or authorize the use of drugs without direct examination or making visits to patients, in an effort to limit human-to-human interaction and potential spread of COVID-19 in the community.[36]

According to the FDA, veterinarians are licensed by their state veterinary licensing board and must meet the requirements of the licensing board to practice in that state. FDA regulates the devices and drugs that veterinarians use, and the conditions under which veterinarians may prescribe drugs for extra-label uses. When an approved drug is used in a manner other than what is stated on the label, it is an extra-label use. This is commonly called an "off-label" use because the drug is used in a way that is "off the label."[37]

On March 27, 2020, the DBPR issued emergency order EO 2020-04, which suspended any restrictions in the practice act or the administrative rules set forth in ch. 61G-18, of the Florida Administrative Code, that would have prohibited an active Florida-licensed veterinarian from practicing telemedicine on a patient. The order specified that attending veterinarians must be comfortable assessing the patient remotely and feel able to exercise good clinical judgment to assist the patient.[38]

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[33] Mark Epstein, et al., *2015 AAHA/AAFP Pain Management Guidelines for Dogs and Cats*, American Animal Hospital Association (2015), https://www.aaha.org/globalassets/02-guidelines/pain-management/2015_aaha_aafp_pain_management_guidelines_for_dogs_and_cats.pdf (last visited Jan. 31, 2024).
[34] 21 C.F.R. part 530.
[35] 21 C.F.R. s. 558.6.
[36] U.S. Food and Drug Administration, *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-helps-facilitate-veterinary-telemedicine-during-pandemic (last visited Jan. 31, 2024).
[37] Food and Drug Administration, *What FDA Does and Does Not Regulate*, https://www.fda.gov/animal-veterinary/animal-health-literacy/what-fda-does-and-does-not-regulate#top (last visited Jan. 31, 2024).
[38] Department of Business and Professional Regulation, *Emergency Order EO 2020-04*, Mar. 27, 2020, http://www.myfloridalicense.com/dbpr/os/documents/EO_2020-04.pdf (last visited Jan. 31, 2024).

The FDA withdrew its temporary guidance suspending the enforcement of the animal examination and premises visit VCPR requirements on February 21, 2023.[39]

The DBPR's emergency order allowing Florida-licensed veterinarians to practice telemedicine ended with the expiration of Florida's COVID-19 state of emergency (EO 20-52) on Saturday June 26, 2021.[40]

Veterinary Telemedicine in Other States

The use of telemedicine by veterinarians varies by state. Some states allow telemedicine to be used at the veterinarian's discretion, others allow it after the establishment of a VCPR, some do not allow it at all, and others limit telemedicine for purposes of prescribing medication or controlled substances.

According to the Veterinary Virtual Care Association, state laws relating to veterinary telemedicine generally fall within the following categories: 25 states and the District of Columbia require the provider to have "seen" or become "acquainted with" the animal; 10 states require a physical examination for a VCPR; five states allow telemedicine to create a VCPR; one state allows telemedicine to create a VCPR except for prescriptions; one state does not reference and therefore does not define or use the term VCPR; and nine states expressly prohibit using telemedicine to establish a VCPR.[41]

The state of Virginia allows veterinarians to practice telemedicine. In addition, it allows a veterinarian who performs or has performed an appropriate examination of a patient to prescribe certain controlled substances to a patient via the practice of telemedicine. The Virginia Board of Veterinary Medicine adopted guidance effective September 17, 2020, for telehealth in the practice of veterinary medicine, which indicates that:

Using telehealth technologies in veterinary practice is considered a method of service delivery. The current, applicable regulations apply to all methods of service delivery, including telehealth. The licensee is responsible for using professional judgment to determine if the type of service can be delivered via telehealth at the same standard of care as in-person service.[42]

The Idaho Board of Veterinary Medicine provides the following guidance on telehealth:

The veterinarian must employ sound professional judgment to determine whether using Telehealth is appropriate in particular circumstances each and every time animal care is provided and only provide medical advice or treatment via Telehealth to the extent that it is possible without a hands on examination. A veterinarian using Telehealth must take appropriate steps to

[39] 87 F.R. 78111, Dec. 21, 2022.
[40] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.
[41] Veterinary Virtual Care Association, *Veterinary Telemedicine Regulatory Map*, https://vvca.org/telemedicine-map/ (last visited Jan. 31, 2024).
[42] Virginia Board of Veterinary Medicine, *Guidance for Telehealth in the Practice of Veterinary Medicine, Guidance Document: 150-25,* https://www.dhp.virginia.gov/media/dhpweb/docs/vet/guidance/150-25.pdf (last visited Jan. 31, 2024).

obtain Informed Consent, establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of Telehealth as a component of, or in lieu of, hands on medical care, while others are not.[43]

The state of Oklahoma only allows a veterinarian to prescribe drugs via telemedicine under the following conditions:

The veterinarian assumes responsibility for making medical judgments regarding the health of the animal based on a current thorough medical knowledge of the animal(s), such knowledge is gained by recently seeing or being personally acquainted with the keeping and care of the animal to the extent necessary to properly make appropriate medical decisions . . . .[44]

The state of Washington only allows telemedicine after a VCPR has been established:

The veterinarian shall not establish a veterinary-client-patient relationship solely by telephonic or other electronic means. However, once established, a veterinary-client-patient relationship may be maintained between medically necessary examinations via telephone or other types of consultations.[45]

The state of Michigan has also repealed the need for an in-person exam prior to practicing telemedicine. As of April 15, 2021, a veterinarian providing a "telehealth service" in Michigan must have sufficient knowledge of the animal patient by having recently examined the animal patient in person or have obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, or have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.[46]

Telehealth for Medical Doctors

Current law broadly defines "telehealth" as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to:[47]

- 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.

[43] Idaho Board of Veterinary Medicine, *Policy Number 2018-02 Telemedicine (Oct. 15, 2021)*, https://dopl.idaho.gov/wp-content/uploads/2023/07/Telemed-Policy-6-8-18-with-Revision-10-15-21.pdf (last visited Jan. 31, 2024).
[44] Oklahoma State Board of Veterinary Medical Examiners, *Veterinarian-Client-Patient-Relationship-VCPR*, https://www.okvetboard.com/client-information/62-vcpr (last visited Jan. 31, 2024).
[45] Wash. Rev. Code s. 246-933-200(2).
[46] Mich. Gen. R. 338.4901a.
[47] Section 456.47(1)(a), F.S.

Telehealth does not include e-mail messages, or facsimile transmission under Florida law.[48] No express authority is needed to communicate using these methods.

Health care services may be provided via telehealth by a Florida-licensed health care practitioner, a practitioner licensed under a multistate health care licensure compact of which Florida is a member,[49] or a registered out-of-state health care provider.[50]

Out-of-state telehealth providers must register biennially with the Department of Health (DOH) or the applicable board to provide telehealth services, within the relevant scope of practice established by Florida law and rule, to patients in this state. To register or renew registration as an out-of-state telehealth provider, the health care professional must:

- Hold an active and unencumbered license, which is substantially similar to a license issued to a Florida practitioner in the same profession, in a U.S. state or jurisdiction and
- Not have been subject to licensure disciplinary action during the five years before submission of the registration application;[51]
- Not be subject to a pending licensure disciplinary investigation or action;
- Not have had license revoked in any state or jurisdiction;
- Designate a registered agent in this state for the service of process;
- Maintain professional liability coverage or financial responsibility, which covers services provided to patients not located in the provider's home state, in the same amount as required for Florida-licensed practitioners;[52] and
- Prominently display a link to the DOH website, described below, which provides public information on registered telehealth providers.[53]

Telehealth Standards of Practice

Current law sets the standard of care for telehealth providers at the same level as the standard of care for health care practitioners or health care providers providing in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services. A patient receiving telehealth services may be in any location at the time services are rendered and a telehealth provider may be in any location when providing telehealth services to a patient.[54]

Practitioners may perform a patient evaluation using telehealth. A practitioner using telehealth is not required to research a patient's medical history or conduct a physical examination of the

[48] *Id.*
[49] Florida is a member of the Nurse Licensure Compact. Section 464.0095, F.S.
[50] S. 456.47(4), F.S.
[51] *See* s. 456.47(4), F.S., which requires the DOH to consult the National Practitioner Data Bank to verify registration submitted by applicants.
[52] Florida law requires physicians, acupuncturists, chiropractic physicians, dentists, anesthesiologist assistants, advanced practice registered nurses, and licensed midwives to demonstrate $100,000 per claim and an annual aggregate of $300,000 of professional responsibility (*see* ss. 458.320 and 459.0085, F.S.; r. 64B1-12.001. F.A.C; r. 64B2-17.009, F.A.C.; 64B5-17.0105, F.A.C.; r. 64B8-31.006 and 64B15-7.006, F.A.C.; r. 64B9-4.002, F.A.C.; and r. 64B24-7.013, F.A.C.; respectively). Podiatric physicians must demonstrate professional responsibility in the amount of $100,000 (*see* Fla Admin. Code R. 64B18-14.0072).
[53] Section 456.47(4), F.S.
[54] Section 456.47(2), F.S.

patient before providing telehealth services to the patient if the telehealth provider is capable of conducting a patient evaluation in a manner consistent with the applicable standard of care sufficient to diagnose and treat the patient when using telehealth.

Emergency Orders

On January 31, 2020, the U.S. Secretary of Health and Human Services issued a public health emergency.[55] On March 16, 2020, the federal Drug Enforcement Administration (DEA) published a COVID-19 Information page on the Diversion Control Division website, authorizing DEA-registered practitioners to issue prescriptions for all Schedule II-V controlled substances to patients without first conducting an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The evaluation is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable federal and state law.[56]

Controlled Substances – Florida Law

Chapter 893, F.S., is the Florida Comprehensive Drug Abuse Prevention and Control Act. The chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. The scheduling of substances in Florida law is generally consistent with the federal scheduling of substances under 21 U.S.C. s. 812:

- A Schedule I substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples include heroin and lysergic acid diethylamide (LSD).
- A Schedule II substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples include cocaine and morphine.
- A Schedule III substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples include lysergic acid; ketamine; and some anabolic steroids.

[55] U.S. Department of Health & Human Services, *Determination that a Public Health Emergency Exists*, (Jan. 31, 2020) https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx#:~:text=Azar%20II%2C%20Secretary%20of%20Health,January%2027%2C%202020%2C%20nationwide (last visited Jan. 31, 2024).

[56] U.S. Drug Enforcement Administration, *DEA's response to COVID-19*, https://www.dea.gov/press-releases/2020/03/20/deas-response-covid-19 (last visited Jan. 31, 2024); Letter from Thomas Prevoznik, Deputy Assistant Administrator, Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, to DEA Qualifying Practitioners and Other Practitioners, (Mar. 31, 2020) https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20(Final)%20+Esign.pdf (last visited Jan. 31, 2024).

- A Schedule IV substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples include alprazolam, diazepam, and phenobarbital.
- A Schedule V substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Examples include low dosage levels of codeine, certain stimulants, and certain narcotic compounds.

Controlled Substances – Federal Law

The Federal Controlled Substances Act[57] also classifies controlled substances into schedules based on the potential for abuse and whether there is a currently accepted medical use for the substance. The DEA is required to consider the following when determining where to schedule a substance:[58]

- The substance's actual or relative potential for abuse;
- Scientific evidence of the substance's pharmacological effect, if known;
- The state of current scientific knowledge regarding the substance;
- The substance's history and current pattern of abuse;
- The scope, duration, and significance of abuse;
- What, if any, risk there is to public health;
- The substance's psychic or physiological dependence liability; and
- Whether the substance is an immediate precursor of a substance already controlled.

Telehealth Prescribing of Controlled Substances

The FDA regulations governing Extra-label Drug Use in Animals and Veterinary Feed Directives—limited in application to circumstances where a veterinarian is using a drug in a manner other than the purpose for which it was approved or in feed directives—require a valid VCPR, which "can exist only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept."[59]

A corresponding regulation in the Florida Administrative Code blocks veterinarians from such prescribing unless they have 'recent contact' with the animal.[60] The practice act contains no such 'recent contact" requirement for a VCPR or for such prescribing.[61]

Federal law specifically prohibits prescribing controlled substances via the Internet without an in-person evaluation, but the Ryan Haight Online Pharmacy Consumer Protection Act (Haight

[57] 21 U.S.C. s. 812.
[58] 21 U.S.C. s. 811(c).
[59] 21 C.F.R. s. 530.1 and s. 530.3(i)(3).
[60] Fla. Admin Code R. 61G18-30.001 (2)(y).
[61] Camille DeClementi, Jennifer Hobgood, and Diana Ferguson, *IN THE CARDS: BETTING ON VETERINARY TELEMEDICINE LEGAL REFORM*, Florida Bar Journal, (Dec. 2022), https://www.floridabar.org/the-florida-bar-journal/in-the-cards-betting-on-veterinary-telemedicine-legal-reform/ (last visited Jan. 31, 2024).

Act),[62] signed into law in October 2008,[63] created a pathway for telehealth practitioners to dispense controlled substances via telehealth.

The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice. But, once an in-person evaluation of the patient has occurred, the practitioner may provide future prescriptions for controlled substances for that patient using telehealth services.[64]

Florida law currently prohibits a telehealth provider (human) from using telehealth services to prescribe a controlled substance except when treating a psychiatric disorder, an inpatient at a licensed hospital, a patient receiving hospice services, or a resident of a nursing home facility.[65]

Prescription Drug Law for Veterinarians

In order to purchase, prescribe, administer or dispense controlled substances in Florida, veterinarians must register and comply with DEA requirements, but there are no restrictions in the practice act for the purchasing and prescribing of controlled drugs.[66]

The DEA is a division within the U.S. Department of Justice and reports to the U.S. Attorney General. In consultation with the U.S. Secretary of the federal Department of Health and Human Services (HHS) and others, the Attorney General oversees the listing of substances on five schedules (Classes I, II, III, IV or V) of controlled agents as described in Title 21 United States Code (USC) of the Controlled Substances Act. The central mission of the DEA is to enforce controlled substances laws and regulations.[67]

Two opioids are approved and marketed for use in animals, butorphanol and buprenorphine. Due to the limited number of approved and marketed veterinary opioids, veterinarians who need to use opioids to control pain in their patients generally use products approved for use in people.[68]

III. Effect of Proposed Changes:

The bill authorizes licensed veterinarians in Florida to practice veterinary telehealth on a limited basis as described in the PETS act, and indirectly supervise rabies vaccinations of impounded animals.

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[62] Ryan Haight Online Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).
[63] 21 C.F.R. s. 829, the in-person medical evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.
[64] *Id*.
[65] Section 456.47(2)(c), F.S.
[66] *See* the information promulgated by the University of Florida, College of Veterinary Medicine on accreditation and licensure requirements for veterinarians, at https://education.vetmed.ufl.edu/dvm-curriculum/florida-and-national-board-information/ (last visited Feb. 1, 2024).
[67] *See* the DEA mission statement at https://www.dea.gov/about/mission#:~:text=The%20mission%20of%20the%20Drug,members%20of%20organizations%2C%20involved%20in (last visited Feb. 1, 2024).
[68] U.S. FDA, *The Opioid Epidemic: What Veterinarians Need to Know*, https://www.fda.gov/animal-veterinary/resources-you/opioid-epidemic-what-veterinarians-need-know (last visited Jan. 31, 2024).

Regarding veterinary telemedicine, the bill:

- Provides the act may be cited as the "Providing Equity in Telehealth Services Act" (PETS act);
- Defines "veterinary telehealth" to mean the use of synchronous or asynchronous telecommunications technology (occurring or not occurring simultaneously) by a telehealth provider to provide health care services. This includes, but is 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.
- Allows a veterinarian who holds a current license to practice veterinary medicine in Florida to practice veterinary telehealth;
- Gives the board jurisdiction over a veterinarian practicing veterinary telehealth, regardless of where the veterinarian's physical office is located;
- Deems the practice of veterinary to occur at the premises where the patient is located at the time the veterinarian practices veterinary telehealth;
- Prohibits practicing veterinary telehealth unless it is within the context of a veterinarian/client/patient relationship (VCPR);
- Requires the practice of telehealth to be consistent with a veterinarian's scope of practice and the prevailing professional standard of practice for a veterinarian who provides in-person veterinary services to patients in Florida, and who must employ sound, professional judgment to determine whether using veterinary telehealth is an appropriate method for delivering medical advice or treatment to the patient;
- Authorizes veterinarians to use veterinary telehealth to perform an initial patient evaluation to establish the veterinarian/client/patient relationship, if the evaluation is conducted using audiovisual communication at the same time that the evaluation occurs (synchronous, audiovisual communication); the evaluation may not be performed using audio-only communications, text messaging, questionnaires, chatbots, or other similar means;
- Requires that if the initial patient evaluation is performed using veterinary telehealth, certain information must be supplied to the client, including the veterinarian's contact information;
- Specifies that if a veterinarian practicing telehealth conducts a patient evaluation sufficient to diagnose and treat the patient, the veterinarian is not required to research a patient's medical history or conduct a physical examination of the patient before using veterinary telehealth to provide a veterinary health care service to the patient;
- Must provide the client the veterinarian's name, license number, and contact information, if the initial patient evaluation is performed using veterinary telehealth;
- Must provide the client contact information for at least one physical veterinary clinic in the vicinity of the patient's location and instructions for how to receive patient follow-up care or assistance, if:
  - The veterinarian and client are unable to communicate because of a technological or equipment failure; or
  - There is an adverse reaction to treatment;
- Must obtain a signed and dated statement from the client indicating the client has received the required information before practicing veterinary telehealth;
- Must prescribe all drugs and medications in accordance with federal and state laws;
- May order or prescribe medicinal drugs or drugs specifically approved for use in animals by the United States Food and Drug Administration, conforming to approved labeling.

Prescriptions based solely on a telehealth evaluation may be issued for up to one month for products labeled solely for flea and tick control and up to 14 days of treatment for other animal drugs. Prescriptions based solely on a telehealth evaluation may not be renewed without an in-person examination.

- May not order or prescribe medicinal drugs or drugs as defined in s. 465.003, F.S., approved by the United States Food and Drug Administration for human use, or compounded antibacterial, antifungal, antiviral, or antiparasitic medications, unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits within the past year to the premises where the animal is kept.
- May not use veterinary telehealth to prescribe a controlled substance as defined in ch. 893, F.S. (Drug Abuse Preventions and Control), unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.
- May not prescribe a drug or other medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the Florida Gaming Control Commission or on a horse that is a covered horse, as defined in the federal Horseracing Integrity and Safety Act (15 U.S.C., ss. 3051 et seq.
- Must be familiar with available veterinary resources, including emergency resources, near the patient's location;
- Must be able to provide the client with a list of nearby veterinarians who may be able to see the patient in person upon the request of the client;
- Must keep, maintain and make available a summary of the patient record as required by s. 474.2165, F.S., relating to ownership and control of veterinary medical patient records; and
- May not use veterinary telehealth to issue an international or interstate travel certificate, or a certificate of veterinary inspection.
- Authorizes veterinarians who are personally acquainted with the caring and keeping of an animal or group of animals on food-producing animal operations on land classified as agricultural pursuant to s. 193.461, F.S., who has recently seen the animal or group of animals or has made medically appropriate and timely visits to the premises where the animal or group of animals is kept to practice veterinary telehealth for animals on such operations.

The bill includes technical conforming changes, including the revision of s. 474.2165, F.S., relating to ownership and control of veterinary medical patient records, to revise a reference to a veterinarian who generates a medical record after "making a physical examination." The bill revises the language to address medical records that are generated after "making an examination" to address the authority for the use of veterinary telehealth as authorized in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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:

Licensed veterinarians will be permitted to practice veterinary telehealth, including limited prescription authority, providing them more flexibility in their practice similar to the licensed health care providers in Florida authorized to provide telehealth services.

Animal owners may have greater access to veterinarians and may feel more comfortable, especially during a state of emergency. Visitors and tourists with pets may be able to obtain veterinary care without having to locate a veterinarian's office in an unfamiliar area and transport their animal.

C. Government Sector Impact:

According to the Department of Business and Professional Regulation (DBPR), there is no impact expected on state or local government revenues and expenditures.[69]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[69] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 849 (identical to SB 1040* at 5 (Dec. 13, 2023) (on file with the Senate Committee on Regulated Industries).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 474.202 and 474.2165.

This bill creates the following section of the Florida Statutes: 474.2021.

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 Fiscal Policy Committee on February 22, 2024:
The committee substitute:

- Removes limiting language in the definition of "veterinary telehealth" to authorize the use of e-mail and facsimile transmissions as part of "veterinary telehealth.
- Provides that a veterinarian practicing veterinary telehealth shall:
  - Practice in a manner consistent with the veterinarian's scope of practice and the prevailing professional standard for providing in-state veterinary services to patients; and
  - Employ sound, professional judgment to determine whether using veterinary telehealth is an appropriate method for delivering medical advice or treatment to the patient;
- Provides that a veterinarian practicing veterinary telehealth may perform an initial patient evaluation to establish the veterinarian/client/patient relationship, if the evaluation is conducted using synchronous, audiovisual communication (that occurs simultaneously with the evaluation), however, the evaluation may not be performed using audio-only communications, text messaging, questionnaires, chatbots, or other similar means;
- Requires that if the initial patient evaluation is performed using veterinary telehealth, the veterinarian must provide the client the veterinarian's name, license number, and contact information and contact information for at least one physical veterinary clinic in the vicinity of the patient's location and instructions for how to receive patient follow-up care or assistance, if:
- The veterinarian and client are unable to communicate because of a technological or equipment failure;
- There is an adverse reaction to treatment;
- Requires the veterinarian, before practicing veterinary telehealth, to obtain a signed and dated statement from the client indicating the client has received the required information;
- Provides that a veterinarian practicing veterinary telehealth may issue prescriptions based solely on a telehealth evaluation for up to one month for products labeled solely for flea and tick control, and up to 14 days of treatment for other animal drugs;
- Provides that prescriptions based solely on a telehealth evaluation may not be renewed without an in-person examination;
- Provides that a veterinarian may not use veterinary telehealth to prescribe a controlled substance as defined in ch. 893, F.S. (Drug Abuse Preventions and Control), unless

the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits within the past year to the premises where the animal is kept;
- Removes provisions in the bill related to rabies vaccination of dogs, cats, and ferrets.

CS by Regulated Industries Committee on February 5, 2024:
The committee substitute:
- Defines "veterinary telehealth" to mean the use of synchronous or asynchronous telecommunications technology (occurring or not occurring simultaneously) by a telehealth provider to provide health care services. This includes, but is 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 e-mail messages or facsimile transmissions.
- May use veterinary telehealth to perform a patient evaluation, if the evaluation is conducted using audiovisual communication at the same time that the evaluation occurs (synchronous, audiovisual communication);
- Must provide the client the veterinarian's name, license number, and contact information;
- Must provide the client contact information for at least one physical veterinary clinic in the vicinity of the pet's location and instructions for how to receive patient follow-up care or assistance, if:
  - The veterinarian and client are unable to communicate because of a technological or equipment failure; or
  - There is an adverse reaction to treatment;
- Must obtain a signed and dated statement from the client indicating the client has received the required information;
- Must prescribe all drugs and medications in accordance with federal and state laws;
- May order or prescribe medicinal drugs or drugs specifically approved for use in animals by the United States Food and Drug Administration, conforming to approved labeling. Prescriptions based solely on a telehealth evaluation may be issued for up to one month for parasite treatment and prevention medications and up to 14 days for other animal drugs.
- May not order or prescribe medicinal drugs or drugs as defined in s. 465.003, F.S., approved by the United States Food and Drug Administration for human use, including compounded antibacterial, antifungal, antiviral, or antiparasitic medications, unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.
- May not use veterinary telehealth to prescribe a controlled substance as defined in ch. 893, F.S. (Drug Abuse Preventions and Control), unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.
- May not prescribe a drug or other medication for use on a racing horse under the jurisdiction of the Florida Gaming Control Commission or on a horse covered by the federal Horseracing Integrity and Safety Act.

- Must be familiar with available veterinary and emergency resources near the patient's location;
- Must be able to provide the client with a list of nearby veterinarians who may be able to see the patient in person if requested by the client;
- Must maintain and make available a summary of the patient record as required by the Veterinary Medical Practice Act; and
- May not use veterinary telehealth to issue an international or interstate travel certificate, or a certificate of veterinary inspection.
- Removes the authorization for a veterinarian to practice veterinary telehealth for an animal or group of animals on food-producing animal operations on land classified as agricultural pursuant to s. 193.461, 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.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (14) is added to section 474.202, Florida Statutes, to read:

474.202 Definitions.—As used in this chapter:

(14) "Veterinary telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not

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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.

Section 2. Section 474.2021, Florida Statutes, is created to read:

474.2021 Veterinary telehealth.—

(1) This section may be cited as the "Providing Equity in Telehealth Services Act."

(2) A veterinarian who holds a current license to practice veterinary medicine in this state may practice veterinary telehealth.

(3) The board has jurisdiction over a veterinarian practicing veterinary telehealth, regardless of where the veterinarian's physical office is located. The practice of veterinary medicine is deemed to occur when the veterinarian, the patient, or both are located within this state at the time the veterinarian practices veterinary telehealth.

(4) A veterinarian practicing veterinary telehealth:

(a) May not engage in the practice of veterinary telehealth unless it is within the context of a veterinarian/client/patient relationship;

(b) Shall practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a veterinarian who provides in-person veterinary services to patients in this state and shall employ sound, professional judgment to determine whether using veterinary telehealth is an appropriate method for delivering medical advice or treatment to the patient;

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(c) May use veterinary telehealth to perform an initial patient evaluation to establish the veterinarian/client/patient relationship if the evaluation is conducted using synchronous, audiovisual communication. The evaluation may not be performed using audio only communications, text messaging, questionnaires, chatbots, or other similar means. If a veterinarian practicing telehealth conducts a patient evaluation sufficient to diagnose and treat the patient, the veterinarian is not required to research a patient's medical history or conduct a physical examination of the patient before using veterinary telehealth to provide a veterinary health care service to the patient;

(d) If the initial patient evaluation is performed using veterinary telehealth, must provide the client with a statement containing the veterinarian's name, license number, and contact information and the contact information for at least one physical veterinary clinic in the vicinity of the patient's location and instructions for how to receive patient follow-up care or assistance if the veterinarian and client are unable to communicate because of a technological or equipment failure or if there is an adverse reaction to treatment. The veterinarian shall obtain from the client a signed and dated statement indicating the client has received the required information before practicing veterinary telehealth;

(e) Shall prescribe all drugs and medications in accordance with all federal and state laws and the following requirements:

1. A veterinarian practicing veterinary telehealth may order, prescribe, or make available medicinal drugs or drugs specifically approved for use in animals by the United States Food and Drug Administration, the use of which conforms to the

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approved labeling. Prescriptions based solely on a telehealth evaluation may be issued for up to 1 month for products labeled solely for flea and tick control and up to 14 days of treatment for other animal drugs. Prescriptions based solely on a telehealth evaluation may not be renewed without an in-person examination.

2. A veterinarian practicing veterinary telehealth may not order, prescribe, or make available medicinal drugs or drugs as defined in s. 465.003 approved by the United States Food and Drug Administration for human use or compounded antibacterial, antifungal, antiviral, or antiparasitic medications, unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.

3. A veterinarian may not use veterinary telehealth to prescribe a controlled substance as defined in chapter 893 unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits within the past year to the premises where the animal is kept.

4. A veterinarian practicing veterinary telehealth may not prescribe a drug or other medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the Florida Gaming Control Commission or on a horse that is a covered horse as defined in the federal Horseracing Integrity and Safety Act, 15 U.S.C. ss. 3051 et seq.;

(f) Shall be familiar with available veterinary resources, including emergency resources, near the patient’s location and be able to provide the client with a list of nearby

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veterinarians who may be able to see the patient in person upon the request of the client;

(g) Shall keep, maintain, and make available a summary of the patient record as provided in s. 474.2165; and

(h) May not use veterinary telehealth to issue an international or interstate travel certificate or a certificate of veterinary inspection.

(5) A veterinarian personally acquainted with the caring and keeping of an animal or group of animals on food-producing animal operations on land classified as agricultural pursuant to s. 193.461 who has recently seen the animal or group of animals or has made medically appropriate and timely visits to the premises where the animal or group of animals is kept may practice veterinary telehealth for animals on such operations.

Section 3. Subsection (1) of section 474.2165, Florida Statutes, is amended to read:

474.2165 Ownership and control of veterinary medical patient records; report or copies of records to be furnished.—

(1) As used in this section, the term "records owner" means any veterinarian who generates a medical record after making an ~~a physical~~ examination of, or administering treatment or dispensing legend drugs to, any patient; any veterinarian to whom records are transferred by a previous records owner; or any veterinarian's employer, provided the employment contract or agreement between the employer and the veterinarian designates the employer as the records owner.

Section 4. This act shall take effect July 1, 2024.

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

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And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to veterinary practices; amending s. 474.202, F.S.; defining the term "veterinary telehealth"; creating s. 474.2021, F.S.; providing a short title; authorizing licensed veterinarians to practice veterinary telehealth in accordance with specified criteria; specifying the powers of the Board of Veterinary Medicine related to the practice of telehealth; providing that the practice of veterinary medicine is deemed to occur under specified circumstances; specifying the conditions under which a veterinarian may practice veterinary telehealth; specifying the drugs that a veterinarian practicing telehealth may not provide unless specified conditions are met; providing specific authorizations for cases in which the patient is a food-producing species; amending s. 474.2165, F.S.; conforming a provision to changes made by the act; providing an effective date.

By the Committee on Regulated Industries; and Senator Bradley

580-02913-24 20241040c1

A bill to be entitled

An act relating to veterinary practices; amending s. 474.202, F.S.; defining the term "veterinary telehealth"; creating s. 474.2021, F.S.; providing a short title; authorizing licensed veterinarians to practice veterinary telehealth in accordance with specified criteria; specifying the powers of the Board of Veterinary Medicine related to the practice of telehealth; specifying the conditions under which a veterinarian may practice veterinary telehealth; specifying the drugs a veterinarian practicing telehealth may not provide under specified circumstances; providing specific authorizations for cases where a patient is a food-producing species; amending s. 474.2165, F.S.; conforming a provision to changes made by the act; amending s. 828.30, F.S.; authorizing certain persons to administer rabies vaccinations to certain animals under indirect supervision of a veterinarian; providing that a supervising veterinarian assumes responsibility for specified people who provide vaccinations; defining the term "indirect supervision"; amending ss. 474.203, 767.16, and 828.29, 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. Subsection (14) is added to section 474.202, Florida Statutes, to read:

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

580-02913-24 20241040c1

474.202 Definitions.—As used in this chapter:

(14) "Veterinary 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 e-mail messages or facsimile transmissions.

Section 2. Section 474.2021, Florida Statutes, is created to read:

474.2021 Veterinary telehealth.—

(1) This section may be cited as the "Providing Equity in Telehealth Services Act."

(2) A veterinarian who holds a current license to practice veterinary medicine in this state may practice veterinary telehealth.

(3) The board has jurisdiction over a veterinarian practicing veterinary telehealth, regardless of where the veterinarian's physical office is located. The practice of veterinary medicine is deemed to occur at the premises where the patient is located at the time the veterinarian practices veterinary telehealth.

(4) A veterinarian practicing veterinary telehealth:

(a) May not engage in the practice of veterinary telehealth unless it is within the context of a veterinarian/client/patient relationship;

(b) Must practice in a manner consistent with his or her scope of practice and the prevailing professional standard of

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

practice for a veterinarian who provides in-person veterinary services to patients in this state;

(c) May use veterinary telehealth to perform a patient evaluation if the evaluation is conducted using synchronous, audiovisual communication. If a veterinarian practicing telehealth conducts a patient evaluation sufficient to diagnose and treat the patient, the veterinarian is not required to research a patient's medical history or conduct a physical examination of the patient before using veterinary telehealth to provide a veterinary health care service to the patient;

(d) Shall provide the client with a statement containing the veterinarian's name, license number, and contact information and the contact information for at least one physical veterinary clinic in the vicinity of the pet's location and instructions for how to receive patient follow-up care or assistance if the veterinarian and client are unable to communicate because of a technological or equipment failure or if there is an adverse reaction to treatment. The veterinarian shall obtain from the client a signed and dated statement indicating the client has received the required information;

(e) Shall prescribe all drugs and medications in accordance with all federal and state laws and the following requirements:

1. A veterinarian practicing veterinary telehealth may order, prescribe, or make available medicinal drugs or drugs specifically approved for use in animals by the United States Food and Drug Administration, the use of which conforms to the approved labeling. Prescriptions based solely on a telehealth evaluation may be issued for up to 1 month for parasite treatment and prevention medications and up to 14 days for other

animal drugs.

2. A veterinarian practicing veterinary telehealth may not order, prescribe, or make available medicinal drugs or drugs as defined in s. 465.003 approved by the United States Food and Drug Administration for human use, including compounded antibacterial, antifungal, antiviral, or antiparasitic medications, unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.

3. A veterinarian may not use veterinary telehealth to prescribe a controlled substance as defined in chapter 893 unless the veterinarian has conducted an in-person physical examination of the animal or made medically appropriate and timely visits to the premises where the animal is kept.

4. A veterinarian practicing veterinary telehealth may not prescribe a drug or other medication for use on a horse engaged in racing or training at a facility under the jurisdiction of the Florida Gaming Control Commission or on a horse that is a covered horse as defined in the federal Horseracing Integrity and Safety Act, 15 U.S.C. ss. 3051 et seq.;

(f) Shall be familiar with available veterinary resources, including emergency resources, near the patient's location and be able to provide the client with a list of nearby veterinarians who may be able to see the patient in person upon the request of the client;

(g) Shall keep, maintain, and make available a summary of the patient record as provided in s. 474.2165; and

(h) May not use veterinary telehealth to issue an international or interstate travel certificate or a certificate

of veterinary inspection.

(5) A veterinarian personally acquainted with the caring and keeping of an animal or group of animals on food-producing animal operations on land classified as agricultural pursuant to s. 193.461 who has recently seen the animal or group of animals or has made medically appropriate and timely visits to the premises where the animal or group of animals is kept may practice veterinary telehealth for animals on such operations.

Section 3. Subsection (1) of section 474.2165, Florida Statutes, is amended to read:

474.2165 Ownership and control of veterinary medical patient records; report or copies of records to be furnished.—

(1) As used in this section, the term "records owner" means any veterinarian who generates a medical record after making an ~~a physical~~ examination of, or administering treatment or dispensing legend drugs to, any patient; any veterinarian to whom records are transferred by a previous records owner; or any veterinarian's employer, provided the employment contract or agreement between the employer and the veterinarian designates the employer as the records owner.

Section 4. Subsections (1) and (3) of section 828.30, Florida Statutes, are amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.—

(1)(a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian or a person authorized under paragraph (b) against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species.

(b) Acting under the indirect supervision of a

veterinarian, an employee, an agent, or a contractor of a county or municipal animal control authority or sheriff may vaccinate against rabies dogs, cats, and ferrets in the custody of an animal control authority or a sheriff that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. The supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her direct or indirect supervision. As used in this paragraph, the term "indirect supervision" means that the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.

(c) The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies may ~~shall~~ not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies

vaccination or who supervises the administration of the rabies vaccination as provided in paragraph (1)(b) ~~vaccine~~ to an animal as authorized ~~required~~ under this section may affix his or her signature stamp in lieu of an actual signature.

Section 5. Paragraph (a) of subsection (5) of section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and practicing temporarily in this state. However, except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 6. Subsection (2) of section 767.16, Florida Statutes, is amended to read:

767.16 Police canine or service dog; exemption.—

(2) Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human is exempt from any quarantine requirement following such

bite if the dog has a current rabies vaccination that was administered as provided in s. 828.30 ~~by a licensed veterinarian~~.

Section 7. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 828.29, Florida Statutes, are amended to read:

828.29 Dogs and cats transported or offered for sale; health requirements; consumer guarantee.—

(1)

(b) For each dog offered for sale within the state, the tests, vaccines, and anthelmintics required by this section must be administered by or under the direction of a veterinarian, licensed by the state and accredited by the United States Department of Agriculture, who issues the official certificate of veterinary inspection. The tests, vaccines, and anthelmintics must be administered before the dog is offered for sale in the state, unless the licensed, accredited veterinarian certifies on the official certificate of veterinary inspection that to inoculate or deworm the dog is not in the best medical interest of the dog, in which case the vaccine or anthelmintic may not be administered to that particular dog. Each dog must receive vaccines and anthelmintics against the following diseases and internal parasites:

1. Canine distemper.

2. Leptospirosis.

3. Bordetella (by intranasal inoculation or by an alternative method of administration if deemed necessary by the attending veterinarian and noted on the health certificate, which must be administered in this state once before sale).

4. Parainfluenza.

5. Hepatitis.

6. Canine parvo.

7. Rabies, provided the dog is over 3 months of age and the inoculation is administered as provided in s. 828.30 ~~by a licensed veterinarian~~.

8. Roundworms.

9. Hookworms.

If the dog is under 4 months of age, the tests, vaccines, and anthelmintics required by this section must be administered no more than 21 days before sale within the state. If the dog is 4 months of age or older, the tests, vaccines, and anthelmintics required by this section must be administered at or after 3 months of age, but no more than 1 year before sale within the state.

(2)

(b) For each cat offered for sale within the state, the tests, vaccines, and anthelmintics required by this section must be administered by or under the direction of a veterinarian, licensed by the state and accredited by the United States Department of Agriculture, who issues the official certificate of veterinary inspection. The tests, vaccines, and anthelmintics must be administered before the cat is offered for sale in the state, unless the licensed, accredited veterinarian certifies on the official certificate of veterinary inspection that to inoculate or deworm the cat is not in the best medical interest of the cat, in which case the vaccine or anthelmintic may not be administered to that particular cat. Each cat must receive

vaccines and anthelmintics against the following diseases and internal parasites:

1. Panleukopenia.

2. Feline viral rhinotracheitis.

3. Calici virus.

4. Rabies, if the cat is over 3 months of age and the inoculation is administered as provided in s. 828.30 ~~by a licensed veterinarian~~.

5. Hookworms.

6. Roundworms.

If the cat is under 4 months of age, the tests, vaccines, and anthelmintics required by this section must be administered no more than 21 days before sale within the state. If the cat is 4 months of age or older, the tests, vaccines, and anthelmintics required by this section must be administered at or after 3 months of age, but no more than 1 year before sale within the state.

Section 8. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/22/24
Meeting Date

Fiscal Policy
Committee

1040
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Farmer

Phone 352-209-3389

Address 323 N monroe St
Street

Email noblesjennifer@gmail.com

Quincy FL 32351
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024	SB 1040
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name Richard Williams **Phone** 904 588-6612

Address 4958 Maybank Way **Email** wk9doc@bellsouth.net

Street

Jacksonville FL 32225

City *State* *Zip*

Reset Form

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

SB 1040
Bill Number or Topic

FISCAL POLICY
Committee

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Phone (305) 608-4300

Address PO BOX 122
Street

Email CHRISTIAN@CHAMBERCONSULTANTSFL.COM

TALLAHASSEE, FL 32302
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:
INSTITUTE FOR JUSTICE

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

FISCAL POLICY
Committee

SB1040 as amended
Bill Number or Topic

Amendment Barcode (if applicable)

Name DIANA FERGUSON

Phone 850-681-6788

Address 119 S MONROE STE 202
Street

Email dferguson@rutledgeecenia.com

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 ANIMAL CONTROL 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. 2020-2022JointRules.pdf (flsenate.gov)

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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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2/22/24
Meeting Date

FISCAL POLICY
Committee

SB 1040 as amended
Bill Number or Topic

[redacted]
Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Phone 850-445-5245

Address 3548 CANGROVE ROAD
Street

Email jen.hobgood@aspca.org

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:
ASPCA

☐ 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

Deliver both copies of this form to
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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 1040
Bill Number or Topic

Amendment Barcode (if applicable)

Name Travis Moore

Phone 727.421.6902

Address P.O. Box 2020
Street

Email travis@moore-relations.com

St. Petersburg FL 33731
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:
Animal Legal Defense Fund

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

FISCAL POLICY
Committee

SB 1040 as amended
Bill Number or Topic

Amendment Barcode (if applicable)

Name LISA GLUNT, EXECUTIVE DIRECTOR, LEON COUNTY HUMANE SOCIETY

Phone (850) 224-9193

Address 413 TIMBERLANE RD
Street

Email lglunt@lchs.info

TALLAHASSEE FL 32312
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

Meeting Date	Bill Number or Topic
2-22-24	SB1040
Committee	**Amendment Barcode (if applicable)**
FISCAL POLICY	~~880604~~ as amended

Name DR. TRACEY JENSEN, DVM Phone 970-227-8384

Address 4122 Mallard Pond Lane Email tjensendvm@gmail.com
Street

Vernon FL 32462
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24	SB 1040
Meeting Date	Bill Number or Topic
Fiscal Policy	~~880666~~ as amended
Committee	Amendment Barcode (if applicable)

Name DR. WAYNE JENSEN, DVM Phone 970-443-1638

Address 4122 Mallard Pond Lane Email wjensendvm@gmail.com
Street

Vernon FL 32462
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:

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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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2/22/24
Meeting Date

Fiscal Policy
Committee

1040
Bill Number or Topic

Amendment Barcode (if applicable)

Name Beth May

Phone 850-875-4811 work

Address 1341 Woodward Rd
Street

Email drbethequincyah.com

Quincy FL 32352
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:

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1046
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; and Senator Martin
SUBJECT:	Gaming Control
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Favorable**
2.	Kraemer/Davis	Betta	AEG	**Fav/CS**
3.	Kraemer	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1046 revises laws relating to illegal gambling and gaming to:

- Provide that false personation of Florida Gaming Control Commission (commission) staff and agents is a crime;
- Increase the penalties applicable for the offense of knowingly keeping a gambling house;
- Prohibit the production and publication of advertisements for use or distribution in Florida of an illegal gambling or gaming operation by any person or property owner;
- Provide that the enhanced penalties offenses relating to the manufacture, sale, lease, play, or possession of slot machines apply, if at the time of the violation, the violator is knowingly acting as a manager of a location where illegal slot machines are offered for play or the violator has a prior violation of this section;
- Provide that the enhanced penalties offenses relating to the manufacture, sale, lease, play, or possession of slot machines apply, if at the time of the violation, the violator is knowingly acting as a manager of a location where illegal slot machines are offered for play and the violation involves five or more slot machines, or the violator has two or more prior violation of this section;
- Except special laws enacted for the benefit of local governments related to enforcement of the gambling and gaming laws, from the state preemption to enforce those laws. Also excepted from the preemption to the state currently in the bill are express provisions in the State Constitution and general law;

- Revise the information to be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of chs. 550, 551, or 849, F.S., (Pari-mutuel Wagering**,** Slot Machines**,** and Gambling) (gambling laws); and
- Revise the Offense Severity Ranking Chart to provide for enhanced penalties for bookmaking offenses and repeated bookmaking offenses.

The bill has an indeterminate fiscal impact to the state. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Background

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., prohibits keeping a gambling house,[2] running a lottery,[3] or the manufacture, sale, lease, play, or possession of slot machines.[4] However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[5] wagering at licensed greyhound and horse tracks and jai alai frontons;[6]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[7]
- Cardrooms[8] at certain pari-mutuel facilities;[9]
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[10]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[11] and

[1] See s. 849.08, F.S.
[2] *See* s. 849.01, F.S.
[3] *See* s. 849.09, F.S.
[4] Section 849.16, F.S.
[5] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.
[6] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[7] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[8] Section 849.086, F.S. *See* s. 849.086(2)(c), F.S., which defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."
[9] *See* Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023* (Annual Report), at p. 15, at https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 17, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.
[10] Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[11] *See* s. 546.10, F.S.

- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[12]
  - Bingo;[13]
  - Charitable drawings;[14]
  - Game promotions (sweepstakes);[15] and
  - Bowling tournaments.[16]

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[17]
The 1968 State Constitution states that "[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . ." are prohibited.[18] A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited in the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.[19]

Enforcement of Gaming Laws and Florida Gaming Control Commission

In 202l, the Legislature updated Florida law for authorized gaming in the state, and for enforcement of the gambling laws and other laws relating to authorized gaming.[20] The Office of Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of chs. 24, 285 (part II), 546, 550, 551, or 849, F.S., (State Lotteries, Gaming Compact, Amusement Facilities, Pari-mutuel Wagering,

[12] *See* s. 849.085, F.S.
[13] *See* s. 849.0931, F.S.
[14] *See* s. 849.0935, F.S.
[15] *See* s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[16] *See* s. 849.141, F.S.
[17] *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also, Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936), and *Zimmerman v. State of Florida, Fla. Gaming Control Comm'n*, ___So.3d ___ (Fla. 5th DCA Jan. 12, 2024) *(Case No. 5D23-1062; not final until disposition of motions as set forth in the opinion)*.
[18] The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.
[19] The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[20] See ch. 2021-268, Laws of Fla., (Implementation of 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida); ch. 2021-269, Laws of Fla., (Gaming Enforcement), ch. 2021-270, Laws of Fla., (Public Records and Public Meetings), and 2021-271, Laws of Fla., (Gaming), as amended by ch. 2022-179, Laws of Fla., (Florida Gaming Control Commission). Conforming amendments are made to the section in ch. 2022-7, Laws of Fla., (Reviser's Bill) and ch. 2023-8, Laws of Fla., (Reviser's Bill).

Slot Machines, and Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).[21]

In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created[22] within the Department of Legal Affairs. The commission has two divisions, including the Division of Gaming Enforcement (DGE), and the Division of Pari-mutuel Wagering (DPMW) which was transferred from the Department of Business and Professional Regulation effective July 1, 2022 (as discussed below).

The commission must do all of the following:[23]

- Exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding state lottery games as authorized by the State Constitution.
- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the commission's regulatory and executive functions.
- Ensure the laws of this state are not interpreted in any manner that expands the activities authorized in ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S.
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.
- Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission relating to:
  - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
  - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
  - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- The commission must provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the DPMW.

[21] Section 16.56(1)(a), F.S.
[22] Section 16.71, F.S.
[23] Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. *See* s. 16.71(6), F.S.

- Review the regulation of licensees, permitholders, or persons regulated by the DPMW and the procedures used by that division to implement and enforce the law.
- Review the procedures of the DPMW which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement the above.

Commissioners

As set forth in s. 16.71, F.S., of the five commissioners appointed as members of the commission, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. All members serve four-year terms, but may not serve more than 12 years. As of the date of this analysis, there is one vacancy on the commission.

Division of Gaming Enforcement

Section 16.711, F.S., sets forth the duties of the Division of Gaming Enforcement (DGE) within the commission.[24] The DGE is a criminal justice agency, as defined in s. 943.045, F.S. The commissioners must appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.[25]

The DGE director and all investigators employed by the DGE must meet the requirements for employment and appointment provided by s. 943.13, F.S., and must be certified as law enforcement officers, as defined in s. 943.10(1), F.S. The DGE director and such investigators must be designated law enforcement officers and must have the power to detect, apprehend, and arrest for any alleged violation of ch**s**. 24, 285 (part II**)**, 546, 550, 551, or 849, F.S., or any rule adopted pursuant thereto, or any law of this state.[26]

Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without

[24] For a summary of DGE investigations and actions in Fiscal Year 2022-2023, s*ee* Annual Report, *supra* n. 11 at p.5.
[25] Section 16.711(2), F.S.
[26] Section 16.711(3), F.S.

warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring.[27]

Further, any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission also have access to, and the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.[28]
The DGE and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. The term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2., F.S.[29] The DGE is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this provision. The authority of any other person authorized by law to seize contraband is not limited by these provisions.[30]

Section 16.711(5), F.S., requires the Florida Department of Law Enforcement (FDLE) to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the commission's executive director and agreed to by FDLE's the executive director. Any other state agency, including the DBPR and the Department of Revenue, must, upon request, provide the commission with any information relevant to any investigation conducted as described above, and the commission must reimburse any agency for the actual cost of providing any such assistance.[31]

Division of Pari-mutuel Wagering

The commission has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. The DPMW is a program area of the commission which is charged with the regulation of Florida's pari-mutuel, cardroom, and slot gaming industries, as authorized by chs. 550, 551, 849, F.S., as well as collecting and safeguarding associated revenues due to the state. The DPMW supports the commission in meeting the commission's obligations as the State Compliance Agency (SCA)[32] in carrying out the state's oversight responsibilities under the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.[33]

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[27] *Id.*
[28] *Id.*
[29] Section 16.711(4), F.S.
[30] *Id.*
[31] Section 16.711(5), F.S.
[32] *See* s. 285.710, F.S. Until June 30, 2022, the DPMW was designated as the SCA, prior to that division's transfer to the commission from the Department of Business and Professional Regulation, as set forth in ch. 2021-269, Laws of Fla.
[33] *See* s. 285.710(3)(b), F.S., which provides that the Gaming Compact between the Seminole Tribe of Florida and the State of Florida (2021 Gaming Compact), executed by the Governor and the Tribe on April 23, 2021, as amended on May 17, 2021, is ratified and approved. The 2021 Gaming Compact may be accessed at https://www.flgov.com/wp-content/uploads/pdfs/2021%20Gaming%20Compact.pdf (last visited Jan. 10, 2024). The May 17, 2021 amendment states that Part XVIII.A [relating to certain negotiations within 36 months] is deleted in its entirety and replaced with "Reserved", and that the Seminole Tribe of Florida agrees that it will not commence Sports Betting, as defined in Park III.CC, prior to October 15, 2021 (on file with the Senate Regulated Industries Committee).

Manufacture, Sale, Possession, etc., of Slot Machines or Devices

Section 849.15(1), F.S., relating to actions relating to slot machines or devices, provides that is unlawful to:

- Manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or
- Make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

Section 849.15(2), F.S., provides:

- Counties in Florida where slot machine gaming is authorized pursuant to ch. 551, F.S. (i.e., in Broward and Miami-Dade counties)[34] are exempt from federal law prohibiting transportation of gaming devices in interstate and foreign commerce; and
- All shipments of gaming devices, including slot machines, into any Florida county where slot machine gaming is authorized are deemed to be legal shipments into Florida, if the destination of such shipments is a licensed slots facility, or the facility of a slot machine manufacturer or slot machine distributor.

III. Effect of Proposed Changes:

Section 1 amends s. 843.08, F.S., relating to the obstruction of justice, to provide that a person who falsely assumes or pretends to be, and acts as any personnel or representative of the Florida Gaming Control Commission (commission), commits a third degree felony.[35]

Under current law, the false personation offense occurs when a person impersonates and acts as a firefighter, a sheriff, a Florida Highway Patrol officer, a Fish and Wildlife Conservation Commission officer, a Department of Environmental Protection officer, a Department of Financial Services officer, any personnel or representative of the Division of Investigative and Forensic Services, a Department of Corrections officer, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, any personnel or representative of the Department of Law Enforcement, certain federal law enforcement officers, and others.[36]

[34] In addition, pursuant to s. 285.710, F.S., relating to gaming compacts, the Seminole Tribe of Florida is authorized to conduct slot machine gaming and to own, possess, and operate slot machines. *See* s. 285.710(13)(a), F.S.
[35] Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed $5,000. Under s. 775.084, F.S., an habitual felony offender is subject to enhanced penalties.
[36] *See* s. 843.08, F.S.

If the false personation occurs during the course of the commission of a felony, the violator commits a second degree felony (up to 15 years/$10,000 fine).[37]

Section 2 amends s. 849.01, F.S., relating to the keeping of gambling houses, to specify a violation of the prohibition against keeping a gambling house must be committed knowingly and to increase the penalty for that offense from a second degree misdemeanor (up to 60 days/$500 fine)[38] to a third degree felony (up to five years/$5,000 fine).[39] Current law provides, in part, that the keeping of a gambling house includes any person, servant, clerk, or agent who:

> [H]as, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever . . . .

Section 3 revises s. 849.15, F.S., relating to the prohibited manufacture, sale, or possession of slot machines or devices. The term "conviction" is defined to mean "a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

The term "manager" is defined to mean a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

- Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;
- Authorization to supervise another employee or employees; or
- Any ownership interest in the business, establishment, premises, or other location.

For those convicted of violating s. 849.15(2), F.S., as renumbered by the bill, relating to the manufacturing, ownership, , possession, sale, or transport of slot machines or devices, the bill sets forth the following offenses and respective penalties, with enhanced penalties for managers under certain circumstances:

- A person who violates this provision commits a first degree misdemeanor (imprisonment up to one year and a fine up to $1,000), unless the person is knowingly acting as a manager or has one prior conviction for violating this provision;
- A person acting as a manager at the time of the violation or who has one prior conviction for a violation of this provision, commits a third degree felony (imprisonment up to five years and a fine up to $5,000);
- A person is knowingly acting as a manager at the time of the violation who has two or more prior convictions for a violation of this provision, and the violation involves five or more slot

[37] Section 775.082, F.S., provides a felony of the second degree is punishable by a term of imprisonment not to exceed 15 years. Section 775.083, F.S., provides a felony of the second degree is punishable by a fine not to exceed $10,000. Under s. 775.084, F.S., an habitual felony offender is subject to enhanced penalties.

[38] Section 775.082, F.S., provides a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides a misdemeanor of the second degree is punishable by a fine not to exceed $500. The enhanced penalties for this violation increase to imprisonment not to exceed five years and a fine not to exceed $5,000.

[39] Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed $5,000.

machines or devices, commits a second degree felony (imprisonment up to 15 years and a fine up to $10,000).

Section 4 creates s. 849.155, F.S., relating to trafficking in slot machines or devices, or parts thereof, relating to trafficking in slot machines or devices. The bill makes it a:

- First degree felony, (imprisonment up to 30 years and a fine up to $10,000), to knowingly sell, purchase, manufacture, transport, deliver, or bring into Florida more than 15 slot machines or devices or any part thereof; and includes
    - An additional fine of $100,000, if the quantity of slot machines or devices or any part thereof involved is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof.
    - An additional fine of $250,000, if the quantity of slot machines or devices or any part thereof involved is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof.
    - An additional fine of $500,000, if the quantity of slot machines or devices or any part thereof involved is 50 slot machines or devices or any part thereof or more.

The bill requires all fines imposed and collected pursuant to these provisions to be deposited into the Pari-mutuel Wagering Trust Fund and authorizes such funds to be used for the enforcement of chs. 546, 550, F.S., 551, F.S., and 849, F.S., by the commission.

Section 5 creates s. 849.157, F.S., relating to making false or misleading statements regarding the legality of slot machines or devices to facilitate their sale. The bill makes it a:

- Third degree felony (imprisonment up to five years and a fine up to $5,000) , punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., to knowingly and willfully:
    - Make a materially false or misleading statement regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration; or
    - Disseminate false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration.
- Second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices.

Section 6 repeals s. 849.23, F.S., relating to slot machine penalties.

Section 7 creates s. 849.47, F.S., relating to transporting or procuring the transportation of persons to facilitate illegal gambling. A person who knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within Florida when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling, commits a first degree misdemeanor (a fine up to $1,000). Anyone who transports or procures the transportation of a minor, a person 65 years of age or older, or 12 or more persons to facilitate illegal gambling, commits a third degree felony (imprisonment up to five years and a fine up to $5,000).

Section 8 creates s. 849.48, F.S., relating to prohibited gambling or gaming advertisements. Except as otherwise specifically authorized by law, a person may not:

- Knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in Florida, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling; and
- Set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

The bill provides that violators of the above prohibitions commit a first degree misdemeanor.

Under the bill, the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of Florida, where such gambling is not prohibited.

The bill defines the term "illegal gambling" to mean any criminal violation of chs. 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location which operates for profit.

Section 9 creates s. 849.49, F.S., relating to preemption, and provides that a Florida county, municipality, or other political subdivision may not enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10, F.S., relating to amusement games or machines, or ch. 849, F.S., relating to gambling, except as otherwise expressly provided by the State Constitution, general law, or special law.

Section 10 revises s. 903.046, F.S., relating to the purpose of and criteria for bail determination, to revise considerations to be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of chs. 546, 550, 551, or 849, F.S., (Amusement Facilities, Pari-Mutuel Wagering, Slot Machines, and Gambling).

Section 11 revises s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to revise the penalties for offenses in the ranking chart as follows:

- Section 849.01, F.S., related to knowingly keeping a gambling house, is increased from a second degree misdemeanor to a third degree felony (Level 3);
- Section 849.09(1)(a) - (d), F.S., relating to promoting, conducting, or advertising a lottery, is increased to a third degree felony (Level 3) from a third degree felony (Level 1);
- Section 849.09(1)(e), (f), (g), (i), and (k), F.S., relating to a second or subsequent offense of conducting an unlawful lottery, is added to the ranking chart as a third degree felony (Level 3);
- Section 849.15(3)(b), F.S., relating to a violator who is knowingly acting as a manager at the time of the violation or who has one prior conviction for violating this provision, is added to the ranking chart as a third degree felony (Level 3);

- Section 849.15(c), F.S., relating to a violator who is knowingly acting as a manager at the time of the violation or who has two or more prior convictions for violating this provision, and the violation involves five or more slot machines or devices, is added to the ranking chart as a second degree felony (Level 5);
- Section 849.155, F.S., relating to knowingly trafficking in slot machines or devices or any parts thereof, is added to the ranking chart as a first degree felony (Level 7);
- Section 849.157(1), F.S., relating to knowingly and willfully disseminating false or misleading statements regarding the legality of slot machines or devices to facilitate their sale, is added to the ranking chart as a third degree felony (Level 3);
- Section 849.157(2), F.S., relating to false or misleading statements regarding the legality of slot machines or devices to facilitate the sale of five or more slot machines or devices, is added to the ranking chart as a second degree felony (Level 5);
- Section 849.23, F.S., relating to slot machine penalties, is deleted from the ranking chart, as the provision is repealed by the bill;
- Section 849.25, F.S., relating to bookmaking, to provide for enhanced penalties for bookmaking offenses, is revised in the ranking chart. The penalty for engaging in bookmaking under s. 849.25(2), F.S., is enhanced from a third degree felony (Level 1) to a third degree felony (Level 3), and the penalty for repeated bookmaking offenses under s. 894.25(3), F.S., is added as a second degree felony (Level 5);
- Section 849.47(1), F.S., relating to knowingly and willfully transporting or procuring the transportation of five or more persons to facilitate illegal gaming, is added to the ranking chart as a first degree misdemeanor;
- Section 849.47(2), F.S., relating to transporting or procuring the transportation of a minor or a person 65 years of age or older, or of 12 or more persons, to facilitate illegal gambling, is added to the ranking chart as a third degree felony (Level 3).

The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The offense severity ranking chart has 10 offense levels, ranked from least severe, which are Level 1 offenses, to most severe, which are Level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense.[40]

Section 12 amends s. 772.102, F.S., to conform definitions relating to civil remedies for criminal practices, to remove references to s. 849.23, F.S., which is repealed by the bill.

Section 13 amends s. 895.02, F.S., to conform definitions relating to offenses concerning racketeering and illegal debts, to remove references to s. 849.23, F.S., which is repealed by the bill.

Section 14 provides that the bill takes effect July 1, 2024.

[40] *See* s. 921.0022, F.S.

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:

Persons who violate the gambling laws will be subject to penalties or increased penalties, as described in Section III of this analysis. *See* the list of penalties in **Section 11**.

Such violators may be impacted by the information that must be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of the gambling laws.

C. Government Sector Impact:

The fiscal impact to state and local government is indeterminate. The bill increases and creates new criminal penalties for violations relating to illegal gambling. This may create a positive fiscal impact to the state and local governmental entities that receive proceeds from related fines. This bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) due to expanding the crimes eligible for enhancements which may lead to an increased number of offenders receiving enhanced sentences.

The Criminal Justice Impact Conference (conference), which provides the final, official estimate of the prison bed impact, if any, of legislation, evaluated identical bill CS/HB 189 on February 12, 2024, and the Conference adopted the estimate of "Positive Indeterminate,"[41] (i.e., an unquantifiable positive prison bed impact.

No anticipated fiscal impact to the Florida Gaming Control Commission.[42]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 772.102, 843.08, 849.01, 849.15, 895.02, 903.046, and 921.0022.

This bill creates the following sections of the Florida Statutes: 849.155, 849.157, 849.47, 849.48, and 849.49 of the Florida Statutes.

This bill repeals section 849.23 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 Fiscal Policy Committee on February 29, 2024:
The committee substitute:

- Revises the enhanced penalties offenses relating to the manufacture, sale, lease, play, or possession of slot machines, if at the time of the violation, the violator is knowingly acting as a manager of a location where illegal slot machines are offered for play;
- Excepts special laws enacted for the benefit of local governments related to enforcement of the gambling and gaming laws, from the state preemption to enforce those laws. Also excepted from the preemption to the state currently in the bill are express provisions in the state constitution and general law;
- Revises the Offense Severity Ranking Chart to provide for enhanced penalties for bookmaking offenses and repeated bookmaking offenses; and

[41] *See* the conference's Narrative Analysis of CS/HB 189 at http://www.edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSHB189.pdf (last visited Feb. 19, 2024)
[42] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 1046* at 6 (Jan. 10, 2024) (on file with the Senate Committee on Regulated Industries).

- Makes technical changes to clarify the enhanced penalties when a person is knowingly acting as a manager of a location where illegal slot machines are offered for play, and other conforming changes.

- **CS by Appropriations Committee on Agriculture, Environment, and General Government on February 8, 2024:**
  The committee substitute:
- Revises the title to "Gaming Control," a more comprehensive description that conforms to the companion bill CS/HB 189;
- Revises certain criminal penalties in Florida law related to illegal gambling, as follows:
  - Prohibits falsely impersonating personnel or representatives of the Florida Gaming Control Commission.
  - Increases the penalty for keeping an illegal gambling house from a second degree misdemeanor to a third degree felony.
  - Increases the penalty for the manufacture, sale, and possession of illegal slot machines from a second degree misdemeanor to a first degree misdemeanor, and to a felony for managers with prior convictions.
  - Makes it a first degree felony for trafficking more than 15 illegal slot machines or any parts thereof, and imposes certain monetary fines.
  - Makes it a third degree felony to make a false or misleading statement to facilitate the sale of illegal slot machines, and a second degree felony when such violation involves five or more machines.
  - Makes it a first degree misdemeanor to transport five or more persons into or within the state to facilitate illegal gambling, and a third degree felony when violations include a minor or person 65 years old or older, or 12 or more persons.
  - Makes it a first degree misdemeanor to make certain gambling or gaming advertisements.
  - Prohibits counties, municipalities, or other political subdivisions from regulating gaming, gambling, lotteries, or other activities described in s. 546.10, F.S., relating to Amusement Games or Machines, or ch. 849, F.S., relating to Gambling.
  - Requires courts to consider the amount of currency seized in connection with certain gambling violations when determining bail conditions.
  - Conforms the offense severity ranking chart to the changes made by the bill.
  - Deletes the exemption from ch. 255, F.S. for the commission.
  - Deletes penalties for keeping a gambling house within 1000 feet of certain areas.
  - Deletes penalties for having firearms and serving alcoholic beverages on the premises of a gambling house.
  - Deletes penalties relating to minors, guardianships, and gambling at pool halls.
  - Deletes provisions relating to illegal lotteries.

B. Amendments:

None.

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	.	
02/23/2024	.	
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The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment

Delete lines 149 - 488
and insert:
1. At the time of the violation the person is knowingly acting as a manager; or
2. Has one prior conviction for a violation of this section.
(c) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084,

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if he or she violates subsection (2) and:

1.a. At the time of the violation the person is knowingly acting as a manager; and

b. The violation involves five or more slot machines or devices; or

2. Has two or more prior convictions for a violation of this section.

(4) ~~(2)~~ Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in

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interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 4. Section 849.155, Florida Statutes, is created to read:

849.155 Trafficking in slot machines or devices or any parts thereof.—Any person who knowingly sells, purchases, manufactures, transports, delivers, or brings into this state more than 15 slot machines or devices or any part thereof, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot machines or devices or any part thereof involved:

(1) Is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $100,000.

(2) Is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $250,000.

(3) Is 50 slot machines or devices or any part thereof or more, such person must be ordered to pay a fine of $500,000.

All fines imposed and collected pursuant to this section must be deposited into the Pari-mutuel Wagering Trust Fund and may be used for the enforcement of chapters 546, 550, and 551, and this chapter by the Florida Gaming Control Commission.

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Section 5. Section 849.157, Florida Statutes, is created to read:

849.157 Making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.—

(1) Except as provided in subsection (2), a person who knowingly and willfully makes a materially false or misleading statement or who knowingly and willfully disseminates false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates subsection (1) when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 849.23, Florida Statutes, is repealed.

Section 7. Section 849.47, Florida Statutes, is created to read:

849.47 Transporting or procuring the transportation of persons to facilitate illegal gambling.—

(1) Except as provided in subsection (2), a person who knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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(2)(a) A person who transports, or procures the transportation of, a minor or a person 65 years of age or older in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who transports, or procures the transportation of, 12 or more persons in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 8. Section 849.48, Florida Statutes, is created to read:

849.48 Gambling or gaming advertisements; prohibited.—

(1)(a) Except as otherwise specifically authorized by law, a person may not knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling.

(b) Except as otherwise specifically authorized by law, a person may not set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably

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should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section does not prohibit the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of this state, where such gambling is not prohibited.

(4) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 9. Section 849.49, Florida Statutes, is created to read:

849.49 Preemption.— No county, municipality, or other political subdivision of the state shall enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10 or this chapter, except as otherwise expressly provided by the state constitution, general law, or special law.

Section 10. Present paragraphs (i) through (m) of subsection (2) of section 903.046, Florida Statutes, are redesignated as paragraphs (j) through (n), respectively, and a new paragraph (i) is added to that subsection, to read:

903.046 Purpose of and criteria for bail determination.—

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(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(i) The amount of currency seized that is connected to or involved in a violation of chapter 546, chapter 550, chapter 551, or chapter 849.

Section 11. Paragraphs (a), (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.

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212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.

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322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any

		property not specified in subsection (2).
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s.

		893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.~~

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~~849.23~~	~~3rd~~	~~Gambling-related machines; "common offender" as to property rights.~~
~~849.25(2)~~	~~3rd~~	~~Engaging in bookmaking.~~
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of

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		confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud,

			possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
219			
	327.35(2)(b)	3rd	Felony BUI.
220			
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
221			
	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
222			
	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
223			
	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing

			marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
224			
	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
225			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
226			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
227			
	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.

440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a

		vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.

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812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.

817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person

			without consent.
255			
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
256			
	849.01	3rd	Keeping a gambling house.
257			
	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery
258			
	849.09(1)(e), (f), (g), (i), or (k	3rd	Conducting an unlawful lottery; second or subsequent offense.
259			
	849.09(1)(h) or (j)	3rd	Conducting an unlawful lottery; second or subsequent offense.
260			
	849.15(3)(b)	3rd	Manufacture, sale, or possession of slot machine; by manager or with prior conviction.
261			
	849.157(1)	3rd	False or misleading statement to facilitate

		sale of slot machines or devices.
849.25(2)	3rd	Engaging in bookmaking.
849.47(2)(a) & (b)	3rd	Transporting persons to facilitate illegal gambling; minor or person 65 years of age or older or 12 or more persons.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c),

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			(2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.		2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)		3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)		3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.		3rd	Withhold information from practitioner regarding previous receipt of or

			prescription for a controlled substance.
893.13(7)(a)9.		3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.		3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.		3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.		3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner’s practice.
893.13(8)(a)2.		3rd	Employ a trick or scheme in the practitioner’s practice

			to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
278			
	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
279			
	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
280			
	918.13(1)	3rd	Tampering with or fabricating physical evidence.
281			
	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
282			
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

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Florida Statute	Felony Degree	Description
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving

			personal injury; leaving scene.
379.365(2)(c)1.		3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)		3rd	Willful molestation of a commercial harvester’s spiny lobster trap, line, or buoy.

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379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.

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790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18

		years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or

		conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards

		or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

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836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.

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849.15(3)(c)	2nd	Manufacture, sale, or possession of a slot machine; by a manager of five or more machines or two or more prior convictions.
849.157(2)	2nd	False or misleading statement to facilitate sale of slot machines or devices; five or more machines.
849.25(3)	2nd	Bookmaking; second or subsequent offense.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

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893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4)

			within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.		1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)		2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)		3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Martin

601-03148-24 20241046c1

A bill to be entitled

An act relating to gaming control; amending s. 843.08, F.S.; prohibiting a person from falsely personating any personnel or representative from the Florida Gaming Control Commission; providing a criminal penalty; amending s. 849.01, F.S.; specifying a violation of the prohibition against keeping a gambling house must be committed knowingly; increasing the criminal penalty for a violation; amending s. 849.15, F.S.; providing definitions; increasing the criminal penalty for specified violations involving a slot machine or device; creating s. 849.155, F.S.; prohibiting a person from trafficking in slot machines or devices; providing a criminal penalty; requiring a court to order an offender to pay a specified fine if he or she is convicted of trafficking in a specified number of slot machines or devices; providing for deposit of fines collected and use of proceeds; creating s. 849.157, F.S.; prohibiting a person from making false statements or disseminating false information regarding the legality of a slot machine or device to facilitate the sale or delivery of such device; providing criminal penalties; repealing s. 849.23, F.S., relating to penalties for specified violations; creating s. 849.47, F.S.; prohibiting a person from, for profit or hire, transporting or procuring the transportation of a specified number of other persons to facilitate illegal gambling; providing criminal penalties; defining the term

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Florida Senate - 2024 CS for SB 1046

601-03148-24 20241046c1

"illegal gambling"; creating s. 849.48, F.S.; prohibiting a person from making or disseminating specified advertisements to promote or facilitate illegal gambling; prohibiting activities for creation of specified advertisements if a person knows or reasonably should know such material will be used to promote or facilitate illegal gambling; providing a criminal penalty; providing an exception; defining the term "illegal gambling"; creating s. 849.49, F.S.; specifying that the regulation of gambling is expressly preempted to the state; providing an exception; amending s. 903.046, F.S.; requiring a court to consider the amount of currency seized that is connected to specified violations relating to illegal gambling when determining bail; amending s. 921.0022, F.S.; ranking offenses created by the act on the offense severity ranking chart of the Criminal Punishment Code; re-ranking specified offenses on the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; amending ss. 772.102 and 895.02, 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 843.08, Florida Statutes, is amended to read:

843.08 False personation.—A person who falsely assumes or

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pretends to be a firefighter, a sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, any personnel or representative of the Florida Gaming Control Commission, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian as described in s. 30.15(1)(k), a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s.

775.083, or s. 775.084. In determining whether a defendant has violated this section, the court or jury may consider any relevant evidence, including, but not limited to, whether the defendant used lights in violation of s. 316.2397 or s. 843.081.

Section 2. Section 849.01, Florida Statutes, is amended to read:

849.01 Keeping gambling houses, etc.—Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner knowingly has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, commits a felony of the third ~~misdemeanor of the second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or 775.084.

Section 3. Section 849.15, Florida Statutes, is amended to read:

849.15 Manufacture, sale, possession, etc., of slot machines or devices prohibited.—

(1) As used in this section the term:

(a) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(b) "Manager" means a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

1. Authorization to operate or hold open the business, establishment, premises, or other location without any other employee present;

2. Authorization to supervise another employee or employees; or

3. Any ownership interest in the business, establishment, premises, or other location.

(2)~~(1)~~ It is unlawful:

(a) To manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person or under the person's management or control, any slot machine or device or any part thereof; or

(b) To make or to permit to be made with any person any agreement with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value.

(3)(a) Except as provided in paragraphs (b) and (c), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1. At the time of the violation the person is acting as a manager.

2. Has one prior conviction for a violation of this section.

(c) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if he or she violates subsection (2) and:

1.a. At the time of the violation the person is acting as a manager; and

b. The violation involves five or more slot machines or devices.

2. Has two or more prior convictions for a violation of this section.

(4)~~(2)~~ Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of

gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into this state provided the destination of such shipments is an eligible facility as defined in s. 551.102 or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a).

Section 4. Section 849.155, Florida Statutes, is created to read:

849.155 Trafficking in slot machines or devices or any parts thereof.—Any person who knowingly sells, purchases, manufactures, transports, delivers, or brings into this state more than 15 slot machines or devices or any part thereof, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of slot machines or devices or any part thereof involved:

(1) Is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $100,000.

(2) Is 25 slot machines or devices or any part thereof or

more, but less than 50 slot machines or devices or any part thereof, such person must be ordered to pay a fine of $250,000.

(3) Is 50 slot machines or devices or any part thereof or more, such person must be ordered to pay a fine of $500,000.

All fines imposed and collected pursuant to this section must be deposited into the Pari-mutuel Wagering Trust Fund and may be used for the enforcement of chapters 546, 550, 551, and this chapter by the Florida Gaming Control Commission.

Section 5. Section 849.157, Florida Statutes, is created to read:

849.157 Making a false or misleading statement regarding the legality of slot machines or devices to facilitate sale.—

(1) Except as provided in subsection (2), a person who knowingly and willfully makes a materially false or misleading statement or who knowingly and willfully disseminates false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates subsection (1) when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 849.23, Florida Statutes, is repealed.

Section 7. Section 849.47, Florida Statutes, is created to read:

849.47 Transporting or procuring the transportation of persons to facilitate illegal gambling.—

(1) Except as provided in subsection (2), a person who knowingly and willfully for profit or hire transports, or procures the transportation of, five or more other persons into or within this state when he or she knows or reasonably should know such transportation is for the purpose of facilitating illegal gambling commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person who transports, or procures the transportation of, a minor or a person 65 years of age or older in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who transports, or procures the transportation of, 12 or more persons in violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 8. Section 849.48, Florida Statutes, is created to read:

849.48 Gambling or gaming advertisements; prohibited.—

(1)(a) Except as otherwise specifically authorized by law, a person may not knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause,

directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state, in any manner, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling.

(b) Except as otherwise specifically authorized by law, a person may not set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section does not prohibit the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of this state, where such gambling is not prohibited.

(4) As used in this section, the term "illegal gambling" means any criminal violation of chapter 546, chapter 550, chapter 551, or this chapter that occurs at any business, establishment, premises, or other location which operates for profit.

Section 9. Section 849.49, Florida Statutes, is created to read:

849.49 Preemption.— No county, municipality, or other political subdivision of the state shall enact or enforce any

ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10 or this chapter, except as otherwise expressly provided by the state constitution or general law.

Section 10. Present paragraphs (i) through (m) of subsection (2) of section 903.046, Florida Statutes, are redesignated as paragraphs (j) through (n), respectively, and a new paragraph (i) is added to that subsection, to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(i) The amount of currency seized that is connected to or involved in a violation of chapter 546, chapter 550, chapter 551, or this chapter.

Section 11. Paragraphs (a), (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.

104.0616(2)	3rd	Unlawfully distributing, ordering, requesting, collecting, delivering, or possessing vote-by-mail ballots.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount $1,000 or more but less than $20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212	3rd	Possession of forged, stolen,

(1)(a)-(c)		counterfeit, or unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value $1,000 or more.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.

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713.69	3rd	Tenant removes property upon which lien has accrued, value $1,000 or more.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.

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831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
~~849.09(1)(a)-(d)~~	~~3rd~~	~~Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes,~~

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		~~or dispose of property or money by means of lottery.~~
~~849.23~~	~~3rd~~	~~Gambling-related machines; "common offender" as to property rights.~~
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(c) LEVEL 3

Florida Statute	Felony Degree	Description

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119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained

		title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts

		thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.

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624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.

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810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234	3rd	Unlawful solicitation of

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(8)(b) & (c)		persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

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831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
849.01	3rd	Keeping a gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.09(1)(e), (f), (g), (i), or (k)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.09(1)(h) or (j)	3rd	Conducting an unlawful lottery; second or subsequent offense.
849.15(3)(b)	3rd	Manufacture, sale, or possession of slot machine; by

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		manager or with prior conviction.
849.157(1)	3rd	False or misleading statement to facilitate sale of slot machines or devices.
849.47(2)(a) & (b)	3rd	Transporting persons to facilitate illegal gambling; minor or person 65 years of age or older or 12 or more persons.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6.,

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		(2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation,

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		etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for

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		a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

Florida Statute	Felony Degree	Description

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Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or

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		certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete

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		information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.

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796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.019(1)	2nd	Stolen property; dealing in or

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		trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of

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		personal identification information of 10 or more persons.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain,

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		serious physical injury, or death.
836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.

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849.15(3)(c)	2nd	Manufacture, sale, or possession of a slot machine; by a manager of five or more machines or two or more prior convictions.
849.157(2)	2nd	False or misleading statement to facilitate sale of slot machines or devices; five or more machines.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s.

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		893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

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893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily

		injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.

467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a

		money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than

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		the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.

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784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services

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		of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or

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		threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation;

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		victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.

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812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.014(2)(f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates,

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		organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the

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		insolvency of that entity.
817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability,

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		or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.

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847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
849.155	1st	Trafficking in slot machines or devices or any part thereof.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or

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		state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

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893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.

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893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.

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893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to

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		comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure

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		to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 12. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 772.102, Florida Statutes, are amended to read:

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

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of

cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

4. Part IV of chapter 501, relating to telemarketing.

5. Chapter 517, relating to securities transactions.

6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

7. Chapter 550, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

15. Chapter 787, relating to kidnapping or human trafficking.

16. Chapter 790, relating to weapons and firearms.

17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

20. Chapter 812, relating to theft, robbery, and related crimes.

21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally

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unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury and loan sharking.

4. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 13. Paragraph (a) of subsection (12) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(12) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 551.109, relating to slot machine gaming.

4. Chapter 687, relating to interest and usury.

5. Section 849.09, s. 849.14, s. 849.15, ~~s. 849.23,~~ or s. 849.25, relating to gambling.

Section 14. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

Fiscal Policy
Committee

1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive
Street

Email mdunagan@flsheriffs.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 Sheriffs 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name Henry Mahler

Phone

Address 4070 Esplanade way Ste. 250
Street

Email Henry.Mahler@flgaming.gov

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:
Florida Gaming Control Commission

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

FIX Policy
Committee

1046
Bill Number or Topic

222
Amendment Barcode (if applicable)

Name Glenn Mingledorff Phone

Address 2475 Aenon Church Rd Email
Street

Tallahassee FL 32310
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22
Meeting Date

1046
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name ERIC KING V.F.W.

Phone 850 445.1047

Address 6119 OX BOTTOM MANOR DR.
Street

Email ericking@comcast.net

TALLAHASSEE FL 32311
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1-22-23
Meeting Date

Pury Policy
Committee

10:46
Bill Number or Topic

Amendment Barcode (if applicable)

Name William D. Harrelson

Phone 770-560-1109

Address 1641 Central Ave
Street

Email

Steelwatch22 32359
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

FISCAL POLICY
Committee

1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name SINCLAIR, WILLIE J

Phone 850 556 3984

Address 1542 MERRY OAKS CT
Street

Email brotherlucker2@gmail.com

TLH 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:

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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22 Feb 2024
Meeting Date

1046
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Dan Karth

Phone 3522152242

Address 418 2nd ST NE
Street

Email dankarth@gmail.com

Steinhatchee FL 32359
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Physical Policy
Committee

1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cynthia Laskowski

Phone 9047049791

Address 2131 N. Meridian Rd #204
Street

Email Cindylas@gmail.com

Tall 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:

☐ 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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2-22-24
Meeting Date

Fiscal Policy
Committee

1076
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Zachem Phone 850-633-2224

Address Street

Email jon@zachemlaw.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: Amusement Machine Association 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)

The Florida Senate

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2-22-24
Meeting Date

Fiscal Policy
Committee

1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shelley Jefferson

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Street

Email Shelleyjtractor@Gmail.com

Steinhatchee FL 32359
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:

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

1046
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name STUART SCOTT

Phone 850 443 8769

Address 2984 PATS PL
Street

Email Stuartscottfl@gmail

TAL 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:

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S-001 (08/10/2021)

2/22/24
Meeting Date

The Florida Senate

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1046
Bill Number or Topic

SB 22 Fiscall Policy
Committee

Amendment Barcode (if applicable)

Name Thomas Johnson

Phone 802-505-1541

Address 181 SE Whistle Loop
Street

Email tfmtom@Gmail.com

Lake City Fl. 32025
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:

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

1046 Gaming
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bill Helmich

Phone 850-251-3126

Address 303 Johns Drive
Street

Email bill@helmichconsulting.com

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:
American Legion / Veterans of Foreign Wars

☐ 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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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1046
Bill Number or Topic

879358
Amendment Barcode (if applicable)

Name Henry Mahler

Phone

Address 4070 Esplanade Way Ste. 250
Street

Email henry.mahler@flgaming.gov

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: Florida Gaming Control Commission

☐ 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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2/22/24
Meeting Date

PHYSICAL POLICY
Committee

10:46
Bill Number or Topic

Amendment Barcode (if applicable)

Name JIM DIETRICH

Phone 850-259-3447

Address P.O. BOX 727
Street

Email

STEINHATCHEE FL 32359
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

1046
Bill Number or Topic

Amendment Barcode (if applicable)

Name John Yeager

Phone 404 831 8268

Address 307 SW 725th St
Street

Email johnyeager75@gmail

Steinhatchee FL 32359
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:

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1084
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; and Senator Collins
SUBJECT:	Department of Agriculture and Consumer Services
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burse	Becker	AG	**Favorable**
2.	Blizzard	Betta	AEG	**Fav/CS**
3.	Burse	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1084 makes a number of changes to various regulatory activities of the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Preempts the regulation of electric vehicle charging stations to the state and prohibits local governmental entities from enacting or enforcing such regulations.
- Provides an expiration date of the pest control operator's certificate and amends requirements for its renewal.
- Prohibits applicants from swearing or affirming a false statement on an application for a pest control license, prohibits cheating on an examination required for licensure, and grants the department rulemaking authority to establish penalties for violations.
- Authorizes a Class "K" instructor to allow a Class "G" licensee to qualify for up to two calibers of firearms in a four hour firearm requalification class.
- Authorizes the department to appoint a tax collector to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under ch. 493, F.S.
- Authorizes a tax collector appointed under s. 790.0625, F.S., to collect certain fees and provide certain services for concealed weapon or firearm licenses on behalf of the department.
- Revises certain information that charitable organizations, sponsors, professional fundraising consultants, and professional solicitors must provide to the department to include street addresses.

- Eliminates the requirement for the name and street address of each institution where banking or similar monetary transactions are done by the charitable organization or sponsor, on registration statements.
- Amends the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers, or permanent employees under $50,000 in the previous year.
- Amends the charitable organizations' exemption from registration thresholds to refer to total contributions.
- Revises the information that must be displayed on certain collection receptacles to include street addresses.
- Provides that a person who solicits funds within a public transportation facility must obtain a written permit that includes street addresses and must be displayed prominently on the person's badge or insignia.
- Prohibits and creates penalties for the manufacture for sale, sale, hold or offer for sale, or distribution of cultivated meat in this state and provides it is a violation to knowingly violate this section.
- Repeals the provision that requires the Weights and Measures Act from expiring on July 1, 2025.
- Revises the information that must be provided to the department on a motor vehicle repair shop registration application and provides that the registration fee must be calculated for each location.
- Increases the threshold value of repair work which requires motor vehicle repair shops to provide a customer with a written repair estimate from $100 to $150.
- Increases the department's statutory authority to repair or build structures from $250,000 to $500,000.
- Changes the name of the Florida Agriculture Museum to the Florida Agriculture Legacy Learning Center, and makes conforming changes.
- Prohibits the willful destroying, harvesting, or selling of saw palmetto berries on private or public land without the written permission of the landowner, provides penalties for violations, and grants rulemaking authority to the department.
- Revises the definition of "hemp extract" to mean hemp containing more than trace amounts of a cannabinoid which is intended for ingestion or for inhalation but which does not contain controlled substances.
- Provides criminal penalties for trespassing on land classified as commercial agricultural property.
- Provides that a student's participation in a 4-H or Future Farmers of America (FFA) activity is an excused absence from school.

The bill has an indeterminate fiscal impact on state revenues and expenditures. See Section V., Fiscal Impact Statement.

Unless otherwise provided, the effective date of the bill is July 1, 2024.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Electric Vehicles

Present Situation

Electric Vehicle Charging Stations

Consumers and fleets considering electric vehicles (EVs), including all-electric vehicles and plug-in hybrid electric vehicles (PHEVs), need access to charging equipment. For most drivers, this starts with charging at home or at fleet facilities. Charging stations at workplaces, public destinations, and along highways offer more flexible charging opportunities at commonly visited locations.[1]

EV charging equipment is classified based on the rate of charge:[2]

- Alternating Current (AC) Level 1 equipment provides charging through a common 120 volt AC outlet. Most, if not all, EVs come with a portable Level 1 cord, so no additional charging equipment is required. Level 1 chargers can take 40-50 hours to charge an all-electric vehicle from empty and five to six hours to charge a PHEV from empty.[3]
- AC Level 2 equipment offers charging through 240 volt (in residential applications) or 208 volt charging. As of 2022, 80 percent of public EV charging ports in the country were Level 2.[4] Level 2 chargers can charge an all-electric vehicle from empty in four to 10 hours and a PHEV from empty in one to two hours.[5]
- Direct-current (DC) fast charging equipment enables rapid charging along heavy traffic corridors at installed stations. As of 2022, more than 20 percent of public EV charging ports in the country were DC fast chargers.[6] DC fast charging equipment can charge an all-electric vehicle to 80 percent in 20 minutes to one hour.[7]

Charging times vary depending on the depletion level of the battery, how much energy the battery holds, the type of battery, temperature, and the type of supply equipment.

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[1] U.S. Dept. of Energy (DOE), Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Vehicles,* https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited Jan. 17, 2024).
[2] U.S. Environmental Protection Agency (EPA), *Plug-in Electric Vehicle Charging,* https://www.epa.gov/greenvehicles/plug-electric-vehicle-charging-basics (last visited Jan. 17, 2024).
[3] U.S. Dept. of Transportation (USDOT), *Electric Vehicle Charging Speeds,* https://www.transportation.gov/rural/ev/toolkit/ev-basics/charging-speeds (last visited Jan. 17, 2024).
[4] DOE, *supra* note 1.
[5] DOT *supra* note 3.
[6] DOE, *supra* note 1.
[7] DOT, *supra* note 3.

Currently, 44 of Florida's 67 counties[8] have 3,230 EV public charging stations offering a total of 8,981 charging ports. AC Level 2 charging ports comprise 6,793 of these ports, and DC fast charging ports comprise 2,164 of these ports.[9] Florida law requires the Department of Agriculture and Consumer Services (department) to adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for EV charging stations to provide consistency for consumers and the industry.[10]

Preemption

The State Constitution grants local county and municipal governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are proved by general or special law.[11] Those counties operating under a county charter have all powers of self-government not inconsistent with general or with special law approved by the vote of the electors.[12] Likewise, municipalities[13] have those governmental, corporate, and proprietary powers enabling them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[14]

There are two ways that a local government can be inconsistent with state law and therefore unconstitutional. First, a local government cannot legislate in a field if the subject area has been preempted to the state. Second, in a field where both the state and local government can legislate concurrently, a local government cannot enact an ordinance that directly conflicts with the state statute.[15]

State law recognizes two types of state preemption: express and implied. Express preemption requires a specific legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.[16] In contrast, implied preemption exists if the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.[17] Courts determining

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[8] Florida Department of Agriculture and Consumer Services (FDACS), Transportation, *Alternative Fueling Stations and Electric Vehicle Charging Stations*, https://www.fdacs.gov/Business-Services/Energy/Florida-Energy-Clearinghouse/Transportation (last visited Jan. 17, 2024)

[9] U.S. Dept. of Energy, Alternative Fuels Data Center (AFDC), *Alternative Fueling Station Counts by State*, https://afdc.energy.gov/stations/states (last visited Jan. 17, 2024).

[10] Section 366.94, F.S.

[11] Art. VIII, s. 1(f), Fla. Const.

[12] Art. VIII, s. 1(g), Fla. Const.

[13] A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term "municipality" may be used interchangeably with the terms "town,", "city," and "village."

[14] Art. VIII, s. 2(b), Fla. Const.; *see also* section 166.021(1), F.S.

[15] *Orange County v. Singh*, 268 So. 3d 668, 673 (Fla. 2019) (citing *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309, 314 (Fla. 2008)); *see also* James Wolf & Sarah Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. Bar J. 92 (2009), https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/ (last visited Jan. 17, 2024).

[16] *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantam of Brevard, Inc.*, 3 So. 3d at 1018.

[17] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.[18]

Effect of Proposed Changes

Section 1 amends s. 366.94, F.S., to preempt the regulation of EV charging stations to the state and prohibits local governmental entities from enacting or enforcing such regulations.

Pest Control

Present Situation

Pest Control License

For structural pest control (pest control provided to homes or other structures), Florida law requires that each pest control business location must:

- Be licensed by the Florida Department of Agriculture and Consumer Services (department);
- Carry the required insurance coverage ($250,000 per person and $500,000 per occurrence for bodily injury, and $250,000 per occurrence and $500,000 in the aggregate for property damage, or a combined single limit coverage of $500,000 in the aggregate); and
- Employ full-time a Florida-certified operator in charge of the pest control operations of the business location. This operator must be certified in the categories in which the business operates:
  - General Household Pest and Rodent Control,
  - Termite and Other Wood-Destroying Organisms Control,
  - Lawn and Ornamental Pest Control, and/or
  - Fumigation.[19]

The business license fee is $300, and the fee for each employee identification card is $10.[20]

A certified operator is an individual who has passed an examination administered by the department in any of four certification categories:

- General Household and Rodent Control;
- Lawn and Ornamental Pest Control;
- Termite and Other Wood-Destroying Organisms Control; and
- Fumigation.[21]

A person can be certified in just one or all four categories.

[18] *See, e.g., National Rifle Association of America, Inc. v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (concluding that a City of South Miami local government ordinance, which purported to provide safety standards for firearms, was null and void because the Legislature expressly preempted the entire field of firearm and ammunition regulation when it enacted section 790.33, F.S.)
[19] FDACS, Pest Control Licensing and Certification, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Licensing-and-Certification (last visited January 17, 2024).
[20] *Id.*
[21] FDACS, Pest Control FAQ, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Pest-Control-FAQ (last visited January 17, 2024).

A company's pest control operations are the responsibility of the certified operator in charge and the business operations are limited to the category (or categories) possessed by the certified operator (or operators) in charge at the business location.[22]

Limited Certification Programs

The department also administers four Limited Certification Categories:
- Commercial landscape maintenance applicators;
- Governmental or private applicators;
- Commercial urban fertilizer applicators; and
- Commercial wildlife management.[23]

None of these certifications allows the operation of a commercial pest control business.

Effect of Proposed Changes

Section 2 amends s. 482.111, F.S., to provide an expiration date of the pest control operator's certificate and amends requirements for its renewal.

Section 3 amends s. 482.151, F.S., to provide an expiration date of the special identification card for fumigation and amends requirements for its renewal.

Section 4 amends s. 482.155, F.S., to provide an expiration date of the limited certification for governmental pesticide applicators or private applicators and amends requirements for its renewal.

Section 5 amends s. 482.156, F.S., to authorize individual commercial landscape maintenance personnel to apply herbicides in certain areas and to use certain pesticides. This section also sets the expiration date of the limited certification for commercial landscape maintenance personnel and amends requirements for its renewal.

Section 6 amends s. 482.157, F.S., to provide an expiration date of the limited certification for commercial wildlife management personnel and amends requirements for its renewal.

Section 7 amends s. 482.161, F.S., to provide additional disciplinary grounds related to licensure or licensure renewal applications.

Section 8 amends s. 482.191, F.S., to prohibit applicants from swearing or affirming a false statement on an application. This section also prohibits cheating on an examination required for licensure and grants the department rulemaking authority to establish penalties for violations.

[22] *Id.*
[23] FDACS, Pest Control Licensing and Certification, *available at*, https://www.fdacs.gov/Business-Services/Pest-Control/Licensing-and-Certification (last visited January 17, 2024).

Wood-Destroying Organisms Inspections

Inspection for wood destroying organisms is regulated as a pest control activity under the Florida Structural Pest Control Act, ch. 482, F.S. Section 482.226, F.S., requires that when an inspection for wood destroying organisms is conducted for the purposes of a real estate transaction, and either a fee is charged, or a written report is requested, that a person qualified under Chapter 482 issue the report.[24]

Section 482.226, F.S., also includes requirements as to what the report must include and a requirement that a notice of the inspection be posted in the access area to the attic or crawl or other accessible area of the structure inspected.[25] Licensees who perform wood destroying organism inspections for real estate transactions are required to have a minimum of $50,000 in insurance coverage (or a bond) for professional liability for errors and omissions, or demonstrate an equity or net worth of no less than $100,000.[26]

In addition, if treatment is made to the structure at the time of the inspection, the report must include information on the name of each wood destroying organism for which treatment was provided at the time of the inspection, the name of the pesticide used, and the conditions and terms associated with that treatment.[27]

Effect of Proposed Changes

Section 9 amends s. 482.226, F.S., to require that a signed report be supplied to the property owner after each inspection or treatment for the presence or absence of wood destroying organisms. The bill also prohibits inspections and treatments unless the licensee has an identification card.

Section 10 amends s. 487.031, F.S., relating to prohibited acts, to prohibit pesticide applicator license applicants from swearing or affirming a false statement on an application. This section also prohibits cheating on an examination required for licensure.

Section 11 amends s. 487.175, F.S., relating to penalties and administrative fines, to prohibit applicants from swearing or affirming a false statement on an application for pesticide applicator licensure. This section also prohibits cheating on an examination required for licensure and grants the department rulemaking authority to establish penalties for violations.

[24] FDACS, Baseline practices for performing 13645 WDO inspections, *available at*, https://ccmedia.fdacs.gov/content/download/3137/file/industry_baseline_final_10-07.pdf (last visited January 17, 2024).
[25] Section 482.226(2)(4), F.S.
[26] Section 482.226(6), F.S.
[27] Section 482.226(2)(b), F.S.

Firearm Licensing

Present Situation

Chapter 493 Licensees, Generally

The Division of Licensing within the department is responsible for investigating and issuing licenses to conduct private security and private investigative services pursuant to ch. 493, F.S. As of November 30, 2023, there are 140,248 Class "D" security officer licensees, 6,921 Class "C" private investigator licensees, 25,283 Class "G" statewide firearm licensees, 691 Class "K" firearms instructor licensees, 1,320 Class "CC" private investigator intern licensees, 455 Class "M" private investigative or security manager licensees, 73 Class "MA" private investigative agency manager licensees, and 1,497 Class "MB" security manager licensees.[28] A ch. 493, F.S., licensee must renew his or her individual license every two years.[29]

A security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; or transportation of prisoners.[30] Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.[31] Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of either their employer's business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.[32]

A private investigator is an individual who investigates a person for the purpose of obtaining information with reference to the following specific matters:[33]

- Crimes or wrongdoings against the United States or any state or territory, when operating under express authority of a governmental official;
- The identity, habits, conduct, movement, and other characteristics of any society, person, or group of persons;
- The credibility of a witness or other person;
- The whereabouts of a missing person, owner of unclaimed or escheated property, or heirs to an estate;
- The location or recovery of lost or stolen property;
- The causes and origin of fires, libel, slander, losses, accidents, damage, or injuries to real or personal property; or
- Securing evidence to be used before an investigating committee or board, or in a civil or criminal trial.

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[28] FDACS, Division of Licensing, *Number of Licensees by Type* (Nov. 30, 2023), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Jan. 17, 2024).
[29] Licenses shall be valid for a period of two years, except for Class "A," Class "B," Class "AB," Class "K," Class "R," and branch agency licenses, which shall be valid for a period of three years. *See* s. 493.6111(2), F.S.
[30] Section 493.6101(19), F.S.; *see also*, FDACS, *Private Security Licenses*, https://www.fdacs.gov/Business-Services/Private-Security-Licenses (last visited Jan. 17, 2024).
[31] Section 493.6102(1), F.S.
[32] Section 493.6102(4), (13), F.S.
[33] Section 493.6101(16), F.S. *See also*, FDACS, *Private Investigation* (Dec. 2017), https://licensing.freshfromflorida.com/forms/P-01721.pdf (last visited Jan. 17, 2024).

Class "G" Statewide Firearm License

A Class "G" license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class "G" license is available only to individuals who currently hold one of the following licenses: private investigator (Class "C"), private investigator intern (Class "CC"), security officer (Class "D"), private investigative or security agency manager (Class "M"), private investigative agency manager (Class "MA"), or security agency manager (Class "MB").[34] The "Class G" license must be renewed every two years.

Application and Training Requirements for Class "G" Licensees

An initial applicant for a Class "G" license must complete firearm training, which must include at least 28 hours of range and classroom training (range training must be eight hours) that is administered by a Class "K" licensee.[35]

Class "G" licensees must annually complete four hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.[36]

A Class "G" licensee is subject to a biennial statewide firearm license fee of $112, but there is no application fee.[37] The applicant for a Class "G" license must submit a fingerprint processing ($42) and retention ($10.75) fee, however—this fee is waived if the applicant has otherwise paid these fees for any other license under ch. 493, F.S., within the last six months.[38]

Regulation of Class "G" Licensees

A Class "G" licensee may only carry two firearms when performing his or her licensed duties. Unless the department grants specific approval otherwise, the types of weapons a Class "G" licensee may use are limited to the following: a .38 caliber revolver; a .380 caliber or .9 mm semiautomatic pistol; a .357 caliber revolver used with .38 caliber ammunition; a .40 caliber handgun; or a .45 ACP handgun.[39]

If a Class "G" licensee discharges his or her firearm during the course of her or his duties, the licensee must file an incident report with the department.[40]

Class "G" licensees are subject to penalty, ranging from a fine to the suspension or revocation of their license, for the following violations of administrative rule:[41]

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[34] Section 493.6115(2), F.S.
[35] Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).
[36] Section 493.6113(3)(b), F.S.
[37] Fla. Admin. Code R. 5N-1.116(2)(a)6. and (2)(c). *See also*, FDACS, *Chapter 493, F.S., Renewal License Fee Schedule*, https://www.fdacs.gov/content/download/73502/file/FS493_Renewal_License_Fees.pdf (last visited Jan. 17, 2024).
[38] Fla. Admin. Code R. 5N-1.116(3)(a).
[39] Section 493.6115(6), F.S. *See also*, FDACS, *Approved Firearms for Class "G" License Holders*, https://www.fdacs.gov/Business-Services/Private-Investigation-Licenses/Approved-Firearms-for-Class-G-License-Holders (last visited Jan. 17, 2024).
[40] Section 493.6115(9), F.S.
[41] Fla. Admin. Code R. 5N-1.113. *See also*, s. 493.6118(1), F.S.

- Conviction of, or adjudication of guilt withheld, on a crime directly related to the business for which the license is held;
- Improper exhibition of a firearm;
- Careless or improper handling of a firearm resulting in a discharge;
- Firing an unjustifiable warning shot while on duty;
- Impersonating a law enforcement officer or government employee; and
- Commission of an act of violence not in the lawful protection of one's self or another.

Concealed Weapon and Firearm License

Florida is a "shall issue"[42] state for applications for concealed weapon and firearm licenses.[43] The department must review and either issue or deny a license within 90 days of receiving an application.[44] As of November 30, 2023, there were 2,511,443 concealed weapon or firearm licensees in Florida.[45]

The department must issue a license, which expires after seven years,[46] if an applicant:

- Is a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has not been convicted of a felony;
- Has not been found guilty of a controlled substances crime within the previous three years;
- Has not been committed for the abuse of a controlled substance;[47]
- Does not suffer from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;[48]
- Desires to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency with a firearm;[49]

[42] Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a "shall issue," or "may issue" basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law.
[43] Section 790.06(2), F.S.
[44] Section 790.06(6)(c), F.S.
[45] FDACS, Division of Licensing, *Number of Licensees by Type* (Nov. 30, 2023), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Jan. 17, 2024).
[46] Section 790.06(1), F.S.
[47] An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.
[48] The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a three-year period preceding the date which the application is submitted. *See*, s. 790.06(2)(f), F.S.
[49] There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the department.

- Has not been adjudicated as an incapacitated person;
- Has not been committed to a mental institution;[50]
- Has not had an adjudication of guilt withheld or a suspended sentence on a felony unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has not been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.[51]

The department must suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.[52] The department is also required to suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.[53]

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.[54] According to s. 790.06(12)(a), F.S., the license, however, "does not authorize any person to carry a concealed weapon or firearm into:"

- Any place of nuisance;[55]
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;[56]
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;

[50] An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.
[51] Section 790.06(2)(n), F.S.
[52] Section 790.06(3), F.S.
[53] *Id.*
[54] Section 790.06(1), F.S.
[55] *See* s. 823.05, F.S., for an extensive description of places of nuisance.
[56] However, judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.

- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;[57]
- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.[58]

Appointment of tax collectors to accept applications for a concealed weapon or firearm license

The department may appoint tax collectors,[59] to accept applications on behalf of the department's Division of Licensing (division) for concealed weapon or firearm licenses. A tax collector appointed under s. 790.0625, F.S., may collect and retain a convenience fee of $22 for each new application and $12 for each renewal application.[60]

A tax collector seeking to be appointed must submit a written request to the division stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the division.[61] If the written request is approved by the division, the tax collector will be permitted to accept applications for new or renewal concealed weapon or firearm licenses on behalf of the department.[62]

A tax collector is prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm.[63]Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.[64]

Effect of Proposed Changes

Section 12 amends s. 493.6113(3)(b), F.S., to provide that a Class "K" instructor has discretion to allow a Class "G" licensee to qualify for up to two calibers of firearms in a four hour firearm requalification class if the licensee successfully completes training for each firearm, including a separate course of fire for each caliber of firearm.

Section 13 creates s. 493.6127, F.S., which gives the department authority to appoint tax collectors to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under ch. 493, F.S. Such appointments must be for specified locations that will best serve the public interest.

[57] However, a "student, employee, or faculty member" may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.
[58] Section 790.06(12)(a)1.-15., F.S.
[59] *See* s. Art. VIII, § 1(d), Fla. Const.
[60] Section 790.0625(5), F.S.
[61] Section 790.0625(3), F.S.
[62] Section 790.0625(3)(a), F.S.
[63] Section 790.0625(6)(a), F.S.
[64] Section 790.0625(8), F.S.

The bill provides that a tax collector seeking to be appointed must submit a written request to the department stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the department.

The bill requires the department to review each written request upon receipt. The department may decline to enter into a memorandum of understanding, or may approve the written request and enter into a memorandum of understanding with the tax collector to accept applications for new or renewal licenses on behalf of the department. However, the department may rescind a memorandum of understanding for any reason at any time.

The bill provides that information and records provided pursuant to ss. 493.6105 and 493.6113, F.S., remain confidential pursuant to s. 493.6122, F.S., or any other state or federal law.

The bill prohibits any person from handling an application for a license issued under ch. 493, F.S., for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

The bill establishes that an appointed tax collector may collect and retain a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail. Each week, the tax collector is required to remit the license fees to the department to be deposited in the Division of Licensing Trust Fund.
The bill provides that a person who willfully violates s. 493.6127, F.S., commits a second degree misdemeanor.[65]

The bill provides that upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, an authorized tax collector may, upon approval and confirmation of license issuance by the department, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

Section 37 amends s. 790.0625, F.S., to provide that a tax collector appointed under s.790.0625, F.S., may collect and retain $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photographing services associated with the completion of an application submitted online or by mail.

The bill clarifies that a tax collector is authorized to accept renewal applications from an applicant for the renewal of a concealed weapon or firearm license. If an applicant is approved by the department and completes a renewal application, provides a color photograph, and pays the required fees, then the tax collector may print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

[65] A second degree misdemeanor is generally punishable by not more than 60 days in county jail, and a fine not exceeding $500. Sections 775.082 and 775.083.

The bill authorizes a tax collector to print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed if a statement is received to the department made under oath and payment of the required fees is received. The department must confirm and approve that the aforementioned license is in good standing. Additionally, a tax collector who is authorized to accept an application for a concealed weapon or firearm license may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

Section 44 reenacts s. 493.6115, F.S., related to Class "G" license.

Charitable Organizations

Present Situation

Charitable Organizations and Sponsors

Organizations that intend to solicit donations in Florida are required to register with the department pursuant to the Solicitation of Contributions Act.[66] The Act contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors,[67] fundraising consultants, and solicitors.

Registration Statements

An initial registration statement must be submitted to the department and include a financial report, a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must include a statement related to the charity's activity in other states, including whether the charity is authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.[68]

The following charitable organizations and sponsors are exempt from the registration requirements:

- A person who is soliciting for a named individual;
- A charitable organization or sponsor that limits solicitations of contributions to the membership of the charitable organization or sponsor;

[66] Section 496.401, F.S.

[67] A sponsor is a group or person who is or holds itself out to be soliciting contributions by the use of a name that implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization. The term includes a chapter, branch, or affiliate that has its principal place of business outside the state if the chapter, branch, or affiliate solicits or holds itself out to be soliciting contributions in the state. Section 496.404(25), F.S.

[68] Section 496.405(2), F.S.

- Any division, department, post, or chapter of certain veterans' service organizations are exempt from the registration requirements; or
- A charitable organization that has less than $50,000 in total revenue as long as they did not employ professional solicitors or have paid employees.[69]

Before soliciting contributions, the charitable organization or sponsor claiming the exemption must provide the department with certain financial and identifying information including the name, address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose for which the contributions to be solicited will be used.[70]

Financial Statements

A charitable organization or sponsor that is required to register or renew registration must file an annual financial statement for the immediate preceding year with the department. The statement must include:

- A balance sheet;
- A statement of support, revenue and expenses;
- Names and addresses of any charities, professional fundraising consultants, professional solicitors, and commercial co-ventures used and the amounts received from each of them; and
- A statement of functional expenses that must include program service costs, management and general costs, and fundraising costs.[71]

Upon the showing of good cause by a charitable organization or sponsor, the department may extend the time for the filing of a financial statement by up to 180 days.[72]

Disclosure Requirements of Charitable Organizations and Sponsors

Charitable organizations or sponsors can solicit contributions only for the purpose expressed in the solicitation for contributions or the registration statement. The following disclosures must be included at the point of solicitation: the name of the organization or sponsor and principal place of business of the organization or sponsor; a description of the purpose for which the solicitation is being made; the name and address or telephone number of a person to whom inquiries may be addressed; the amount of the contribution which may be deducted from federal income tax; and the source from which a written financial statement may be obtained.[73]

[69] Section 496.406(1), F.S.
[70] Section 496.406(2), F.S.
[71] Section 496.407(1), F.S.
[72] Section 496.407(3), F.S.
[73] Section 496.411, F.S.

Professional Fundraising Consultants

Professional fundraising consultants[74] are required to annually register and pay a $300 fee to the department before operating in Florida.[75] Additionally, professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with ch. 496, F.S., and has obtained approval from the department of a registration statement.[76]

Applications for registration or renewal must be signed by an authorized official of the professional fundraising consultant and must include certain identifying information such as the names and residence addresses of all principals of the applicant, including all officers, directors, and owners; the form of the applicant's business; and the street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside of Florida.[77]

After receiving the registration statement, the department has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days the department has not notified the consultant, the registration is deemed approved.[78]

Professional Solicitors

Professional solicitors[79] must annually register and pay a $300 fee to the department before operating in Florida.[80] Information that must be provided for registration or renewal includes the street address and telephone number of the business, the form of the applicant's business, the place and date when the applicant was legally established, and the names and residence addresses of all principals, including officers, directors, and owners. The application must also provide a list of all telephone numbers to be used by the applicant to solicit contributions as well as the physical address associated with each telephone number. [81]

After receiving the registration statement, the department has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days the department has not notified the solicitor, the registration is deemed approved.[82]

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[74] A professional fundraising consultant is a person retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, carry on, advise, consult, or prepare material for a solicitation of contributions in Florida but who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions. Section 496.404(20), F.S.
[75] Section 496.409(1),(3), F.S.
[76] *See* s. 496.409(6), F.S.
[77] Section 496.409(2), F.S.
[78] Section 496.409(6), F.S.
[79] A professional solicitor is a person who, for compensation, performs for a charitable organization or sponsor a service in connection with which contributions are or will be solicited in, or from a location in, Florida by the compensated person or by a person it employs, procures, or otherwise engages, directly or indirectly, to solicit contributions, or a person who plans, conducts, manages, carries on, advises, consults, directly or indirectly, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor but who does not qualify as a professional fundraising consultant. Section 496.404(21), F.S.
[80] Section 496.410, F.S.
[81] Section 496.410(2), F.S.
[82] Section 496.410(5), F.S.

Solicitors must also file a solicitation notice with the department at least 15 days before beginning a solicitation campaign or event. The notice must include identifying information including residence addresses.[83] During each solicitation campaign, and for not less than three years after its completion, the solicitor must maintain certain records including addresses of contributors and employees involved in the solicitation.[84] Additionally, if solicitors sell tickets to events, the solicitor must maintain records including addresses of contributors and of organizations that receive the donated tickets.[85]

A solicitor license must be obtained from the department by each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting telephonic solicitations during which a donor's or potential donor's personal financial information is requested or provided, is required. Among other information, the license application must include the name, home address, date of birth, and identification number of a government-issued ID of the applicant.[86]

Collection Receptacles for Donations

All collection receptacles for donations must display a permanent sign on each side of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity.[87]

Solicitation of Funds within Public Transportation Facilities

Any person wanting to solicit funds within a public transportation facility must obtain a written permit from the authority responsible for the administration of the facility. The application for the permit submitted to the authority must include the name, mailing address, and telephone number of the person or organization; the name, mailing address, and telephone number of each person participating in the activity as well as the person in charge of the activity; a description of the proposed activities; the dates and hours of the activities; and the number of persons engaged in such activities. While conducting the activities, each solicitor must display prominently a badge or insignia provided by the authority that describes the solicitor by name, age, height, weight, eye color, hair color, address, and principal occupation, and indicating the name of the organization for which the funds are solicited.[88]

Effect of Proposed Changes

Section 14 amends s. 496.404, F.S., to define the term "street address" as the physical location where activities subject to regulation under ch. 496, F.S., are conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.

[83] Section 496.410(6), F.S.
[84] Section 496.410(10), F.S.
[85] Section 496.410(11), F.S.
[86] Section 496.4101, F.S.
[87] Section 496.4121, F.S.
[88] S. 496.425, F.S.

Section 15 amends s. 496.405, F.S., to amend the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers or permanent employees under $50,000 in the previous fiscal year.

Section 16 amends s. 496.406, F.S., to amend the exemption threshold to refer to total contributions and not total revenue. The bill also revises the information charitable organizations and sponsors must provide to the department when claiming certain exemptions to include street addresses.

Section 17 amends s. 496.407, F.S., to revise the financial information charitable organizations and sponsors must provide to the department to include street addresses, and removes the requirement that a charitable organization or sponsor must show good cause in order to receive a filing extension from the department.

Section 18 amends s. 496.409, F.S., to revise the information professional fundraising consultants must include in applications for registration or renewals of registration to include street addresses rather than residence addresses.

Section 19 amends s. 496.410, F.S., to revise the information that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department, and that solicitors are required to maintain in their records to include street addresses rather than physical or residence addresses.

Section 20 amends s. 496.4101, F.S., to revise the information that must be included in certain solicitor license applications to include street addresses rather than home addresses.

Section 21 amends s. 496.411, F.S., to revise the information that disclosures of charitable organizations or sponsors soliciting in Florida must include street addresses.

Section 22 amends s. 496.4121, F.S., to revise the information that must be displayed on certain collection receptacles to include street addresses.

Section 23 amends s. 496.425, F.S., to provide that a person who solicits funds within a public transportation facility must provide in an application to the authority and must display prominently on the person's bade or insignia, to include street addresses.

Section 45 reenacts s. 496.4055, F.S., related to the board of directors of a charitable organization.

Alternative Meat

Present Situation

Cultivated Meat

The United States Department of Agriculture (USDA) describes human food made with cultured animal cells as the ability to take a small number of cells from living animals and grow them in a

controlled environment to create food.[89] The USDA summarizes the process of making cultured meat below:

- Step 1: Scientists typically start with a sample of cells from the tissue of an animal or fish, a process that typically does not permanently harm or kill the animal. Some cells from the sample are selected, screened, and grown to make a "bank" of cells to store for later use.
- Step 2: To make food, a small number of cells are taken from the cell bank and placed in a tightly controlled and monitored environment (e.g., a very large, sealed vessel) that supports growth and cellular multiplication by supplying appropriate nutrients and other factors.
- Step 3: After the cells have multiplied many times over into billions or trillions of cells, additional factors (e.g., protein growth factors, new surfaces for cell attachment, additional nutrients) are added to the controlled environment to enable the cells to differentiate into various cell types and assume characteristics of muscle, fat, or connective tissue cells.
- Step 4: Once the cells have differentiated into the desired type, the cellular material can be harvested from the controlled environment and prepared using conventional food processing and packaging methods.[90]

In 2019 the United States Food and Drug Administration (FDA) and the USDA's Food Safety and Inspection Service agreed to establish a joint regulatory framework for human foods made from cultured cells of livestock and poultry to help ensure that any such products brought to market are safe, unadulterated, and truthfully labeled.[91]

As of 2024, there are currently several states that have laws related to the proper labeling of meat and lab grown meat products.[92]

Effect of Proposed Changes

Section 24 amends s. 500.03, F.S., to provide a definition for cultivated meat to mean any meat or food product produced from cultured animal cells. This section is effective upon the bill becoming a law.

Section 25 creates s. 500.452, F.S., to prohibit the manufacture for sale, sale, hold or offer for sale, or distribution of cultivated meat in this state. The bill also provides the penalties for knowingly violating this section and gives the department rulemaking authority. This section is effective upon the bill becoming a law.

Section 26 amends s. 507.07, F.S., to prohibit a mover from placing a shipper's goods in a storage unit not owned by the mover unless the goods are stored in the shipper's name and the shipper contracts directly with the owner storage unit.

[89] USDA, Human Food Made with Cultured Animal Cells, *available at*, https://www.fsis.usda.gov/inspection/compliance-guidance/labeling/labeling-policies/human-food-made-cultured-animal-cells (last visited January 17, 2024).
[90] *Id.*
[91] *Id.*
[92] Penn State Law, Scope of the Meat Labeling Law Issue Tracker, *available at*, https://aglaw.psu.edu/research-by-topic/issue-tracker/meat-labeling-law-2018-present/ (last visited January 17, 2024).

Bureau of Standards

Present Situation

Weights, Measures, and Standards

The department's Bureau of Standards is responsible for the inspection of weights and measures devices or instruments in Florida.[93] "Weights and measures" are defined as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices, excluding taximeters, transportation measurement systems, and those weights and measures used for the purpose of inspecting the accuracy of devices used in conjunction with aviation fuel.[94] The weights and measures program is funded through permit fees.[95] This framework including provisions related to general permitting, initial and renewal applications, maximum permit fees, suspensions, penalties, revocations, and exemptions, are set to expire on July 1, 2025.[96]

Effect of Proposed Changes

Section 27 repeals s. 531.67, F.S.; thus, saving the Weights and Measures Act from expiring on July 1, 2025.

Motor Vehicle Repair

Present Situation

Motor Vehicle Repair Shop Registration and Written Repair Estimates

The Florida Motor Vehicle Repair Act[97] requires anyone who is paid to repair motor vehicles owned by other individuals to register with the department. Registration applications must include: the name of the applicant; the name under which the applicant is doing business; the business address; copies of all licenses, permits, and certifications; and the number of employees which the applicant intends to employ or currently employs.[98] Each application must be accompanied by a registration fee calculated on a per-year basis.[99]

For repairs costing more than $100, repair shops are required to prepare a written repair estimate that includes the estimated cost of repair work, including diagnostic work, before beginning any diagnostic work or repair. The repair shop must then give the customer the option of:

- Requesting a written estimate;
- Being notified by the shop if the repair exceeds an amount the customer specifies; or
- Not requiring a written estimate at all. [100]

[93] Ch. 531, F.S. "Weights and Measures Act of 1971"
[94] Section 531.37(1), F.S.
[95] Section 531.63, F.S.
[96] Section 531.67, F.S.
[97] Section 559.901, F.S.
[98] Section 559.904(1), F.S.
[99] Section 559.904(3), F.S.
[100] Section 559.905, F.S.

Effect of Proposed Changes

Section 28 amends s. 559.904, F.S., to remove the requirement for a motor vehicle repair shop to provide copies of licenses, permits, and certifications obtained by the applicant or employees of the applicant on the registration application; and to specify that the registration fee must be calculated for each location.

Section 29 amends s. 559.905, F.S., to increase the threshold value of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate from $100 to $150.

Section 30 amends s. 570.07, F.S., to increase the department's statutorily authorized threshold to repair or build structures from $250,000 to $500,000.

Section 46 reenacts s. 559.907, F.S., related to charges for motor vehicle repair estimate.

The Florida Agricultural Museum

Present Situation

Florida Agricultural Museum

The Florida Agricultural Museum was established in 1983 by a group of concerned agriculturalists and historians at the request of Agricultural Commissioner Doyle Conner to help preserve this important part of Florida's heritage.[101] Originally located in Tallahassee, the museum was part of the Department of Agriculture and Consumer Services.[102] The Museum, now located in Flagler County, is a private non-profit 501(c)(3) corporation led by a board of trustees.[103]

Effect of Proposed Changes

Section 31 amends s. 570.69, F.S., to provide the definition of "center" to mean the Florida Agricultural Legacy Learning Center. The bill also removes the definition of "museum," which is the Florida Agricultural Museum.

Section 32 amends s. 570.691, F.S., and **Section 33** amends s. 570.692, F.S., to conform to the changes made by Section 32.

Saw Palmetto Berries Harvesting

Present Situation

Saw Palmetto Berries

Saw palmetto berries collected from forests in Florida and Georgia are the most abundantly harvested medicinal non-timber forest products (NTFPs) in terms of dry weight. Saw palmetto

[101] Florida Agricultural Museum, About the Museum, *available at*, https://www.floridaagmuseum.org/about-the-museum/ (last visited January 17, 2024).
[102] *Id.*
[103] *Id.*

berries are the fruit of a commonly occurring understory plant in Florida flatwoods. They are the source of certain medicinal compounds used in Native American, herbal and alternative medical treatments for prostate and other urologic conditions.[104]

Effective July 2018, the Department of Agriculture and Consumer Services (department) requires a permit to harvest and sell saw palmetto berries in Florida.[105] The Endangered Plant Advisory Council unanimously recommended adding saw palmetto to the department commercially exploited plant list.[106] There is no application fee to apply for a permit. The permit expires 12 months after the date of issuance and is not transferable.[107]

Effect of Proposed Changes

Section 34 creates s. 581.189, F.S., to provide definitions for "harvest," "harvester," "landowner," "person," "saw palmetto berries," "saw palmetto berry dealer," and "seller." The bill prohibits willful destroying, harvesting, or selling saw palmetto berries, on private or public land, without the written permission of the landowner. The bill provides what must be included in the landowner's written permission to harvest saw palmetto berries. The bill also provides the reporting requirements after the berries have been harvested along with authorizing law enforcement to seize berries harvested in violation of this bill.

The bill also provides penalties for violations created by this bill. The department is granted rulemaking authority.

Hemp

Present Situation
State Hemp Program

The state hemp program was created within the Department of Agriculture and Consumer Services (department) to regulate the cultivation of hemp in Florida.[108]

Section 581.217(3)(e), F.S., defines the term "hemp" to mean:

> …the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, with the exemption of hemp extract,

[104] Florida Department of Agriculture and Consumer Services (FDACS), Non-Timber Forest Products (NTFP): Additional Potential Revenue Sources for Forest Landowners, https://www.fdacs.gov/Forest-Wildfire/Our-Forests/Working-Forest/Non- Timber-Forest-Products-NTFP (last visited January 17, 2024).
[105] Florida Department of Agriculture and Consumer Services (FDACS), Saw Palmetto Berry Harvesting, *available at*, https://www.fdacs.gov/Agriculture-Industry/Plant-Industry-Permits/Saw-Palmetto-Berry-Harvesting (last visited January 17, 2024).
[106] *Id.*
[107] FDACS, Saw Palmetto (Serenoa repens), Berry Harvesting FAQs, *available at*, https://ccmedia.fdacs.gov/content/download/104215/file/SPBFAQs%5B84%5D.pdf (last visited January 17, 2024).
[108] *See* s. 581.217, F.S.

which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol on a wet-weight basis.

Section 581.217(3)(f), F.S., defines the term "hemp extract" to mean "a substance or compound intended for ingestion, containing more than trace amounts of cannabinoid, or for inhalation which is derived from or contains hemp and which does not contain other controlled substances." The term does not include synthetic cannabidiol or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.[109] Products that are intended for inhalation and contain hemp extract may not be sold in this state to a person who is under 21 years of age.[110]

The department was required to seek federal approval of the state plan for the regulation of the cultivation of hemp with the United States Secretary of Agriculture (USDA) in accordance with the 2018 Farm Bill within 30 days of adopting rules.[111] A license is required to cultivate hemp[112] and to obtain a license, a person must apply to the department and submit a full set of fingerprints.[113] A person seeking to cultivate hemp must provide the department with a legal land description and GPS coordinates of where the hemp will be cultivated.[114] The department must deny an application under certain circumstances.[115]

Distribution and Retail Sale of Hemp Extract

Hemp extract may only be distributed and sold in this state if the product has a certificate of analysis prepared by an independent testing laboratory that states:

- The hemp extract is the product of a batch tested by the independent testing laboratory;
- The batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent pursuant to the testing of a random sample of the batch;
- The batch does not contain contaminants unsafe for human consumption; and
- The batch was processed in a facility that meets certain human health or food safety requirements.[116]

Additionally, hemp extract may only be distributed or sold in a container that includes:

- A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract batch by an independent testing laboratory;
- The batch number;
- The Internet address of a website where batch information may be obtained;
- The expiration date; and
- The number of milligrams of each marketed cannabinoid per serving.[117]

[109] Section 581.219(3)(f), F.S.
[110] Section 581.217(7)(d), F.S.
[111] Section 581.217(4), F.S.
[112] Section 581.217(5)(a), F.S.
[113] Section 581.217(5)(b), F.S.
[114] Section 581.217(5)(d), F.S.
[115] Section 581.217(5)(e), F.S.
[116] Section 581.217(7)(a), F.S.
[117] Id.

Such container must:

- Be suitable to contain products for human consumption;
- Be composed of materials designed to minimize exposure to light;
- Mitigate exposure to high temperatures;
- Not be attractive to children; and[118]

Be compliant with the United States Poison Prevention Packaging Act of 1970.[119]

Effect of Proposed Changes

Section 35 amends s. 581.17, F.S., revising the definition of "hemp extract" to mean hemp containing more than trace amounts of a cannabinoid which is intended for ingestion or for inhalation but which does not contain controlled substances.

Section 36 amends s. 585.01, F.S., to include poultry in the definition of "livestock."

Section 47 reenacts s. 468.382, F.S., related to the definition of "livestock."

Section 48 reenacts s. 534.47, F.S.

Section 49 reenacts s. 767.01, F.S.

Section 50 reenacts s. 767.03, F.S.

Criminal Trespass

Present Situation

Trespassing on Agricultural Land

A person commits the offense of trespass on property other than a structure or conveyance, when he or she, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation; or
- If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass.[120]

Section 810.09, F.S., provides criminal penalties for specific types of trespass:

- The offender commits a felony of the third degree, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED COMMERCIAL

[118] Section 581.217(3)(a), F.S., defines "attractive to children" to mean manufactured in the shape of humans, cartoons or animals; manufactured in a form that bears any reasonable resemblance to an existing candy product that is familiar to the public as a widely distributed, branded food product such that a product could be mistaken for the branded product, especially by children, or containing color additives.
[119] Section 581.217(7)(a), F.S.
[120] Section 810.09(1)(a), F.S.

PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

- The offender commits a felony of the third degree, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."
- Any person who in taking or attempting to take any animal, or in killing, attempting to kill, or endangering any animal,[121] knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section does not apply to any governmental agent or employee acting within the scope of his or her official duties.
- The offender commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

Effect of Proposed Changes

Section 38 amends s. 810.011, F.S., to add agricultural land to the definition of "posted land."

Section 39 amends s. 810.09, F.S., to provide criminal penalties for trespassing on land classified as commercial agricultural property. The bill also provides the definition for "commercial agricultural property" to mean property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.

Section 41 amends s. 379.3004, F.S., to conform with the changes in this bill related to trespassing on property while armed.

Section 42 amends s. 812.014, F.S., to conform with the changes in this bill related to trespassing on property that is identified as a construction zone.

Section 43 amends s. 921.0022, F.S., to conform with the changes in this bill related to trespassing.

[121] Animal is defined in s. 585.01(13) as: "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.

4-H Participation in School

Present Situation

Public School Attendance Policies

Florida law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness.[122] Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.[123] The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.[124] However, a parent is not responsible for the student's nonattendance at school if:

- The absence was with permission of the head of the school;
- The absence was without the parent's knowledge, consent, or connivance, in which case the student must be dealt with as a dependent child;
- The parent is financially unable to provide necessary clothes; or
- On account of sickness, injury, or other insurmountable conditions.[125]

4-H Participation in School

4-H is the nation's largest youth development organization. Over 230,000 members in the State of Florida help to make up the community of more than 6.5 million young people across America. 4-H is a non-formal, practical educational program for youth. Florida 4-H is the youth development program of Florida Cooperative Extension, a part of the University of Florida IFAS.[126]

4-H is open to all youth, ages five through 18, determined as of September 1 of the current 4-H program year and open to all counties in the State of Florida. 4-H serves youth from all backgrounds and interests. It reaches both boys and girls through 4-H clubs, special interest groups and short term projects, school-age childcare, individual and family learning and mentoring, camping, and school enrichment. There are three primary program areas, or mission mandates; science, citizenship, and healthy living.[127]

Future Farmers of America

The Future Farmers of America (FFA) is a youth leadership organization that helps young people develop their potential for leadership, personal growth, and career success through agriculture education. FFA is not just for students who want to be productive farmers. FFA welcomes members who aspire to careers as teachers, doctors, scientists, business owners and more.[128]

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[122] Section 1003.24, F.S.
[123] *Id.*
[124] Section 1003.26, F.S.
[125] Section 1003.24, F.S.
[126] Florida 4-H, What is 4-H?, https://florida4h.ifas.ufl.edu/about-us/ (last visited January 17, 2024).
[127] *Id.*
[128] What is FFA?, https://www.ffa.org/about-us/what-is-ffa (last visited January 28, 2024).

Effect of Proposed Changes

Section 40 amends s. 1003.24, F.S., to provide that a student's participation in a 4-H or FFA activity is an excused absence from school. A 4-H or FFA representative must provide documentation as proof of a student's participation in a 4-H or FFA activity upon request by a school principal or the principal's designee. The 4-H representative must be officially recognized or designated by the Florida Cooperative Extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

Section 51 provides that this bill shall take effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires the authorization of a state tax or fee be contained in a separate bill that contains no other subject and be approved by 2/3 of the membership of each house of the Legislature. These provisions do not apply to any tax or fee authorized to be imposed by a county. This bill authorizes county tax collectors approved by the department to collect certain fees for processing applications.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill authorizes a county tax collector approved by the Department of Agriculture and Consumer Services (department) to accept certain new, renewal, and replacement license applications, and to collect fees associated with such services. The appointed county tax collector may collect and retain the following fees associated with an application for a license under ch. 493, F.S.: a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services, and $9 for photographing services. Additionally, the appointed county tax collector may collect and retain the following fees associated with an application for a

concealed weapon or firearm license: $12 for each replacement license, $9 for fingerprinting services, and $9 for photographing services.

B. Private Sector Impact:

None.

C. Government Sector Impact:

A county tax collector that elects to seek appointment under ss. 493.6127, F.S., or 790.0625, F.S., to accept new, renewal, and replacement license applications on behalf of the department may collect fees associated with such activities. These fees should cover the cost of the tax collector to provide such services. License fees collected will be remitted to the department by the tax collector and deposited into the Division of Licensing Trust Fund.

The bill creates new third degree felonies for illegal activities relating to saw palmetto berries and trespass on agricultural property. This may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections.

Overall, the bill has an indeterminate, yet insignificant impact to the Department of Agriculture and Consumer Services. It is unknown how many administrative and enforcement actions the department will realize due to the changes in the bill. Any additional responsibilities required by the bill will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 366.94, 379.3004, 482.111, 482.151, 482.155, 482.156, 482.157, 482.161, 482.191, 482.226, 487.031, 487.175, 493.6113, 496.404, 496.405, 496.406, 496.407, 496.409, 496.410, 496.4101, 496.411, 496.4121, 496.425, 500.03, 507.07, 559.904, 559.905, 570.07, 570.69, 570.691, 570.692, 581.217, 585.01, 790.0625, 810.011, 810.09, 812.014, 921.0022, and 1003.24.

This bill creates the following sections of the Florida Statutes: 493.6127, 500.452, and 581.189.

This bill re-enacts the following sections of the Florida Statutes: 468.382, 493.6115, 496.4055, 534.47, 559.907, 767.01, and 767.03.

This bill repeals section 531.67 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 by Fiscal Committee on February 22, 2024:
The committee substitute:

- Eliminates the requirement for the name and street address of each institution where banking or similar monetary transactions are done by the charitable organization or sponsor on registration statements.
- Revises the definition of "hemp extract" to mean hemp containing more than trace amounts of a cannabinoid which is intended for ingestion or for inhalation but which does not contain controlled substances.
- Revises the prohibition related to cultivated meat to specify it is unlawful to manufacture cultivated meat for sale and provides it is a violation to knowingly violate this section.

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 8, 2024:
The committee substitute**:**

- Amends the contribution-based registration fee thresholds to remove an option related to contributions raised by non-compensated volunteers, members, officers or permanent employees under $50,000 in the previous fiscal year.
- Amends the exemption threshold to refer to total contributions instead of total revenue. The bill also revises the information charitable organizations and sponsors must provide to the department when claiming certain exemptions to include street addresses.
- Increases the department's statutorily authorized threshold to repair or build structures from $250,000 to $500,000.
- Provides technical changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/23/2024	.	
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	.	
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The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 737 - 1068
and insert:
Section 15. Paragraph (d) of subsection (1), subsection (3), and paragraph (a) of subsection (4) of section 496.405, Florida Statutes, are amended to read:
496.405 Registration statements by charitable organizations and sponsors.—
(1) A charitable organization or sponsor, unless exempted

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pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(d) The registration of a charitable organization or sponsor may not continue in effect and shall expire without further action of the department under either of the following circumstances:

1. After the date the charitable organization or sponsor should have filed, but failed to file, its renewal statement in accordance with this section.

2. For failure to provide a financial statement within any extension period provided under s. 496.407.

(3) Each chapter, branch, or affiliate of a parent organization ~~that is~~ required to register under this section must file a separate registration statement and financial statement or report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates. A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and affiliates that solicited or received contributions during the

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preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that feeds directly into the parent organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent organization and each Florida chapter, branch, or affiliate ~~that is~~ required to file such forms must be attached to the consolidated financial statement.

(4)(a) Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.~~a.~~ Ten dollars, if the contributions received for the last fiscal or calendar year were less than $5,000; ~~or~~

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~~b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than $50,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;~~

2. Seventy-five dollars, if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were $100,000 or more, but less than $200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were $200,000 or more, but less than $500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were $500,000 or more, but less than $1 million;

6. Three hundred fifty dollars, if the contributions received for the last fiscal year were $1 million or more, but less than $10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were $10 million or more.

Section 16. Paragraph (d) of subsection (1) and paragraph

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(a) of subsection (2) of section 496.406, Florida Statutes, are amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

(d) A charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer. If a charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year actually acquires total contributions ~~revenue~~ equal to or in excess of $50,000, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the contributions reach ~~revenue reaches~~ $50,000.

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, street address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose or purposes for which the

contributions to be solicited will be used.

Section 17. Paragraph (a) of subsection (1) and subsection (3) of section 496.407, Florida Statutes, are amended to read:

496.407 Financial statement.—

(1) A charitable organization or sponsor that is required to initially register or annually renew registration must file an annual financial statement for the immediately preceding fiscal year on a form prescribed by the department.

(a) The statement must include the following:

1. A balance sheet.

2. A statement of support, revenue and expenses, and any change in the fund balance.

3. The names and street addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom, if any.

4. A statement of functional expenses that must include, but is not limited to, expenses in the following categories:

a. Program service costs.

b. Management and general costs.

c. Fundraising costs.

(3) ~~Upon a showing of good cause by a charitable organization or sponsor,~~ The department may extend the time for the filing of a financial statement required under this section ~~by up to 180 days~~, during which time the previous registration shall remain active. The registration must ~~shall~~ be automatically suspended for failure to file the financial statement within the extension period.

Section 18. Paragraph (c) of subsection (2) of section

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496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct, and must include the following information:

(c) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

Section 19. Paragraphs (d) and (j) of subsection (2), paragraph (c) of subsection (6), paragraphs (a), (b), and (h) of subsection (10), and subsection (11) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct, and must include the following information:

(d) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

(j) A list of all telephone numbers the applicant will use to solicit contributions as well as the actual street ~~physical~~ address associated with each telephone number and any fictitious names associated with such address.

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(6) No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department a solicitation notice on a form prescribed by the department. The notice must be signed and sworn to by the contracting officer of the professional solicitor and must include:

(c) The legal name and street ~~residence~~ address of each person responsible for directing and supervising the conduct of the campaign.

(10) During each solicitation campaign, and for not less than 3 years after its completion, the professional solicitor shall maintain the following records:

(a) The date and amount of each contribution received and the name, street address, and telephone number of each contributor.

(b) The name and ~~residence~~ street address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each, and the dates on which the payments were made.

(h) If a refund of a contribution has been requested, the name and street address of each person requesting the refund, and, if a refund was made, its amount and the date it was made.

(11) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also must ~~shall~~ maintain for the same period as specified in subsection (10) the following records:

(a) The name and street address of each contributor who purchases or donates tickets and the number of tickets purchased

or donated by the contributor.

(b) The name and street address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.

Section 20. Paragraph (a) of subsection (2) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(2) Persons required to obtain a solicitor license under subsection (1) shall submit to the department, in such form as the department prescribes, an application for a solicitor license. The application must include the following information:

(a) The true name, date of birth, unique identification number of a driver license or other valid form of identification, and street ~~home~~ address of the applicant.

Section 21. Paragraph (c) of subsection (2) of section 496.411, Florida Statutes, is amended, and paragraph (e) of that subsection is reenacted, to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(2) A charitable organization or sponsor soliciting in this state must include all of the following disclosures at the point of solicitation:

(c) Upon request, the name and either the street address or telephone number of a representative to whom inquiries may be addressed.

(e) Upon request, the source from which a written financial statement may be obtained. Such financial statement must be for the immediate preceding fiscal year and must be consistent with

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the annual financial statement filed under s. 496.407. The written financial statement must be provided within 14 days after the request and must state the purpose for which funds are raised, the total amount of all contributions raised, the total costs and expenses incurred in raising contributions, the total amount of contributions dedicated to the stated purpose or disbursed for the stated purpose, and whether the services of another person or organization have been contracted to conduct solicitation activities.

Section 22. Paragraph (a) of subsection (2) of section 496.4121, Florida Statutes, is amended to read:

496.4121 Collection receptacles used for donations.—

(2) A collection receptacle must display a permanent sign or label on each side which contains the following information printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the collection receptacle:

(a) For a collection receptacle used by a person required to register under this chapter, the name, <u>street</u> ~~business~~ address, telephone number, and registration number of the charitable organization or sponsor for whom the solicitation is made.

Section 23. Paragraph (a) of subsection (2) and subsection (6) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(2) Any person desiring to solicit funds within a facility shall first obtain a written permit therefor from the authority responsible for the administration of the facility.

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(a) An application in writing for such permit must ~~shall~~ be submitted to the authority and must state ~~shall set forth~~:

1. The full name, street ~~mailing~~ address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activities;

2. The full name, street ~~mailing~~ address, and telephone number of each person who will participate in such activities and of the person who will have supervision of and responsibility for the proposed activities;

3. A description of the proposed activities indicating the type of communication to be involved;

4. The dates on and the hours during which the activities are proposed to be carried out and the expected duration of the proposed activities; and

5. The number of persons to be engaged in such activities.

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, street address, and principal occupation and indicating the name of the organization for which funds are solicited.

Section 24. Effective upon this act becoming a law, present paragraphs (k) through (y) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (l) through (z), respectively, a new paragraph (k) is added to that subsection, and present paragraph (m) of that subsection is reenacted, to read:

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500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(k) "Cultivated meat" means any meat or food product produced from cultured animal cells.

(n) ~~(m)~~ "Food" includes:

1. Articles used for food or drink for human consumption;

2. Chewing gum;

3. Articles used for components of any such article;

4. Articles for which health claims are made, which claims are approved by the Secretary of the United States Department of Health and Human Services and which claims are made in accordance with s. 343(r) of the federal act, and which are not considered drugs solely because their labels or labeling contain health claims;

5. Dietary supplements as defined in 21 U.S.C. s. 321(ff)(1) and (2); and

6. Hemp extract as defined in s. 581.217.

The term includes any raw, cooked, or processed edible substance; ice; any beverage; or any ingredient used, intended for use, or sold for human consumption.

Section 25. Paragraph (f) of subsection (3) of section 581.217, Florida Statutes, is amended to read:

581.217 State hemp program.—

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

(f) "Hemp extract" means hemp ~~a substance or compound intended for ingestion,~~ containing more than trace amounts of a cannabinoid which is intended for ingestion~~,~~ or for inhalation but which ~~is derived from or contains hemp and which~~ does not

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contain controlled substances. The term does not include synthetic cannabidiol or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

Section 26. Effective upon this act becoming a law, section 500.452, Florida Statutes, is created to read:

500.452 Cultivated meat; prohibition; penalties.—

(1) It is unlawful for any person to manufacture for sale, sell,

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

And the title is amended as follows:

Delete lines 74 - 107

and insert:

deleting certain fees; amending s. 496.406, F.S.; revising the circumstances under which charitable organizations or sponsors are exempt from specified provisions; revising the information that charitable organizations and sponsors must provide to the department when claiming certain exemptions; amending s. 496.407, F.S.; revising the information charitable organizations or sponsors are required to provide to the department when initially registering or annually renewing a registration; revising circumstances under which the department may extend the time for filing a required final statement; amending ss. 496.409, 496.410, 496.4101, 496.411, 496.4121, and 496.425, F.S.; revising the information that professional fundraising consultants must include in applications

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for registration or renewals of registration, that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department, that professional solicitors are required to maintain in their records, that must be included in certain solicitor license applications, that disclosures of charitable organizations or sponsors soliciting in this state must include, that must be displayed on certain collection receptacles, and that a person desiring to solicit funds within a facility must provide in an application to the department and must display prominently on his or her badge or insignia, respectively, to include street addresses; reenacting and amending s. 500.03, F.S.; defining the term "cultivated meat"; amending s. 581.217, F.S.; redefining the term "hemp extract"; creating s. 500.452, F.S.; prohibiting the manufacture for sale, sale, holding or offering

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Substitute for Amendment (789144) (with title amendment)

Delete lines 737 - 1071
and insert:
Section 15. Paragraph (d) of subsection (1), subsection (3), and paragraph (a) of subsection (4) of section 496.405, Florida Statutes, are amended to read:
496.405 Registration statements by charitable organizations and sponsors.—

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(1) A charitable organization or sponsor, unless exempted pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(d) The registration of a charitable organization or sponsor may not continue in effect and shall expire without further action of the department under either of the following circumstances:

1. After the date the charitable organization or sponsor should have filed, but failed to file, its renewal statement in accordance with this section.

2. For failure to provide a financial statement within any extension period provided under s. 496.407.

(3) Each chapter, branch, or affiliate of a parent organization ~~that is~~ required to register under this section must file a separate registration statement and financial statement or report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates. A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and

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affiliates that solicited or received contributions during the preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that feeds directly into the parent organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent organization and each Florida chapter, branch, or affiliate ~~that is~~ required to file such forms must be attached to the consolidated financial statement.

(4)(a) Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.~~a.~~ Ten dollars, if the contributions received for the

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last fiscal or calendar year were less than $5,000; ~~or~~

~~b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than $50,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;~~

2. Seventy-five dollars, if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were $100,000 or more, but less than $200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were $200,000 or more, but less than $500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were $500,000 or more, but less than $1 million;

6. Three hundred fifty dollars, if the contributions received for the last fiscal year were $1 million or more, but less than $10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were $10 million or more.

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Section 16. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 496.406, Florida Statutes, are amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

(d) A charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer. If a charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year actually acquires total contributions ~~revenue~~ equal to or in excess of $50,000, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the contributions reach ~~revenue reaches~~ $50,000.

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, street address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is

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organized, and the purpose or purposes for which the contributions to be solicited will be used.

Section 17. Paragraph (a) of subsection (1) and subsection (3) of section 496.407, Florida Statutes, are amended to read:

496.407 Financial statement.—

(1) A charitable organization or sponsor that is required to initially register or annually renew registration must file an annual financial statement for the immediately preceding fiscal year on a form prescribed by the department.

(a) The statement must include the following:

1. A balance sheet.

2. A statement of support, revenue and expenses, and any change in the fund balance.

3. The names and street addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom, if any.

4. A statement of functional expenses that must include, but is not limited to, expenses in the following categories:

a. Program service costs.

b. Management and general costs.

c. Fundraising costs.

(3) ~~Upon a showing of good cause by a charitable organization or sponsor,~~ The department may extend the time for the filing of a financial statement required under this section ~~by up to 180 days~~, during which time the previous registration shall remain active. The registration must ~~shall~~ be automatically suspended for failure to file the financial statement within the extension period.

Section 18. Paragraph (c) of subsection (2) of section 496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct, and must include the following information:

(c) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

Section 19. Paragraphs (d) and (j) of subsection (2), paragraph (c) of subsection (6), paragraphs (a), (b), and (h) of subsection (10), and subsection (11) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct, and must include the following information:

(d) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

(j) A list of all telephone numbers the applicant will use to solicit contributions as well as the actual street ~~physical~~ address associated with each telephone number and any fictitious

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names associated with such address.

(6) No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department a solicitation notice on a form prescribed by the department. The notice must be signed and sworn to by the contracting officer of the professional solicitor and must include:

(c) The legal name and street ~~residence~~ address of each person responsible for directing and supervising the conduct of the campaign.

(10) During each solicitation campaign, and for not less than 3 years after its completion, the professional solicitor shall maintain the following records:

(a) The date and amount of each contribution received and the name, street address, and telephone number of each contributor.

(b) The name and ~~residence~~ street address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each, and the dates on which the payments were made.

(h) If a refund of a contribution has been requested, the name and street address of each person requesting the refund, and, if a refund was made, its amount and the date it was made.

(11) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also must ~~shall~~ maintain for the same period as specified in subsection (10) the following records:

(a) The name and street address of each contributor who

purchases or donates tickets and the number of tickets purchased or donated by the contributor.

(b) The name and street address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.

Section 20. Paragraph (a) of subsection (2) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(2) Persons required to obtain a solicitor license under subsection (1) shall submit to the department, in such form as the department prescribes, an application for a solicitor license. The application must include the following information:

(a) The true name, date of birth, unique identification number of a driver license or other valid form of identification, and street ~~home~~ address of the applicant.

Section 21. Paragraph (c) of subsection (2) of section 496.411, Florida Statutes, is amended, and paragraph (e) of that subsection is reenacted, to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(2) A charitable organization or sponsor soliciting in this state must include all of the following disclosures at the point of solicitation:

(c) Upon request, the name and either the street address or telephone number of a representative to whom inquiries may be addressed.

(e) Upon request, the source from which a written financial statement may be obtained. Such financial statement must be for

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the immediate preceding fiscal year and must be consistent with the annual financial statement filed under s. 496.407. The written financial statement must be provided within 14 days after the request and must state the purpose for which funds are raised, the total amount of all contributions raised, the total costs and expenses incurred in raising contributions, the total amount of contributions dedicated to the stated purpose or disbursed for the stated purpose, and whether the services of another person or organization have been contracted to conduct solicitation activities.

Section 22. Paragraph (a) of subsection (2) of section 496.4121, Florida Statutes, is amended to read:

496.4121 Collection receptacles used for donations.—

(2) A collection receptacle must display a permanent sign or label on each side which contains the following information printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the collection receptacle:

(a) For a collection receptacle used by a person required to register under this chapter, the name, street ~~business~~ address, telephone number, and registration number of the charitable organization or sponsor for whom the solicitation is made.

Section 23. Paragraph (a) of subsection (2) and subsection (6) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(2) Any person desiring to solicit funds within a facility shall first obtain a written permit therefor from the authority

responsible for the administration of the facility.

(a) An application in writing for such permit must ~~shall~~ be submitted to the authority and must state ~~shall set forth~~:

1. The full name, street ~~mailing~~ address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activities;

2. The full name, street ~~mailing~~ address, and telephone number of each person who will participate in such activities and of the person who will have supervision of and responsibility for the proposed activities;

3. A description of the proposed activities indicating the type of communication to be involved;

4. The dates on and the hours during which the activities are proposed to be carried out and the expected duration of the proposed activities; and

5. The number of persons to be engaged in such activities.

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, street address, and principal occupation and indicating the name of the organization for which funds are solicited.

Section 24. Effective upon this act becoming a law, present paragraphs (k) through (y) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (l) through (z), respectively, a new paragraph (k) is added to that subsection, and present paragraph (m) of that subsection is

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reenacted, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(k) "Cultivated meat" means any meat or food product produced from cultured animal cells.

(n) ~~(m)~~ "Food" includes:

1. Articles used for food or drink for human consumption;

2. Chewing gum;

3. Articles used for components of any such article;

4. Articles for which health claims are made, which claims are approved by the Secretary of the United States Department of Health and Human Services and which claims are made in accordance with s. 343(r) of the federal act, and which are not considered drugs solely because their labels or labeling contain health claims;

5. Dietary supplements as defined in 21 U.S.C. s. 321(ff)(1) and (2); and

6. Hemp extract as defined in s. 581.217.

The term includes any raw, cooked, or processed edible substance; ice; any beverage; or any ingredient used, intended for use, or sold for human consumption.

Section 25. Paragraph (f) of subsection (3) of section 581.217, Florida Statutes, is amended to read:

581.217 State hemp program.—

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

(f) "Hemp extract" means hemp ~~a substance or compound intended for ingestion,~~ containing more than trace amounts of a cannabinoid which is intended for ingestion~~,~~ or for inhalation

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but which ~~is derived from or contains hemp and which~~ does not contain controlled substances. The term does not include synthetic cannabidiol or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

Section 26. Effective upon this act becoming a law, section 500.452, Florida Statutes, is created to read:

500.452 Cultivated meat; prohibition; penalties.—

(1) It is unlawful for any person to manufacture for sale, sell, hold or offer for sale, or distribute cultivated meat in this state.

(2) A person who knowingly violates this section commits a

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

And the title is amended as follows:

Delete lines 74 - 107

and insert:

deleting certain fees; amending s. 496.406, F.S.; revising the circumstances under which charitable organizations or sponsors are exempt from specified provisions; revising the information that charitable organizations and sponsors must provide to the department when claiming certain exemptions; amending s. 496.407, F.S.; revising the information charitable organizations or sponsors are required to provide to the department when initially registering or annually renewing a registration; revising circumstances under which the department may extend the time for filing a required financial statement; amending ss. 496.409,

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496.410, 496.4101, 496.411, 496.4121, and 496.425, F.S.; revising the information that professional fundraising consultants must include in applications for registration or renewals of registration, that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department and that professional solicitors are required to maintain in their records, that must be included in certain solicitor license applications, that disclosures of charitable organizations or sponsors soliciting in this state must include, that must be displayed on certain collection receptacles, and that a person desiring to solicit funds within a facility must provide in an application to the department and must display prominently on his or her badge or insignia, respectively, to include street addresses; reenacting and amending s. 500.03, F.S.; defining the term "cultivated meat"; amending s. 581.217, F.S.; redefining the term "hemp extract"; creating s. 500.452, F.S.; prohibiting the manufacture for sale, sale, holding or offering

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Collins

601-03149-24 20241084c1

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 366.94, F.S.; preempting the regulation of electric vehicle charging stations to the state; prohibiting local governmental entities from enacting or enforcing such regulations; amending ss. 482.111, 482.151, and 482.155, F.S.; providing that a pest control operator's certificate, a special identification card, and certain limited certifications for pesticide applicators, respectively, expire a specified length of time after issuance; revising renewal requirements for such certificates and cards; amending s. 482.156, F.S.; revising the tasks, pesticides, and equipment that individual commercial landscape maintenance personnel with limited certifications may perform and use; revising the initial and renewal certification requirements for such personnel; amending s. 482.157, F.S.; providing that a limited certification for commercial wildlife management personnel expires a specified length of time after issuance; revising renewal certification requirements for such personnel; amending s. 482.161, F.S.; authorizing the department to take disciplinary action against a person who swears to or affirms a false statement on certain applications, cheats on a required examination, or violates certain procedures under certain circumstances; amending s. 482.191, F.S.; providing penalties for a person who swears to or affirms a

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

601-03149-24 20241084c1

false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; authorizing the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending s. 482.226, F.S.; requiring pest control licensees to provide property owners or their agents with a signed report that meets certain requirements after each inspection; amending s. 487.031, F.S.; prohibiting a person from swearing to or affirming a false statement on certain pesticide applicator license applications, cheating on a required examination, or violating certain procedures; making technical changes; amending s. 487.175, F.S.; providing penalties for a person who swears to or affirms a false statement on certain applications; providing that cheating on certain examinations or violating certain examination procedures voids an examinee's exam attempt; requiring the department to adopt rules establishing penalties for such a violation; authorizing the department to exercise discretion in assessing penalties in certain circumstances; amending s. 493.6113, F.S.; authorizing Class "G" licensees to qualify for multiple calibers of firearms in one requalification class under certain circumstances; creating s. 493.6127, F.S.; authorizing the department to appoint tax collectors to accept new, renewal, and replacement license applications

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

under certain circumstances; requiring the department to establish by rule the types of licenses the tax collectors may accept; providing an application process for tax collectors who wish to perform such functions; providing that certain confidential information contained in the records of an appointed tax collector retains its confidentiality; prohibiting any person not appointed to do so from accepting an application for a license for a fee or compensation; authorizing tax collectors to collect and retain certain convenience fees; requiring the tax collectors to remit certain fees to the department for deposit in the Division of Licensing Trust Fund; providing penalties; amending s. 496.404, F.S.; defining the term "street address"; amending s. 496.405, F.S.; revising the information that charitable organizations and sponsors must provide to the department in an initial registration statement; deleting certain fees; amending s. 496.406, F.S.; revising the circumstances under which charitable organizations or sponsors are exempt from specified provisions; revising the information that charitable organizations and sponsors must provide to the department when claiming certain exemptions; amending s. 496.407, F.S.; revising the information charitable organizations or sponsors are required to provide to the department when initially registering or annually renewing a registration; revising circumstances under which the department may extend the time for filing a required final statement;

amending ss. 496.409, 496.410, 496.4101, 496.411, 496.4121, and 496.425, F.S.; revising the information that professional fundraising consultants must include in applications for registration or renewals of registration, that professional solicitors must include in applications for registration, renewals of registration, and solicitation notices provided to the department, that professional solicitors are required to maintain in their records, that must be included in certain solicitor license applications, that disclosures of charitable organizations or sponsors soliciting in this state must include, that must be displayed on certain collection receptacles, and that a person desiring to solicit funds within a facility must provide in an application to the department and must display prominently on his or her badge or insignia, respectively, to include street addresses; amending s. 500.03, F.S.; defining the term "cultivated meat"; creating s. 500.452, F.S.; prohibiting the manufacture, sale, holding or offering for sale, or distribution of cultivated meat in this state; providing criminal penalties; providing for disciplinary action and additional licensing penalties; providing that such products are subject to certain actions and orders; authorizing the department to adopt rules; amending s. 507.07, F.S.; prohibiting a mover from placing a shipper's goods in a self-service storage unit or self-contained unit not owned by the mover unless certain conditions are met;

repealing s. 531.67, F.S., relating to the scheduled expiration of certain provisions related to weights, measurements, and standards; amending s. 559.904, F.S.; revising the information that must be provided to the department on a motor vehicle repair shop registration application; providing that the registration fee must be calculated for each location; amending s. 559.905, F.S.; revising the cost of repair work which requires a motor vehicle repair shop to provide a customer with a written repair estimate; amending s. 570.07, F.S.; revising the amount up to which the department is authorized to use to repair or build structures; amending s. 570.69, F.S.; defining the term "center"; deleting the definition of the term "museum"; amending s. 570.691, F.S.; conforming provisions to changes made by the act; amending s. 570.692, F.S.; renaming the Florida Agricultural Museum as the Florida Agricultural Legacy Learning Center; creating s. 581.189, F.S.; defining terms; prohibiting the willful destruction, harvest, or sale of saw palmetto berries without first obtaining written permission from the landowner or legal representative and a permit from the department; specifying the information that the landowner's written permission must include; requiring an authorized saw palmetto berry dealer to maintain certain information for a specified timeframe; authorizing law enforcement officers or authorized employees of the department to seize or order to be

held for a specified timeframe saw palmetto berries harvested, sold, or exposed for sale in violation of specified provisions; declaring that unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal; authorizing law enforcement agencies that seize such saw palmetto berries to sell the berries and retain the proceeds to implement certain provisions; providing that such law enforcement agencies are exempt from certain provisions; requiring the law enforcement agencies to submit certain information annually to the department; providing criminal penalties; providing that individuals convicted of such violations are responsible for specified costs; defining the term "convicted"; providing construction; requiring the department to adopt rules; amending s. 585.01, F.S.; revising the definition of the term "livestock" to include poultry; amending s. 790.0625, F.S.; authorizing certain tax collectors to collect and retain certain convenience fees for certain concealed weapon or firearm license applications; authorizing such tax collectors to print and deliver replacement licenses to licensees under certain circumstances; authorizing such tax collectors to provide fingerprinting and photography services; amending s. 810.011, F.S.; revising the definition of the term "posted land" to include land classified as agricultural which has specified signs placed at specified points; amending s. 810.09, F.S.; providing

criminal penalties for trespassing with the intent to commit a crime on commercial agricultural property under certain circumstances; defining the term "commercial agricultural property"; amending s. 1003.24, F.S.; providing that a student's participation in a 4-H or Future Farmers of America activity is an excused absence from school; defining the term "4-H representative"; amending ss. 379.3004, 812.014, and 921.0022, F.S.; conforming cross-references; reenacting s. 493.6115(6), F.S., relating to weapons and firearms, to incorporate the amendment made to s. 493.6113, F.S., in a reference thereto; reenacting s. 496.4055(2), F.S., relating to charitable organization or sponsor board duties, to incorporate the amendment made to s. 496.405, F.S., in references thereto; reenacting s. 559.907(1)(b), F.S., relating to the charges for motor vehicle repair estimates, to incorporate the amendment made to s. 559.905, F.S., in a reference thereto; reenacting ss. 468.382(6), 534.47(3), 767.01, and 767.03, F.S., relating to the definition of the term "livestock" for auctions, livestock markets, dog owner's liability for damages to livestock, and defenses for killing dogs, respectively, to incorporate the amendment made to s. 585.01, F.S., in references thereto; providing effective dates.

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

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

Section 1. Subsection (2) of section 366.94, Florida Statutes, is amended to read:

366.94 Electric vehicle charging stations.—

(2) The regulation of electric vehicle charging stations is preempted to the state.

(a) A local governmental entity may not enact or enforce an ordinance or regulation related to electric vehicle charging stations.

(b) The Department of Agriculture and Consumer Services shall adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations to allow for consistency for consumers and the industry.

Section 2. Subsections (3), (4), and (10) of section 482.111, Florida Statutes, are amended to read:

482.111 Pest control operator's certificate.—

(3) A certificate expires 1 year after the date of issuance. Annually, on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~, an individual ~~so~~ issued a pest control operator's certificate must apply to the department on a form prescribed by the department to renew the ~~for renewal of such~~ certificate. After a grace period not exceeding 30 calendar days following such expiration ~~renewal~~ date, the department shall assess a late renewal charge of $50 ~~shall be assessed~~ and the certificateholder must pay the late renewal charge ~~be paid~~ in addition to the renewal fee.

(4) If a certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units under subsection (10) within 60 days

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after the certificate's expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely renewed, a certificate automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination and issuance fees due~~.

(10) In order to renew ~~Prior to the expiration date of~~ a certificate, the certificateholder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.

2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.

3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.

4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.

5. How to read labels, a review of current state and

federal laws on labeling, and a review of changes in or additions to labels used in pest control.

6. Integrated pest management.

(b) The certificateholder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

(c) The department shall charge the same fee for examination as provided in s. 482.141(2).

Section 3. Subsections (6), (7), and (8) of section 482.151, Florida Statutes, are amended to read:

482.151 Special identification card for performance of fumigation.—

(6) A special identification card expires 1 year after the date of issuance. A cardholder must apply ~~An application~~ to the department to renew his or her ~~for renewal of a~~ special identification card ~~must be made~~ on or before the 1-year ~~an~~ anniversary of the date of issuance ~~set by the department~~. The department shall set the fee for renewal of a special identification card ~~shall be set by the department~~ but the fee may not be more than $100 or less than $50; however, until a rule setting this fee is adopted by the department, the renewal fee is ~~shall be~~ $50. After a grace period not exceeding 30 calendar days following such expiration ~~renewal~~ date, the department shall assess a late renewal charge of $25, which the cardholder must pay ~~be paid~~ in addition to the renewal fee.

(7) If a cardholder fails to renew his or her card and provide proof of completion of the continuing education units required by subsection (8) within 60 days after the expiration date, the cardholder may be reissued a special identification card only after reexamination ~~Unless timely renewed, a special identification card automatically expires 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a special identification card may be issued only upon successful reexamination and upon payment of examination and issuance fees due, as provided in this section~~.

(8) In order to renew ~~Prior to the expiration date of~~ a special identification card, the cardholder must do at least one of the following:

(a) Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category.~~; or~~

(b) Pass an examination in fumigation given by the department.

Section 4. Paragraph (b) of subsection (1) of section 482.155, Florida Statutes, is amended to read:

482.155 Limited certification for governmental pesticide applicators or private applicators.—

(1)

(b) A person seeking limited certification under this subsection must pass an examination given or approved by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than $150 or less than $50; and a recertification fee of $25 every 4 years. Until rules setting these fees are adopted by

the department, the examination fee is $50. Application for recertification must be accompanied by proof of having completed 4 classroom hours of acceptable continuing education. The limited certificate expires 4 years after the date of issuance. If the certificateholder fails to renew his or her certificate and provide proof of completion of the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination. The department shall provide the appropriate reference material and make the examination readily accessible and available to all applicants at least quarterly or as necessary in each county.

Section 5. Subsections (1), (2), and (3), of section 482.156, Florida Statutes, are amended to read:

482.156 Limited certification for commercial landscape maintenance personnel.—

(1) The department shall establish a limited certification category for individual commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds, driveways, sidewalks, and patios and to perform integrated pest management on ornamental plants using pesticides that do not have a ~~insecticides and fungicides having the~~ signal word or that have the signal word "caution" but do not have ~~having~~ the signal word "warning" or "danger" on the label. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld application equipment and ~~3-gallon compressed air sprayers or~~ backpack sprayers but ~~having no more than a 5-gallon capacity and~~ does not include any type of power equipment.

(2)~~(a)~~ A person seeking limited certification under this

section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by rule of the department, in an amount of not more than $150 or less than $50. Before the department issues ~~Prior to the department's issuing~~ a limited certification under this section, each person applying for the certification must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4).

~~(b) To be eligible to take the examination, an applicant must have completed 6 classroom hours of plant bed and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule.~~ The department shall provide the appropriate reference materials for the examination and make the examination readily accessible and available to applicants at least quarterly or as necessary in each county.

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary of the date of issuance. The ~~An~~ application ~~for recertification under this section~~ must ~~be made annually and~~ be accompanied by a recertification fee set by rule of the department, in an amount of not more than $75 or less than $25. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for issuance of this certification. After a grace period not exceeding 30 calendar

days following such expiration date ~~the annual date that recertification is due~~, a late renewal charge of $50 shall be assessed and must be paid in addition to the renewal fee. If a certificateholder fails to renew his or her certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~Unless timely recertified, a certificate automatically expires 180 calendar days after the anniversary recertification date~~. ~~Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of the examination fees due.~~

Section 6. Subsection (3) of section 482.157, Florida Statutes, is amended to read:

482.157 Limited certification for commercial wildlife management personnel.—

(3) A certificate expires 1 year after the date of issuance. A certificateholder must apply to the department to renew his or her certificate on or before the 1-year anniversary of the date of issuance. The ~~An~~ application ~~for recertification~~ must ~~be made annually and~~ be accompanied by a recertification fee of at least $75, but not more than $150, as prescribed by the department by rule. The application must also be accompanied by proof of completion of the required 4 classroom hours of acceptable continuing education and the required proof of insurance. After a grace period not exceeding 30 calendar days following such expiration ~~after the recertification renewal~~ date, the department shall assess a late fee of $50 in addition to the renewal fee. If a certificateholder fails to renew his or

her certificate and provide proof of completing the required continuing education units within 60 days after the expiration date, the certificateholder may be recertified only after reexamination ~~A certificate automatically expires 180 days after the recertification date if the renewal fee has not been paid~~. ~~After expiration, the department shall issue a new certificate only if the applicant successfully passes a reexamination and pays the examination fee and late fee.~~

Section 7. Paragraphs (k) and (l) are added to subsection (1) of section 482.161, Florida Statutes, to read:

482.161 Disciplinary grounds and actions; reinstatement.—

(1) The department may issue a written warning to or impose a fine against, or deny the application for licensure or licensure renewal of, a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or may suspend, revoke, or deny the issuance or renewal of any license, certificate, limited certificate, identification card, or special identification card that is within the scope of this chapter, in accordance with chapter 120, upon any of the following grounds:

(k) Swearing to or affirming any false statement in an application for a license issued pursuant to this chapter.

(l) Cheating on an examination required for licensure under this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee.

Section 8. Section 482.191, Florida Statutes, is amended to read:

482.191 Violation and penalty.—

(1) It is unlawful to do any of the following:

(a) Solicit, practice, perform, or advertise in pest control except as provided by this chapter.

(b) Swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(c) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by an examinee. Violating this paragraph renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this subsection. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(2) Except as provided in paragraph (1)(c), a person who violates ~~any provision of~~ this chapter commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A ~~Any~~ person who violates any rule of the department relative to pest control commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsection (3) of section 482.226, Florida Statutes, is amended to read:

482.226 Wood-destroying organism inspection report; notice

of inspection or treatment; financial responsibility.—

(3) When an inspection ~~If periodic reinspections or retreatments are~~ specified in wood-destroying organisms preventive or control contracts is conducted or any treatment covered by the wood-destroying organisms preventive or control contracts is performed, the licensee shall furnish the property owner or the property owner's authorized agent~~, after each such reinspection or retreatment,~~ a signed report indicating the presence or absence of wood-destroying organisms covered by the contract, whether treatment ~~retreatment~~ was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department.

(a) If a licensee performs an inspection not specified in the wood-destroying organisms preventive or control contract, and the presence of wood-destroying organisms covered by the contract is identified, the licensee must provide the property owner or property owner's authorized agent with a signed report notifying her or him of the presence of wood-destroying organisms.

(b) A person may not perform inspections ~~periodic reinspections~~ or treatments ~~retreatments~~ unless she or he has an identification card issued under s. 482.091(9).

Section 10. Subsection (13) of section 487.031, Florida Statutes, is amended to read:

487.031 Prohibited acts.—It is unlawful:

(13) For any person to do any of the following:

(a) Make a false or fraudulent claim through any medium, misrepresenting the effect of materials or methods used.~~;~~

(b) Make a pesticide recommendation or application not in

accordance with the label, except as provided in this section, or not in accordance with recommendations of the United States Environmental Protection Agency or not in accordance with the specifications of a special local need registration.~~;~~

(c) Operate faulty or unsafe equipment.~~;~~

(d) Operate in a faulty, careless, or negligent manner.~~;~~

(e) Apply any pesticide directly to, or in any manner cause any pesticide to drift onto, any person or area not intended to receive the pesticide.~~;~~

(f) Fail to disclose to an agricultural crop grower, before ~~prior to the time~~ pesticides are applied to a crop, full information regarding the possible harmful effects to human beings or animals and the earliest safe time for workers or animals to reenter the treated field.~~;~~

(g) Refuse or, after notice, neglect to comply with ~~the provisions of~~ this part, the rules adopted under this part, or any lawful order of the department.~~;~~

(h) Refuse or neglect to keep and maintain the records required by this part or to submit reports when and as required.~~;~~

(i) Make false or fraudulent records, invoices, or reports.~~;~~

(j) Use fraud or misrepresentation in making an application for a license or license renewal.~~;~~

(k) Swear to or affirm a false statement in an application for a license issued pursuant to this chapter.

(l) Cheat on an examination required for licensure under this chapter or violate a published test center or examination procedure provided orally, in writing, or electronically at the

test site and affirmatively acknowledged by the examinee.

(m) Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license.~~;~~

(n)~~(l)~~ Aid or abet a licensed or unlicensed person to evade ~~the provisions of~~ this part, or combine or conspire with a licensed or unlicensed person to evade ~~the provisions of~~ this part, or allow a license to be used by an unlicensed person.~~;~~

(o)~~(m)~~ Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.~~;~~

(p)~~(n)~~ Make false or misleading statements, or fail to report, pursuant to this part, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides.~~;~~

(q)~~(o)~~ Impersonate any state, county, or city inspector or official.~~;~~

(r)~~(p)~~ Fail to maintain a current liability insurance policy or surety bond required by ~~as provided for in~~ this part.~~;~~

(s)~~(q)~~ Fail to adequately train, as required by ~~provided for in~~ this part, unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision of a licensed applicator.~~; or~~

(t)~~(r)~~ Fail to provide authorized representatives of the department with records required by this part or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

Section 11. Section 487.175, Florida Statutes, is amended to read:

487.175 Penalties; administrative fine; injunction.—

(1) In addition to any other penalty provided in this part, when the department finds any person, applicant, or licensee has violated any provision of this part or rule adopted under this part, it may enter an order imposing any one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Issuance of a warning letter.

(d) Placement of the licensee on probation for a specified period of time and subject to conditions the department may specify by rule, including requiring the licensee to attend continuing education courses, to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.

(e) Imposition of an administrative fine in the Class III category pursuant to s. 570.971 for each violation. When imposing a fine under this paragraph, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.

(2) It is unlawful for a person to swear to or affirm a false statement in an application for a license or certificate issued pursuant to this chapter. A false statement contained in an application for such license or certificate renders the application, license, or certificate void.

(3) Cheating on an examination required for licensure under

this chapter or violating a published test center or examination procedure provided orally, in writing, or electronically at the test site and affirmatively acknowledged by the examinee renders the examinee's exam attempt void. The department shall adopt rules establishing penalties for examinees who violate this section. The department may exercise discretion in assessing penalties based on the nature and frequency of the violation.

(4) Except as provided under subsection (3), a ~~Any~~ person who violates ~~any provision of~~ this part or rules adopted pursuant thereto commits a misdemeanor of the second degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083. For a subsequent violation, such person commits a misdemeanor of the first degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083.

(5)~~(3)~~ In addition to the remedies provided in this part and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of ~~any provision of~~ this part, or rule adopted under this part, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department's presentation of competent and substantial evidence to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of ~~any provision of~~ this part is ~~shall be~~ sufficient to authorize the issuance of an injunction.

Section 12. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

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(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the renewal fee and the fingerprint retention fee to cover the cost of ongoing retention in the statewide automated biometric identification system established in s. 943.05(2)(b). Upon the first renewal of a license issued under this chapter before January 1, 2017, the licensee shall submit a full set of fingerprints and fingerprint processing fees to cover the cost of entering the fingerprints into the statewide automated biometric identification system pursuant to s. 493.6108(4)(a) and the cost of enrollment in the Federal Bureau of Investigation's national retained print arrest notification program. Subsequent renewals may be completed without submission of a new set of fingerprints.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms requalification training taught by a Class "K" licensee and has complied with such other health and training requirements that the department shall adopt by rule. Proof of completion of firearms requalification training shall be submitted to the department upon completion of the training. A Class "G" licensee must successfully complete this requalification training for each type and caliber of firearm carried in the course of performing his or her regulated duties. At the discretion of a Class "K" instructor, a Class "G" licensee may qualify for up to two calibers of firearms in one 4-hour firearm requalification class if the licensee successfully completes training for each firearm, including a

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separate course of fire for each caliber of firearm. If the licensee fails to complete the required 4 hours of annual training during the first year of the 2-year term of the license, the license is ~~shall be~~ automatically suspended. The licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be reinstated. If the licensee fails to complete the required 4 hours of annual training during the second year of the 2-year term of the license, the licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be renewed. The department may waive the firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period;

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period;

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period; or

4. The applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act under 18 U.S.C. ss. 926B-926C.

Section 13. Section 493.6127, Florida Statutes, is created to read:

493.6127 Appointment of tax collectors to accept applications and renewals for licenses; fees; penalties.—

(1) The department may appoint a tax collector, a county officer as described in s. 1(d), Art. VIII of the State Constitution, to accept new, renewal, and replacement license applications on behalf of the department for licenses issued under this chapter. Such appointment shall be for specified locations that will best serve the public interest and convenience in persons applying for these licenses. The department shall establish by rule the type of new, renewal, or replacement licenses a tax collector appointed under this section is authorized to accept.

(2) A tax collector seeking to be appointed to accept applications for new, renewal, or replacement licenses must submit a written request to the department stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the department.

(a) Upon receipt of a written request, the department shall review it and may decline to enter into a memorandum of understanding or, if approved, may enter into a memorandum of understanding with the tax collector to accept applications for new or renewal licenses on behalf of the department.

(b) The department may rescind a memorandum of understanding for any reason at any time.

(3) All information provided pursuant to s. 493.6105 or s. 493.6113 and contained in the records of a tax collector appointed under this section which is confidential pursuant to s. 493.6122, or any other state or federal law, retains its confidentiality.

(4) A person may not handle an application for a license issued pursuant to this chapter for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by mail, and $9 for photography services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to chapter 493 for deposit in the Division of Licensing Trust Fund.

(6) A person who willfully violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Upon receipt of a completed renewal or replacement application, a new color photograph, and appropriate payment of required fees, a tax collector authorized to accept renewal or replacement applications for licenses under this section may, upon approval and confirmation of license issuance by the

department, print and deliver a license to a licensee renewing or replacing his or her license at the tax collector's office.

Section 14. Subsection (28) is added to section 496.404, Florida Statutes, to read:

496.404 Definitions.—As used in ss. 496.401-496.424, the term:

(28) "Street address" means the physical location where activities subject to regulation under this chapter are conducted or where an applicant, licensee, or other referenced individual actually resides. The term does not include a virtual office, a post office box, or a mail drop.

Section 15. Present paragraphs (d) through (g) of subsection (2) of section 496.405, Florida Statutes, are redesignated as paragraphs (e) through (h), respectively, a new paragraph (d) is added to that subsection, and paragraphs (b) and (d) of subsection (1), subsection (3), paragraph (a) of subsection (4), and paragraph (b) of subsection (7) of that section are amended, to read:

496.405 Registration statements by charitable organizations and sponsors.—

(1) A charitable organization or sponsor, unless exempted pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(b) Any changes to the information submitted to the department pursuant to paragraph (2)(d) or paragraph (2)(e) on the initial registration statement or the last renewal statement must be reported to the department on a form prescribed by the department within 10 days after the change occurs.

(d) The registration of a charitable organization or sponsor may not continue in effect and shall expire without further action of the department under either of the following circumstances:

1. After the date the charitable organization or sponsor should have filed, but failed to file, its renewal statement in accordance with this section.

2. For failure to provide a financial statement within any extension period provided under s. 496.407.

(2) The initial registration statement must be submitted on a form prescribed by the department, signed by an authorized official of the charitable organization or sponsor who shall certify that the registration statement is true and correct, and include the following information or material:

(d) The name and street address of each institution where banking or similar monetary transactions are done by the charitable organization or sponsor.

(3) Each chapter, branch, or affiliate of a parent organization ~~that is~~ required to register under this section must file a separate registration statement and financial statement or report the required information to its parent organization, which shall then file, on a form prescribed by the department, a consolidated registration statement for the parent organization and its Florida chapters, branches, and affiliates.

A consolidated registration statement filed by a parent organization must include or be accompanied by financial statements as specified in s. 496.407 for the parent organization and each of its Florida chapters, branches, and affiliates that solicited or received contributions during the preceding fiscal year. However, if all contributions received by chapters, branches, or affiliates are remitted directly into a depository account that feeds directly into the parent organization's centralized accounting system from which all disbursements are made, the parent organization may submit one consolidated financial statement on a form prescribed by the department. The consolidated financial statement must comply with s. 496.407 and must reflect the activities of each chapter, branch, or affiliate of the parent organization, including all contributions received in the name of each chapter, branch, or affiliate; all payments made to each chapter, branch, or affiliate; and all administrative fees assessed to each chapter, branch, or affiliate. A copy of Internal Revenue Service Form 990 and all attached schedules filed for the preceding fiscal year, or a copy of Internal Revenue Service Form 990-EZ and Schedule O for the preceding fiscal year, for the parent organization and each Florida chapter, branch, or affiliate ~~that is~~ required to file such forms must be attached to the consolidated financial statement.

(4)(a) Every charitable organization, sponsor, or parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall

total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.~~a.~~ Ten dollars, if the contributions received for the last fiscal or calendar year were less than $5,000; ~~or~~

~~b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than $50,000 and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;~~

2. Seventy-five dollars, if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were $100,000 or more, but less than $200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were $200,000 or more, but less than $500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were $500,000 or more, but less than $1 million;

6. Three hundred fifty dollars, if the contributions

received for the last fiscal year were $1 million or more, but less than $10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were $10 million or more.

(7)

(b) If a charitable organization or sponsor discloses information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ in the initial registration statement or annual renewal statement, the time limits set forth in paragraph (a) are waived, and the department must ~~shall~~ process such initial registration statement or annual renewal statement in accordance with the time limits set forth in chapter 120. The registration of a charitable organization or sponsor shall be automatically suspended for failure to disclose any information specified in subparagraphs (2)(e)2.-7. ~~subparagraphs (2)(d)2.-7.~~ until such time as the required information is submitted to the department.

Section 16. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 496.406, Florida Statutes, are amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

(d) A charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any

professional fundraising consultant, professional solicitor, or commercial co-venturer. If a charitable organization or sponsor that has less than $50,000 in total contributions ~~revenue~~ during a fiscal year actually acquires total contributions ~~revenue~~ equal to or in excess of $50,000, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the contributions reach ~~revenue reaches~~ $50,000.

(2) Before soliciting contributions, a charitable organization or sponsor claiming to be exempt from the registration requirements of s. 496.405 under paragraph (1)(d) must submit annually to the department, on forms prescribed by the department:

(a) The name, street address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose or purposes for which the contributions to be solicited will be used.

Section 17. Paragraph (a) of subsection (1) and subsection (3) of section 496.407, Florida Statutes, are amended to read:

496.407 Financial statement.—

(1) A charitable organization or sponsor that is required to initially register or annually renew registration must file an annual financial statement for the immediately preceding fiscal year on a form prescribed by the department.

(a) The statement must include the following:

1. A balance sheet.

2. A statement of support, revenue and expenses, and any change in the fund balance.

3. The names and street addresses of the charitable organizations or sponsors, professional fundraising consultant, professional solicitors, and commercial co-venturers used, if any, and the amounts received therefrom, if any.

4. A statement of functional expenses that must include, but is not limited to, expenses in the following categories:

a. Program service costs.

b. Management and general costs.

c. Fundraising costs.

(3) ~~Upon a showing of good cause by a charitable organization or sponsor,~~ The department may extend the time for the filing of a financial statement required under this section ~~by up to 180 days~~, during which time the previous registration shall remain active. The registration must ~~shall~~ be automatically suspended for failure to file the financial statement within the extension period.

Section 18. Paragraph (c) of subsection (2) of section 496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by the department, signed by an authorized official of the professional fundraising consultant who shall certify that the report is true and correct, and must include the following information:

(c) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

Section 19. Paragraphs (d) and (j) of subsection (2),

paragraph (c) of subsection (6), paragraphs (a), (b), and (h) of subsection (10), and subsection (11) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(2) Applications for registration or renewal of registration must be submitted on a form prescribed by rule of the department, signed by an authorized official of the professional solicitor who shall certify that the report is true and correct, and must include the following information:

(d) The names and street ~~residence~~ addresses of all principals of the applicant, including all officers, directors, and owners.

(j) A list of all telephone numbers the applicant will use to solicit contributions as well as the actual street ~~physical~~ address associated with each telephone number and any fictitious names associated with such address.

(6) No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department a solicitation notice on a form prescribed by the department. The notice must be signed and sworn to by the contracting officer of the professional solicitor and must include:

(c) The legal name and street ~~residence~~ address of each person responsible for directing and supervising the conduct of the campaign.

(10) During each solicitation campaign, and for not less than 3 years after its completion, the professional solicitor shall maintain the following records:

(a) The date and amount of each contribution received and the name, street address, and telephone number of each contributor.

(b) The name and ~~residence~~ street address of each employee, agent, and any other person, however designated, who is involved in the solicitation, the amount of compensation paid to each, and the dates on which the payments were made.

(h) If a refund of a contribution has been requested, the name and street address of each person requesting the refund, and, if a refund was made, its amount and the date it was made.

(11) If the professional solicitor sells tickets to any event and represents that the tickets will be donated for use by another person, the professional solicitor also must ~~shall~~ maintain for the same period as specified in subsection (10) the following records:

(a) The name and street address of each contributor who purchases or donates tickets and the number of tickets purchased or donated by the contributor.

(b) The name and street address of each organization that receives the donated tickets for the use of others, and the number of tickets received by the organization.

Section 20. Paragraph (a) of subsection (2) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(2) Persons required to obtain a solicitor license under subsection (1) shall submit to the department, in such form as the department prescribes, an application for a solicitor license. The application must include the following information:

(a) The true name, date of birth, unique identification number of a driver license or other valid form of identification, and street ~~home~~ address of the applicant.

Section 21. Paragraph (c) of subsection (2) of section 496.411, Florida Statutes, is amended, and paragraph (e) of that subsection is reenacted, to read:

496.411 Disclosure requirements and duties of charitable organizations and sponsors.—

(2) A charitable organization or sponsor soliciting in this state must include all of the following disclosures at the point of solicitation:

(c) Upon request, the name and either the street address or telephone number of a representative to whom inquiries may be addressed.

(e) Upon request, the source from which a written financial statement may be obtained. Such financial statement must be for the immediate preceding fiscal year and must be consistent with the annual financial statement filed under s. 496.407. The written financial statement must be provided within 14 days after the request and must state the purpose for which funds are raised, the total amount of all contributions raised, the total costs and expenses incurred in raising contributions, the total amount of contributions dedicated to the stated purpose or disbursed for the stated purpose, and whether the services of another person or organization have been contracted to conduct solicitation activities.

Section 22. Paragraph (a) of subsection (2) of section 496.4121, Florida Statutes, is amended to read:

496.4121 Collection receptacles used for donations.—

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(2) A collection receptacle must display a permanent sign or label on each side which contains the following information printed in letters that are at least 3 inches in height and no less than one-half inch in width, in a color that contrasts with the color of the collection receptacle:

(a) For a collection receptacle used by a person required to register under this chapter, the name, street ~~business~~ address, telephone number, and registration number of the charitable organization or sponsor for whom the solicitation is made.

Section 23. Paragraph (a) of subsection (2) and subsection (6) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(2) Any person desiring to solicit funds within a facility shall first obtain a written permit therefor from the authority responsible for the administration of the facility.

(a) An application in writing for such permit must ~~shall~~ be submitted to the authority and must state ~~shall set forth~~:

1. The full name, street ~~mailing~~ address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activities;

2. The full name, street ~~mailing~~ address, and telephone number of each person who will participate in such activities and of the person who will have supervision of and responsibility for the proposed activities;

3. A description of the proposed activities indicating the type of communication to be involved;

4. The dates on and the hours during which the activities

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are proposed to be carried out and the expected duration of the proposed activities; and

5. The number of persons to be engaged in such activities.

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, street address, and principal occupation and indicating the name of the organization for which funds are solicited.

Section 24. Effective upon this act becoming a law, present paragraphs (k) through (y) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (l) through (z), respectively, and a new paragraph (k) is added to that subsection, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(k) "Cultivated meat" means any meat or food product produced from cultured animal cells.

Section 25. Effective upon this act becoming a law, section 500.452, Florida Statutes, is created to read:

500.452 Cultivated meat; prohibition; penalties.—

(1) It is unlawful for any person to manufacture, sell, hold or offer for sale, or distribute cultivated meat in this state.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A food establishment that manufactures, distributes, or sells cultivated meat in violation of this section is subject to disciplinary action pursuant to s. 500.121.

(4) In addition to the penalties provided in this section, the license of any restaurant, store, or other business may be suspended as provided in the applicable licensing law upon the conviction of an owner or employee of that business for a violation of this section in connection with that business.

(5) A product found to be in violation of this section is subject to s. 500.172 and an immediate stop-sale order.

(6) The department may adopt rules to implement this section.

Section 26. Subsection (10) is added to section 507.07, Florida Statutes, to read:

507.07 Violations.—It is a violation of this chapter:

(10) For a mover to place a shipper's goods in a self-service storage unit or self-contained storage unit owned by anyone other than the mover unless those goods are stored in the name of the shipper and the shipper contracts directly with the owner of the self-service storage unit or self-contained storage unit.

Section 27. Section 531.67, Florida Statutes, is repealed.

Section 28. Paragraphs (d) and (e) of subsection (1) and paragraph (a) of subsection (3) of section 559.904, Florida Statutes, are amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.—

(1) Each motor vehicle repair shop engaged or attempting to engage in the business of motor vehicle repair work must

register with the department prior to doing business in this state. The application for registration must be on a form provided by the department and must include at least the following information:

(d) ~~Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant.~~

~~(c)~~ Number of employees who perform repairs at each location or whom ~~which~~ the applicant intends to employ ~~or which are currently employed~~.

(3)(a) Each application for registration must be accompanied by a registration fee for each location calculated on a per-year basis as follows:

1. If the place of business has 1 to 5 employees who perform repairs: $50.

2. If the place of business has 6 to 10 employees who perform repairs: $150.

3. If the place of business has 11 or more employees who perform repairs: $300.

Section 29. Subsections (1) and (2) of section 559.905, Florida Statutes, are amended to read:

559.905 Written motor vehicle repair estimate and disclosure statement required.—

(1) When any customer requests a motor vehicle repair shop to perform repair work on a motor vehicle, the cost of which repair work will exceed $150 ~~$100~~ to the customer, the shop shall prepare a written repair estimate, which is a form setting forth the estimated cost of repair work, including diagnostic work, before effecting any diagnostic work or repair. The written repair estimate must ~~shall~~ also include all of the

following items:

(a) The name, address, and telephone number of the motor vehicle repair shop.

(b) The name, address, and telephone number of the customer.

(c) The date and time of the written repair estimate.

(d) The year, make, model, odometer reading, and license tag number of the motor vehicle.

(e) The proposed work completion date.

(f) A general description of the customer's problem or request for repair work or service relating to the motor vehicle.

(g) A statement as to whether the customer is being charged according to a flat rate or an hourly rate, or both.

(h) The estimated cost of repair which must ~~shall~~ include any charge for shop supplies or for hazardous or other waste removal and, if a charge is included, the estimate must ~~shall~~ include the following statement:

"This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal."

If a charge is mandated by state or federal law, the estimate must ~~shall~~ contain a statement identifying the law and the specific amount charged under the law.

(i) The charge for making a repair price estimate or, if the charge cannot be predetermined, the basis on which the charge will be calculated.

(j) The customer's intended method of payment.

(k) The name and telephone number of another person who may authorize repair work, if the customer desires to designate such person.

(l) A statement indicating what, if anything, is guaranteed in connection with the repair work and the time and mileage period for which the guarantee is effective.

(m) A statement allowing the customer to indicate whether replaced parts should be saved for inspection or return.

(n) A statement indicating the daily charge for storing the customer's motor vehicle after the customer has been notified that the repair work has been completed. However, ~~no~~ storage charges may not ~~shall~~ accrue or be due and payable for a period of 3 working days from the date after ~~of~~ such notification.

(2) If the cost of repair work will exceed $150 ~~$100~~, the shop must ~~shall~~ present to the customer a written notice conspicuously disclosing, in a separate, blocked section, only the following statement, in capital letters of at least 12-point type:

PLEASE READ CAREFULLY, CHECK ONE OF THE STATEMENTS BELOW, AND SIGN:

I UNDERSTAND THAT, UNDER STATE LAW, I AM ENTITLED TO A WRITTEN ESTIMATE IF MY FINAL BILL WILL EXCEED $150 ~~$100~~.

.... I REQUEST A WRITTEN ESTIMATE.

.... I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED $..... THE SHOP MAY NOT EXCEED THIS

AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

.... I DO NOT REQUEST A WRITTEN ESTIMATE.

SIGNED ..... DATE ....

Section 30. Subsection (38), of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(38) To repair or build structures, from existing appropriations authority, notwithstanding chapters 216 and 255, not to exceed a cost of $500,000 ~~$250,000~~ per structure. These structures must meet all applicable building codes.

Section 31. Section 570.69, Florida Statutes, is amended to read:

570.69 Definitions; ss. 570.69 and 570.691.—For the purpose of this section and s. 570.691:

(1) "Center" means the Florida Agricultural Legacy Learning Center.

(2) "Designated program" means the departmental program that ~~which~~ a direct-support organization has been created to support.

(3)~~(2)~~ "Direct-support organization" or "organization" means an organization that ~~which~~ is a Florida corporation not for profit incorporated under chapter 617 and approved by the department to operate for the benefit of a museum or a designated program.

~~(3) "Museum" means the Florida Agricultural Museum, which is designated as the museum for agriculture and rural history of the State of Florida.~~

Section 32. Subsections (1), (2), (4), (5), and (7) of section 570.691, Florida Statutes, are amended to read:

570.691 Direct-support organization.—

(1) The department may authorize the establishment of direct-support organizations to provide assistance, funding, and promotional support for ~~the museums and other~~ programs of the department. The following provisions ~~shall~~ govern the creation, use, powers, and duties of the direct-support organizations:

(a) The department shall enter into a memorandum or letter of agreement with the direct-support organization, which must ~~shall~~ specify the approval of the department, the powers and duties of the direct-support organization, and rules with which the direct-support organization must comply.

(b) The department may authorize, without charge, appropriate use of property, facilities, and personnel of the department by the direct-support organization. The use must ~~shall~~ be for the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use department facilities.

(c) The department shall prescribe by agreement conditions with which the direct-support organization must comply in order to use property, facilities, or personnel of the department. Such conditions must ~~shall~~ provide for budget and audit review and oversight by the department.

(d) The department may not authorize the use of property,

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facilities, or personnel of the center ~~museum~~, department, or designated program by the direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(2)(a) The direct-support organization may conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the center ~~museum~~ or designated program.

(b) Notwithstanding ~~the provisions of~~ s. 287.025(1)(e), the direct-support organization may enter into contracts to insure property of the center ~~museum~~ or designated programs and may insure objects or collections on loan from others in satisfying security terms of the lender.

(4) A department employee, direct-support organization or center ~~museum~~ employee, volunteer, or director, or designated program may not do either of the following:

(a) Receive a commission, fee, or financial benefit in connection with the sale or exchange of real or personal property or historical objects to the direct-support organization, the center ~~museum~~, or the designated program.~~; or~~

(b) Be a business associate of any individual, firm, or organization involved in the sale or exchange of real or personal property to the direct-support organization, the center ~~museum~~, or the designated program.

(5) All moneys received by the direct-support organization

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shall be deposited into an account of the direct-support organization and must ~~shall~~ be used by the organization in a manner consistent with the goals of the center ~~museum~~ or designated program.

(7) The Commissioner of Agriculture, or the commissioner's designee, may serve on the board of trustees and the executive committee of any direct-support organization established to benefit the center ~~museum~~ or any designated program.

Section 33. Section 570.692, Florida Statutes, is amended to read:

570.692 Florida Agricultural Legacy Learning Center ~~Museum~~.—The Florida Agricultural Legacy Learning Center ~~Museum~~ is designated as the legacy learning center for ~~museum of~~ agriculture and rural history of this ~~the~~ state ~~of Florida~~ and is ~~hereby~~ established within the department.

Section 34. Section 581.189, Florida Statutes, is created to read:

581.189 Dealing in, buying, transporting, and processing saw palmetto berries.—

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

(a) "Harvest" or "harvesting" means to dig up, remove, or cut and remove saw palmetto berries from the place where they are grown.

(b) "Harvester" means a person, firm, or corporation that takes, harvests, or attempts to take or harvest saw palmetto berries.

(c) "Landowner" means:

1. The public agency administering any public lands; or

2. The person who holds legal title to the real property

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from which saw palmetto berries are harvested or the person having possession, control, or use of that land which has lawful authority to grant permission to harvest saw palmetto berries from the land.

(d) "Person" means an individual, a partnership, a corporation, an association, or any other legal entity.

(e) "Saw palmetto berries" means the fruit of the plant *Serenoa repens*, commonly known as the saw palmetto.

(f) "Saw palmetto berry dealer" means a person that purchases or otherwise obtains saw palmetto berries from a seller for the purpose of selling the saw palmetto berries at retail or for the purpose of selling the saw palmetto berries to another saw palmetto berry dealer or for both such purposes. This term also includes a person who purchases saw palmetto berries directly from a landowner for the purpose of selling the saw palmetto berries at retail.

(g) "Seller" means a person that exchanges or offers to exchange saw palmetto berries for money or for any other valuable consideration.

(2) It is unlawful for any person to willfully destroy, harvest, or sell saw palmetto berries on the private land of another or on any public land without first obtaining written permission from the landowner or legal representative of the landowner and a permit from the department as provided in s. 581.185. The landowner's written permission must include all of the following information:

(a) The name, address, and telephone number of the landowner.

(b) The start date, end date, and location, including

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county, of the harvest.

(c) The landowner's actual or electronic signature.

(3)(a) A saw palmetto berry dealer that purchases saw palmetto berries from a landowner or a person harvesting saw palmetto berries from another's property shall:

1. Maintain a bill of lading, a copy of the harvester's entire permit, as provided in s. 581.185, a copy of the landowner's written permission to harvest, and all of the following:

a. The name, address, and telephone number of the seller.

b. The date or dates of harvesting.

c. The weight, quantity, or volume and a description of the type of saw palmetto berries harvested.

d. A scan or photocopy of a valid government-issued photo identification card of such person.

(b) A person required to maintain the information under paragraph (a) shall retain such records for at least 2 years from the date the harvest ends.

(4)(a) When any law enforcement officer or any authorized employee of the department finds that any saw palmetto berries are being harvested, offered for sale, or exposed for sale in violation of this section, the law enforcement officer or authorized department employee may seize or order such saw palmetto berries be held at a designated location until the individual:

1. Provides the officer or employee with the required permit and landowner's written permission to harvest, within 7 calendar days following the seizure; or

2. Legally disposes of the saw palmetto berries in

accordance with this section.

(b) A law enforcement officer or authorized department employee shall release the saw palmetto berries when the requirements of this section are met.

(5) Unlawfully harvested saw palmetto berries constitute contraband and are subject to seizure and disposal by the seizing law enforcement agency or the department.

(a) Notwithstanding any other provision of law, a law enforcement agency that seizes saw palmetto berries harvested or possessed in violation of this section or unlawfully harvested in violation of s. 581.185, or in violation of any other state or federal law, may sell such saw palmetto berries and retain the proceeds of the sale for the enforcement of this section. Law enforcement agencies selling contraband saw palmetto berries are exempt from s. 581.185.

(b) Law enforcement agencies that seize unlawfully harvested saw palmetto berries shall submit annually to the department, in the manner prescribed by department rule:

1. The quantity and a description of the saw palmetto berries seized; and

2. The location from which the saw palmetto berries were harvested, if known.

(6)(a) A harvester that exchanges or offers to exchange saw palmetto berries with a saw palmetto dealer, seller, or processor for money or any other valuable consideration without first presenting to the saw palmetto berry dealer, seller, processor the person's entire permit, as provided in s. 581.185, or the landowner's written permission commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.

775.083.

(b) A person required to maintain records as required in this section that fails to maintain such record for the time period specified in paragraph (3)(b) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person that willfully destroys or harvests saw palmetto berries without first obtaining the landowner's written permission to harvest as required by subsection (2) or a permit as required by s. 581.185 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A saw palmetto berry dealer, buyer, processor, harvester, or seller that presents a false, forged, or altered document purporting to be a landowner's written permission or the permit required by s. 581.185 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A saw palmetto berry dealer, transporter, or processor that exchanges, offers to exchange for money or any other valuable consideration, or possesses unlawfully harvested saw palmetto berries commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)(a) A person convicted of a violation of this section is responsible for:

1. All reasonable costs incurred by the responding law enforcement agencies and the department, including, but not limited to, investigative costs; and

2. Restitution to the landowner in an amount equal to the fair market value of the saw palmetto berries unlawfully

harvested.

(b) For the purposes of this subsection, the term "convicted" means that there has been a determination of guilt as a result of trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(8) This section does not affect any other person that legally harvests or handles saw palmetto berries from up to two plants for home or personal use.

(9) The department shall adopt rules to administer this section.

Section 35. Subsection (13) of section 585.01, Florida Statutes, is amended to read:

585.01 Definitions.—In construing this part, where the context permits, the word, phrase, or term:

(13) "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, poultry, ostriches, emus, and rheas, which are raised for private use or commercial purposes.

Section 36. Subsections (5) and (8) of section 790.0625, Florida Statutes, are amended, and subsections (9) and (10) are added to that section, to read:

790.0625 Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.—

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application, ~~and~~ $12 for each renewal application, $12 for each replacement license, $9 for fingerprinting services associated with the completion of an application submitted online or by

mail, and $9 for photographing services associated with the completion of an application submitted online or by mail, and shall remit weekly to the department the license fees pursuant to s. 790.06 for deposit in the Division of Licensing Trust Fund.

(8) Upon receipt of a completed renewal application, a new color photograph, and ~~appropriate~~ payment of required fees, a tax collector authorized to accept renewal applications for concealed weapon or firearm licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

(9) Upon receipt of a statement under oath to the department and payment of required fees, a tax collector authorized to accept an application for a concealed weapon or firearm license under this section may, upon approval and confirmation from the department that a license is in good standing, print and deliver a concealed weapon or firearm license to a licensee whose license has been lost or destroyed.

(10) Tax collectors authorized to accept an application for a concealed weapon or firearm license under this section may provide fingerprinting and photographing services to aid concealed weapon and firearm applicants and licensees with initial and renewal applications submitted online or by mail.

Section 37. Paragraph (a) of subsection (5) of section 810.011, Florida Statutes, is amended to read:

810.011 Definitions.—As used in this chapter:

(5)(a) "Posted land" is land upon which any of the

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following are placed:

1. Signs placed not more than 500 feet apart along and at each corner of the boundaries of the land or, for land owned by a water control district that exists pursuant to chapter 298 or was created by special act of the Legislature, signs placed at or near the intersection of any district canal right-of-way and a road right-of-way or, for land classified as agricultural pursuant to s. 193.461, signs placed at each point of ingress and at each corner of the boundaries of the agricultural land, which prominently display in letters of not less than 2 inches in height the words "no trespassing" and the name of the owner, lessee, or occupant of the land. The signs must be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line; or

2.a. A conspicuous no trespassing notice is painted on trees or posts on the property, provided that the notice is:

(I) Painted in an international orange color and displaying the stenciled words "No Trespassing" in letters no less than 2 inches high and 1 inch wide either vertically or horizontally;

(II) Placed so that the bottom of the painted notice is not less than 3 feet from the ground or more than 5 feet from the ground; and

(III) Placed at locations that are readily visible to any person approaching the property and no more than 500 feet apart on agricultural land.

b. When a landowner uses the painted no trespassing posting to identify a no trespassing area, those painted notices must be accompanied by signs complying with subparagraph 1. and must be

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placed conspicuously at all places where entry to the property is normally expected or known to occur.

Section 38. Subsection (2) of section 810.09, Florida Statutes, is amended to read:

810.09 Trespass on property other than structure or conveyance.—

(2) ~~(a)~~ Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(a) ~~(b)~~ If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) ~~(c)~~ If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he or she commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and that the person to be taken into

custody and detained has committed or is committing the violation. If a person is taken into custody, a law enforcement officer must ~~shall~~ be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention in compliance with the requirements of this paragraph does not result in criminal or civil liability for false arrest, false imprisonment, or unlawful detention.

(c) ~~(d)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed is a construction site that is:

1. Greater than 1 acre in area and is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."; or

2. One acre or less in area and is identified as such with a sign that appears prominently, in letters of not less than 2 inches in height, and reads in substantially the following manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign must ~~shall~~ be placed at the location on the property where the permits for construction are located. For construction sites of 1 acre or less as provided in this subparagraph, it may ~~shall~~ not be necessary to give notice by posting as defined in s. 810.011(5).

(d) ~~(e)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is commercial horticulture property and the property is legally posted and identified in substantially the following manner: "THIS AREA IS DESIGNATED

COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(e) ~~(f)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural site for testing or research purposes that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(f) ~~(g)~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is a domestic violence center certified under s. 39.905 which is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED RESTRICTED SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(g) ~~(h)~~ Any person who in taking or attempting to take any animal described in s. 379.101(19) or (20), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term "potentially lethal projectile" includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This section does not apply to any governmental agent or employee acting within the scope of his or her official duties.

(h) ~~(i)~~ The offender commits a felony of the third degree,

punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property trespassed upon is an agricultural chemicals manufacturing facility that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

(i)1. ~~(j)1.~~ The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner: "THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

2. For purposes of this paragraph, the term "operational area of an airport" means any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

(j) The offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offender trespasses with the intent to commit a crime on commercial agricultural property that is legally posted and identified by signs in letters of at least 2 inches at each

pedestrian and vehicle entrance in substantially the following manner: "THIS AREA IS A DESIGNATED COMMERCIAL AGRICULTURAL PROPERTY, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

1. A first-time offender who is under 18 years of age at the time he or she commits the crime specified in this paragraph must be given the option of participating in a diversion program described in s. 958.12, s. 985.125, s. 985.155, or s. 985.16 or a program to which a referral is made by a state attorney under s. 985.15.

2. For the purpose of this paragraph, the term "commercial agricultural property" means property cleared of its natural vegetation or fenced for the purposes of planting, growing, harvesting, processing, raising, producing, or storing plant or animal commercial commodities.

Section 39. Subsection (5) is added to section 1003.24, Florida Statutes, to read:

1003.24 Parents responsible for attendance of children; attendance policy.—Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law. The absence of a student from school is prima facie evidence of a violation of this section; however, criminal prosecution under this chapter may not be brought against a parent until the provisions of s. 1003.26 have been complied with. A parent of a student is not responsible for the student's nonattendance at school under any of the following conditions:

(5) AGRICULTURAL SCHOOL ACTIVITIES.—

(a) A student who participates in an activity or program

sponsored by 4-H or Future Farmers of America (FFA) must be credited with an excused absence by the school in which he or she is enrolled in the same manner as any other excused absence is credited. Any such participation in an activity or program sponsored by 4-H or FFA may not be counted as an unexcused absence, for any day, portion of a day, or days missed from school.

(b) Upon request from a school principal or the principal's designee, a 4-H or FFA representative shall provide documentation as proof of a student's participation in an activity or program sponsored by 4-H or FFA.

(c) As used in this subsection, the term "4-H representative" means an individual officially recognized or designated by the Florida Cooperative Extension Service 4-H Program as a 4-H professional or a 4-H adult volunteer.

Each district school board shall establish an attendance policy that includes, but is not limited to, the required number of days each school year that a student must be in attendance and the number of absences and tardinesses after which a statement explaining such absences and tardinesses must be on file at the school. Each school in the district must determine if an absence or tardiness is excused or unexcused according to criteria established by the district school board.

Section 40. Paragraph (b) of subsection (2) of section 379.3004, Florida Statutes, is amended to read:

379.3004 Voluntary Authorized Hunter Identification Program.—

(2) Any person hunting on private land enrolled in the

Voluntary Authorized Hunter Identification Program shall have readily available on the land at all times when hunting on the property written authorization from the owner or his or her authorized representative to be on the land for the purpose of hunting. The written authorization shall be presented on demand to any law enforcement officer, the owner, or the authorized agent of the owner.

(b) Failure by any person hunting on private land enrolled in the program to present written authorization to hunt on that ~~said~~ land to any law enforcement officer or the owner or representative thereof within 7 days after ~~of~~ demand shall be prima facie evidence of violation of s. 810.09(2)(b) ~~s. 810.09(2)(c)~~, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, such evidence may be contradicted or rebutted by other evidence.

Section 41. Paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (f).

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of

the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility, a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(c) ~~s. 810.09(2)(d)~~.

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms "conditions arising from a riot" and "conditions arising from the emergency" have the same meanings as provided in paragraph (b). A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 42. Paragraphs (b) and (c) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.

784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating

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		or furthering burglary.
810.09(2)(d) ~~810.09(2)(e)~~	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $750, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit,

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		etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged

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		instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.

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843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police, fire, SAR canine or police horse.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.

316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title

		or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation

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		of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or

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		retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written

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		solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(b) ~~810.09(2)(c)~~	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with

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		others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle

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		insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to

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		public servant.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c),

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		(2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label

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		to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.

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893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Section 43. For the purpose of incorporating the amendment made by this act to section 493.6113, Florida Statutes, in a

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reference thereto, subsection (6) of section 493.6115, Florida Statutes, is reenacted to read:

493.6115 Weapons and firearms.—

(6) In addition to any other firearm approved by the department, a licensee who has been issued a Class "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only; or a .40 caliber handgun; or a .45 ACP handgun while performing duties authorized under this chapter. A licensee may not carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

Section 44. For the purpose of incorporating the amendment made by this act to section 496.405, Florida Statutes, in references thereto, subsection (2) of section 496.4055, Florida Statutes, is reenacted to read:

496.4055 Charitable organization or sponsor board duties.—

(2) The board of directors, or an authorized committee thereof, of a charitable organization or sponsor required to register with the department under s. 496.405 shall adopt a policy regarding conflict of interest transactions. The policy shall require annual certification of compliance with the policy by all directors, officers, and trustees of the charitable organization. A copy of the annual certification shall be submitted to the department with the annual registration statement required by s. 496.405.

Section 45. For the purpose of incorporating the amendment

made by this act to section 559.905, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 559.907, Florida Statutes, is reenacted to read:

559.907 Charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.—

(1) No motor vehicle repair shop shall charge for making a repair price estimate unless, prior to making the price estimate, the shop:

(b) Obtains authorization on the written repair estimate, in accordance with s. 559.905, to prepare an estimate. No motor vehicle repair shop shall impose or threaten to impose any such charge which is clearly excessive in relation to the work involved in making the price estimate.

Section 46. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (6) of section 468.382, Florida Statutes, is reenacted to read:

468.382 Definitions.—As used in this act, the term:

(6) "Livestock" means any animal included in the definition of "livestock" by s. 585.01 or s. 588.13.

Section 47. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, subsection (3) of section 534.47, Florida Statutes, is reenacted to read:

534.47 Definitions.—As used in ss. 534.48-534.54, the term:

(3) "Livestock" has the same meaning as in s. 585.01(13).

Section 48. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.01, Florida Statutes, is

reenacted to read:

767.01 Dog owner's liability for damages to persons, domestic animals, or livestock.—Owners of dogs shall be liable for any damage done by their dogs to a person or to any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01.

Section 49. For the purpose of incorporating the amendment made by this act to section 585.01, Florida Statutes, in a reference thereto, section 767.03, Florida Statutes, is reenacted to read:

767.03 Good defense for killing dog.—In any action for damages or of a criminal prosecution against any person for killing or injuring a dog, satisfactory proof that said dog had been or was killing any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01 shall constitute a good defense to either of such actions.

Section 50. 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 July 1, 2024.

The Florida Senate

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2/22/2024
Meeting Date

Fiscal Policy
Committee

1084
Bill Number or Topic

789144
Amendment Barcode (if applicable)

Name Izzy Garbarino C

Phone 850-617-7700

Address 400 S Monroe PL-10
Street

Email

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:
FL Dept. of Agriculture

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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Amendment Barcode (if applicable)

Name Izzy Garbarino

Phone 850-617-7700

Address 400 S Monroe St PL-10
Street

Email

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio

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:
Six Action

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/21/24
Meeting Date

Fiscal Policy
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tripp Hunter

Phone 850-491-6092

Address 119 S Monroe
Street

Email tripp.Hunter@FFVA.com

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 Fruit & Vegetable 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. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

Fiscal Policy
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Andrew Walmsley

Phone 202-430-0158

Address 310 W College Ave
Street

Email andrew.walmsley@fbf.org

TLH 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 Farm Bureau Federation

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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Fiscal Policy
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall Phone

Address 579 E. Call St. Email fcfep.1@yahoo.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: Earth Justice

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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2-22-24
Meeting Date

Fiscal
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matthew Grochoske

Phone 8632247501

Address 500 Ollie Ave
Street

Winter Park FL 32789
City State Zip

Email matthewforfl@gmail.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

Fiscal Policy
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Theresa King

Phone 850-228-8940

Address P.O. Box 10888/200 E College
Street

Email tking@fbctc.org

Tallahassee (apts 2) FL 32302
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 Building and Construction Trades Council

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

Fiscal Policy
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pepin Andrew Tuma

Phone 202-876-6255

Address The Good Food Institute
Street

Email pepin@gfi.org

Washington DC 20036
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:
Good Food Institute

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

Fiscal Policy
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bill Helmich

Phone 850-251-3126

Address 303 Johns Drive
Street

Email bill@helmichconsulting.com

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:
Food Solutions Action / Good Food Institute

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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Senate professional staff conducting the meeting

2-22-24 412 kb
Meeting Date

FP
Committee

1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID CULLEN

Phone 941-323-2404

Address 816 W THARPE ST
Street

Email CULLENASEA@GMAIL.COM

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:
SIERRA CLUB 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. 2020-2022JointRules.pdf (flsenate.gov)

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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim Ross

Phone 850-888-2565

Address 603 Martin Luther King Jr. Blvd
Street

Email Kim@rethinkenergyflorida.org

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:

ReThink Energy 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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2/22/24
Meeting Date

Fiscal Policy
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name John Pattison

Phone 4149433495

Address 101 S. Main Street
Street

Email john@upsidefoods.com

Lombard IL 60148
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. 2020-2022JointRules.pdf (flsenate.gov)

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2-22-2024
Meeting Date

Fiscal Policy
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brian Lee

Phone 850-766-7309

Address 1203 Buckingham Dr.
Street

Email brian@rethinkenergyflorida.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:

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

ReThink Energy Action Fund

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. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

SB 1084
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Sam Dohler

Phone 440-440-7476

Address 500 chapel Dr
Street

Email samdohler@gmail.com

Tallahassee FL 32304
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:

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Meeting Date

Fiscal Policy
Committee

SB 1084
Bill Number or Topic

Amendment Barcode (if applicable)

Name Samantha Kaddis

Phone 7272420579

Address 1767 Hermitage blvd - 9204
Street

Email skaddis@genclleoaction.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:
GENCLEO ACTION Fund

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

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Fiscal Policy
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name Arye Elfenbein, MD

Phone 415.322.3385

Address 2325 3rd Street, Suite 209
Street

Email arye@wildtypefoods.com

San Francisco CA 94107
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. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

Fiscal Policy
Committee

1084 FDACS
Bill Number or Topic

Amendment Barcode (if applicable)

Name Niya Gupta

Phone 9179743367

Address 95 Greene Street
Street

Email niya@forkandgood.com

New Jersey NJ 07302
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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 1098
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senator DiCeglie
SUBJECT:	Department of Financial Services
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.	Sanders	Betta	AEG	**Fav/CS**
3.	Thomas	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1098 revises provisions of multiple programs within the Department of Financial Services (DFS) to:

- Create the position of Federal Tax Liaison within DFS;
- Rename the Division of Investigative and Forensic Services to the Florida Division of Investigations and repeal the Division of Public Assistance Fraud, moving its responsibilities to the renamed division;
- Clarify that under certain conditions, a firefighter diagnosed with cancer, as an alternative to workers' compensation, is eligible for certain leave time and job retention benefits;
- Revise the special risk provision to refer to employees of the DFS rather than the State Fire Marshal;
- Eliminate quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund;
- Provide for workers' compensation reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. Provides this provision expires June 30, 2026. Requires the DFS to engage an actuarial services firm to begin development of maximum reimbursement allowances for emergency services and care;
- Require purchases and contracts of $100,000 or more entered into by the Florida Self-Insurers Guaranty Association, the Florida Medical Malpractice Joint Underwriting Association, the Florida Insurance Guaranty Association, the Florida Life and Health Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance

Plan, and the Florida Workers' Compensation Guaranty Association, entered into after July 1, 2024, must first be approved by the DFS and that all such contracts must be competitively procured and be awarded to the most responsible and responsive vendor;
- Revise appointment authority and requirements for the Board of Funeral, Cemetery, and Consumer Services (Board); provides that Board members are subject to the code of ethics under part III of ch. 112, F.S.;
- Amend service requirements for disciplinary and citation procedures to provide for service by e-mail if service by certified mail cannot be made at the last provided address;
- Provide the DFS with the authority, in emergency situations, to access and secure any facility licensed under ch. 497, F.S., and to determine if a facility is abandoned and if there is an emergency situation;
- Provide criminal penalties for violations of s. 497.386, F.S.;
- Provide restrictions on when a preneed licensee may withdraw funds from the amount deposited in trust;
- Amend provisions regarding investigations and prosecutions within the regulatory authority of the DFS;
- Require surplus lines insurers to respond to the DFS' Division of Consumer Services (Division) within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint;
- Provide for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials;
- Add "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster;
- Allow the DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation;
- Add the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative;
- Require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held;
- Provide that a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment;
- Revise provisions under the State Fire Marshal relating to standards on the use of fireworks, the Florida Fire Prevention Code, and uniform fire safety standards for mobile food dispensing vehicles and energy storage systems;
- Allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations;
- Revise financial requirements for warranty associations and exempt employees and agents of a municipality, county government, or special district from the licensing and appointment requirements;
- Revise provisions relating to bail bond agents and agencies; provide that bail bond agents are not required to be employed with a bail bond agency;
- Revise provisions of the Florida Disposition of Unclaimed Property Act;
- Remove the exclusion of 20 percent of the asset value from the calculation of assets and liabilities provisions related for Florida Birth-Related Neurological Injury Compensation Association (NICA) claims;

- Require NICA by September 1, 2024, to provide a report of recommendations to address actuarial soundness to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives for ensuring a revenue level to maintain actuarial soundness;
- Direct the Division of Law Revision to prepare a reviser's bill to implement certain changes within this bill; and
- Authorize the DFS to adopt rules to implement provisions contained within the bill.

The bill has a negative impact on state revenues and expenditures. *See* Section V. Fiscal Impact.

Except as otherwise provided, the bill takes effect upon becoming a law.

II. Present Situation:

Internal Revenue Service (IRS)

The IRS is a bureau of the United States Department of Treasury (Treasury) and is organized to carry out the responsibilities of the secretary of the Treasury under s. 7801 of the Internal Revenue Code.[1] The mission of the IRS is to provide the United States of America's taxpayers with top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.[2] The IRS processes federal tax returns, payments, refunds and correspondence; levies federal tax liens; provides enforcement and compliance operations; enforces collection programs; resolves tax disputes through the IRS Independent Office of Appeals; and litigates tax cases within the U.S. Tax Court.[3]

The IRS offers many tools to assist taxpayers with tax questions and concerns, including online (self-service options), in person or by phone.[4] Taxpayer Assistance Center Offices (IRS Offices) are located throughout the United States and the IRS also provides IRS-certified volunteers and Taxpayer Advocate Services for taxpayers who meet certain criteria.[5] The IRS provides specific toll-free phone numbers and help lines for: individuals and businesses tax filers, overseas callers and callers who are hearing impaired; and persons who have questions regarding non-profit taxes, estate and gift taxes and excise taxes.[6] The IRS provides multiple toll free, 24-hour a day, pre-recorded messages covering more than 100 tax topics for tax payers seeking assistance.[7] As of February 6, 2024, there are 18 IRS Offices in Florida. The IRS has offices in Clearwater, Daytona Beach, Ft. Myers, Gainesville, Jacksonville, Lakeland, Melbourne, Miami, Ocala, Orlando, Panama City, Pensacola, Plantation/Ft. Lauderdale, Port St. Lucie, Sarasota,

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[1] Internal Revenue Service (IRS), *The Agency, its Mission and Statutory Authority*, https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority (last visited Feb. 6, 2024). *See* 26 U.S.C. s. 7801 – U.S. Code (Jan. 1, 2018), Internal Revenue Code, Authority of Department of Treasury, *available at* https://codes.findlaw.com/us/title-26-internal-revenue-code/26-usc-sect-7801/ (last visited Feb. 6, 2024).
[2] *Id.*
[3] IRS, *IRS operations: Status of mission-critical functions*, https://www.irs.gov/newsroom/irs-operations-status-of-mission-critical-functions (last visited Feb. 6, 2024).
[4] IRS, *Let Us Help You*, https://www.irs.gov/help/let-us-help-you (last visited Feb. 6, 2024).
[5] *Id.*
[6] *Id.*
[7] IRS, *IRS Tax Tip 2001-39, Toll-Free Telephone Service*, *available at* https://www.irs.gov/pub/irs-news/at-01-39.pdf (last visited Feb. 6, 2024).

Tallahassee, Tampa, and West Palm Beach.[8] Each Florida location is open from 8:30 a.m. to 4:30 p.m., Monday through Friday. Some of the Florida IRS Offices offer extended hours on set days. Each Florida IRS Office offer online and local services.[9]

Florida Department of Revenue

The Florida Department of Revenue (DOR) administers three main programs: Child Support Program, General Tax Administration, and Property Tax Oversight.[10] The DOR's primary responsibility lies in administering Florida's state tax law.[11] To encourage tax compliance, the DOR offers taxpayer education through online resources and webinars.[12] In addition, the DOR monitors taxpayer compliance and initiates enforcement actions, including audits and collections, while prioritizing the protection of taxpayer rights.[13]

Taxpayer Rights Advocate

The Taxpayer Rights Advocate (TRA) is a position established by statute, appointed by, and accountable to the DOR Chief Inspector General, with removal from office authorized only by the Chief Inspector General.[14] The TRA's role is to address taxpayer concerns and ensure adherence to taxpayer rights as defined by Florida constitutional and statutory provisions.[15]

Article I, Section 25 of the Florida Constitution provides for the enactment of a Taxpayers' Bill of Rights by the legislature, outlining taxpayers' rights and responsibilities and the government's obligations to treat taxpayers fairly.[16] The 1992 Florida Legislature created the Taxpayer's Bill of Rights, specified in s. 213.015, F.S., which grants taxpayers the right to request assistance from a DOR Taxpayer Rights Advocate.[17] The TRA facilitates the resolution of taxpayer complaints and problems not resolved through regular administrative channels within the DOR.[18] This includes issuing stay actions on behalf of taxpayers facing irreparable loss due to the DOR actions and issuing an annual report.[19] Additionally, the TRA's are required to safeguard and protect taxpayer rights during tax determination and collection processes.[20] While the TRA advocates for taxpayer rights, they do not administer the DOR's general tax processes.[21] The TRA cannot represent taxpayers but works to ensure fair treatment and resolution of taxpayer

[8] IRS, *Taxpayer Assistance Center Office Locator*, https://apps.irs.gov/app/office-locator/ (last visited Feb. 6, 2024).
[9] *Id.*
[10] Florida Department of Revenue (DOR), *Quick Facts About the Florida DOR*, https://floridarevenue.com/opengovt/Pages/quick_facts.aspx (last visited Feb. 6, 2024).
[11] Florida DOR. *Florida's Taxpayers' Rights Advocate Annual Report July 1, 2020 – June 30, 2021*, p.7 https://floridarevenue.com/Documents/taxpayerrights/4-%20TRA%20Annual%20Report%20%20%28FY%2020-21%29.pdf (last visited Feb. 6, 2024).
[12] *Id.*
[13] *Id.*
[14] *Id* at 1.
[15] *Id.*
[16] FLA. CONST., Art. I, s. 25
[17] Florida DOR. *Florida's Taxpayers' Rights Advocate Annual Report July 1, 2020 – June 30,2021*, p.7 https://floridarevenue.com/Documents/taxpayerrights/4-%20TRA%20Annual%20Report%20%20%28FY%2020-21%29.pdf (last visited Feb. 6, 2024).
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id* at 2.

issues.[22] The TRA does not handle inquiries regarding local property tax matters, instead referring them to the DOR's Property Tax Oversight Program.[23]

Powers and Duties of the Department of Financial Services

The organizational structure of the Department of Financial Services (DFS) is set forth in s. 20.121, F.S. The DFS is statutorily responsible for:

- Carrying out the state's accounting and auditing functions, including preparing the state's Comprehensive Annual Financial Report; monitoring state contracts; and making payment for state expenditures.
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use.
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities.
- Managing the state Treasury and directing safekeeping and the investment of all state funds.
- Managing the deferred compensation program for state employees.
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state.
- Regulating cemeteries and funeral homes.
- Licensing and oversight of insurance agents and agencies.
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner.
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services.
- Collecting and returning unclaimed property belonging to Florida residents.[24]

The DFS is composed of the following thirteen divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and

[22] *Id.*
[23] *Id.*
[24] Florida Department of Financial Services, *Statement of Agency Organization and Operation*, Organization of the Department of Financial Services, https://www.myfloridacfo.com/required/agency-org (last visited Feb. 6, 2024).

- Workers' Compensation.[25]

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services (DIFS) functions as a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and is authorized to conduct investigations within or outside of Florida, as necessary. The DIFS includes the following office and bureaus:

- The Bureau of Forensic Services;
- The Bureau of Fire, Arson, and Explosives Investigations;
- The Office of Fiscal Integrity;
- The Bureau of Insurance Fraud; and
- The Bureau of Workers' Compensation Fraud.

The DIFS encompasses all enforcement and forensic components within the DFS, investigating a wide range of fraudulent and criminal acts including:

- Insurance fraud investigations;
- Workers' compensation fraud investigations;
- Fire, arson, and explosives investigations;
- Theft/misuse of state funds; and
- Fire and explosives sample analysis.[26]

The DIFS investigates various types of insurance fraud including Personal Injury Protection fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's insurance fraud, and healthcare fraud.[27] The DIFS is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act, [28] false and fraudulent insurance claims,[29] and willful violations of the Florida Insurance Code and rules adopted pursuant to the Code.[30] The DIFS employs sworn law enforcement officers to investigate insurance fraud.

Investigations by the DIFS are conducted as provided in s. 626.989, F.S. These provisions include:

- Authority to administer oaths and affirmations, request the attendance of witnesses or proffering of matter, and collect evidence;
- Authority to request that an individual who refuses to comply with a request be ordered by the circuit court to provide the testimony or matter;
- Responsibility to report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction;

[25] Florida Department of Financial Services, *Statement of Agency Organization and Operation*, General Description and Functions of the Department of Financial Services, https://www.myfloridacfo.com/required/agency-org (last visited Feb. 6, 2024).
[26] Department of Financial Services, Investigative and Forensic Services, *About the Division*, https://myfloridacfo.com/Division/DIFS/ (last visited Feb. 6, 2024).
[27] *Id.*
[28] Section 626.9541, F.S.
[29] Section 817.234, F.S.
[30] Section 624.15, F.S.

- The power to make arrests for criminal violations established as a result of investigations; and
- That its investigators be considered state law enforcement officers for all purposes and have the power to execute arrest warrants and search warrants; to serve subpoenas issued for the examination, investigation, and trial of all offenses.

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (DPAF) is created pursuant to s. 20.121(2)(f), F.S. The DPAF is charged with functioning as a criminal justice agency and to conduct investigations of public assistance fraud.[31] The DPAF safeguards against public assistance fraud and the impact of those crimes by enforcing relevant state laws. The DPAF partners with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Department of Education's Office of Early Learning to investigate fraud in programs administered by those departments.[32] On the federal level, the DPAF partners with the U.S. Department of Agriculture's Food and Nutrition Services, the Social Security Administration, and the Department of Health and Human Services.[33]

Firefighter - Criteria for Cancer-Related Disability and Death Benefits

Firefighters diagnosed with certain cancers are eligible for specific disability or death benefits. Instead of pursuing workers' compensation coverage, firefighters are entitled to cancer treatment and a one-time cash payout of $25,000 upon the initial diagnosis of cancer.[34] To qualify for these benefits, they must:[35]

- Be employed full-time as a firefighter;
- Be employed by the state, university, city, county, port authority, special district, or fire control district;
- Have been employed by his or her employer for at least five continuous years;
- Not have used tobacco products for at least the preceding five years; and
- Have not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer.

The term "cancer" includes bladder cancer, brain cancer, breast cancer, cervical cancer, colon cancer, esophageal cancer, invasive skin cancer, kidney cancer, large intestinal cancer, lung cancer, malignant melanoma, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, oral

[31] Section 20.121(2)(f), F.S.
[32] Department of Financial Services, Public Assistance Fraud, *About the Division*, https://www.myfloridacfo.com/Division/PAF/ (last visited Feb. 6, 2024).
[33] *Id.*
[34] Section 112.1816(2)(b), F.S.
[35] Section 112.1816(2), F.S.

cavity and pharynx cancer, ovarian cancer, prostate cancer, rectal cancer, stomach cancer, testicular cancer, and thyroid cancer.[36]

Employers are required to provide coverage for cancer treatment within an employer-sponsored health plan or through a group health insurance trust fund.[37] Furthermore, employers must promptly reimburse firefighters for any out-of-pocket deductible, co-payment, or coinsurance costs incurred due to cancer treatment.[38] For disability and death benefits, firefighters are considered permanently and totally disabled if diagnosed with one of the enumerated cancers and meet the retirement plan's definition of total and permanent disability due to the cancer diagnosis or related treatment circumstances.[39] Additionally, if the cancer or its treatment is deemed to have occurred in the line of duty, firefighters are eligible for higher disability and death benefits.[40]

Special Risk Class

Chapter 121, F.S., contains provisions relating to the Florida Retirement System (FRS). Persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care are members of the Special Risk Class.[41] In establishing the Special Risk Class of membership within the FRS, the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, and criminal detention positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity.[42] The Legislature further found that as persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public and their coworkers.[43] Forensic professionals employed with the Division of State Fire Marshal in the forensic laboratory are included within the Special Risk Class.

State Risk Management and Safety Programs

The Division of Risk Management (DRM) supports Florida's state agencies and universities by assisting them in managing various risks and ensuring quality coverage for workers' compensation, liability, federal civil rights, automobile liability, and property insurance at reasonable rates[44] through self-insurance, the purchase of insurance, and claims administration.[45] The DRM consists of three bureaus: Risk Financing and Loss Prevention, State Employee Workers' Compensation Claims, and State Liability and Property Claims.[46]

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[36] Section 112.1816(1)(a), F.S.
[37] Section 112.1816(2)(a), F.S.
[38] *Id*.
[39] *Id*.
[40] Section 112.1816(5)(b), F.S.
[41] Section 121.0515(2), F.S.
[42] Section 121.0515(1), F.S.
[43] *Id*.
[44] DFS, Division of Risk Management, *Fiscal Year 2021 Annual Report*, at 2, https://www.myfloridacfo.com/docs-sf/risk-management-libraries/risk-documents/annual-reports/risk-mgmt-annual-report-2021.pdf?sfvrsn=720e7fcb_4 (last visited Feb. 7, 2024).
[45] *Id* at 2.
[46] *Id* at 2.

Chapter 284, F.S., provides for state risk management and safety programs, including workers' compensation for state employees. In 1995, the Legislature created s. 284.44, F.S., in order "to provide state agencies with an increased incentive to become actively involved in the prevention and management of workers' compensation claims involving state employees."[47] This section requires that each agency covered under the program must provide the initial salary indemnification costs for employees entitled to workers' compensation benefits from funds appropriated for salaries and benefits.[48]

The DRM is required to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.[49] These reports also include information indicating the number of cases and any amounts waived by the Executive Office of the Governor.[50] The reports are provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees.[51]

Workers' Compensation

Workers' Compensation Maximum Reimbursement Allowances

The Division of Workers' Compensation (DWC) within the DFS provides regulatory oversight of Florida's workers' compensation system, which includes the enforcement of coverage requirements,[52] administration of the workers' compensation health care delivery system,[53] data collection,[54] and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.[55] Whether an employer is required to have workers' compensation insurance depends upon the employer's industry and the number of its employees. Employers may secure coverage by purchasing a workers' compensation insurance policy or qualifying as a self-insurer.[56] Individuals who elect an exemption are not considered "employees," for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury. Florida's workers' compensation law provides for medically necessary treatment and care of injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).

A three-member panel (panel), consisting of the CFO or the CFO's designee and two Governor's appointees, sets the MRAs.[57] The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and

[47] Section 284.44(1), F.S.
[48] Section 284.44(2), F.S.
[49] Section 284.44(6), F.S.
[50] *Id.*
[51] *Id.*
[52] Section 440.107(3), F.S.
[53] Section 440.13, F.S.
[54] Section 440.185 and 440.593, F.S.
[55] Section 440.191, F.S.
[56] Section 440.38, F.S.
[57] Section 440.13(12)(a), F.S.

customary levels of reimbursement for treatment, services, and care;[58] the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care;[59] and the financial impact of the MRAs on healthcare providers and facilities. Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.[60]

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,[61] while reimbursement for surgical procedures is limited to 140 percent of Medicare.[62] The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,[63] while other outpatient services are limited to 75 percent of usual and customary charges.[64] Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.[65] The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary charge as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a $4.18 dispensing fee.[66] Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an $8.00 dispensing fee.[67] Fees may not exceed the schedules adopted under ch. 440, F.S., and the DFS rule.[68]

Florida Self-Insurers Guaranty Association

An employer may be eligible to self-insure for their workers' compensation coverage.[69] Such an employer must furnish proof to the Florida Self-Insurers Guaranty Association (FSIGA) that the employer has the financial strength necessary to ensure timely payment of all current and future claims.[70] The FSIGA is a nonprofit corporation established pursuant to s. 440.385, F.S., and monitors the financial strength of self-insured entities for the DFS and makes recommendations as to the qualifications to self-insure.[71] All self-insurers other than governmental entities and public utilities are required to be members of the FSIGA.[72]

[58] Section 440.13(12)(d)1., F.S.
[59] Section 440.13(12)(d)2., F.S.
[60] Section 440.13(12)(d)3., F.S.
[61] Section 440.13(12)(b)4., F.S.
[62] Section 440.13(12)(b)5., F.S.
[63] Section 440.13(12)(b)3., F.S.
[64] Section 440.13(12)(a), F.S.
[65] Section 440.13(12)(a), F.S.
[66] Section 440.13(12)(c), F.S.
[67] *Id.*
[68] Section 440.13(13)(b), F.S. The DFS also has broad rulemaking authority under s. 440.591, F.S.
[69] Section 440.38(1)(b), F.S.
[70] *Id.*
[71] *Id.*
[72] Section 440.385(1)(a), F.S.

Funeral, Cemetery, and Consumer Services

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Act), provides for the regulation of funeral and cemetery services.[73] The Act authorizes the Board of Funeral, Cemetery, and Consumer Services (Board) within the DFS to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.[74]

Section 20.121(4), F.S., creates the Board within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The Board acts as the licensing and rulemaking authority for certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements;[75]

The Board has broad authority over licensure and examination of applicants for various licenses including:

- Authority to determine any and all criteria for licensure;
- Authority to specify who may conduct practical examination;
- Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade;
- Authority to strike any examination question determined before or after an examination to be inappropriate for any reason;
- Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure;
- Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination; and
- Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.[76]

The Board must have 10 members; one member must be the State Health Officer, or his or her designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.[77] The composition of the Board must be as follows:

- The State Health Officer;
- Two funeral directors who are:
  - Licensed under part III of ch. 497, F.S., as funeral directors, and
  - Associated with a funeral establishment;

[73] *See* Section 497.001, F.S.
[74] Sections 497.101 and 497.103, F.S.
[75] *See* s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.
[76] Section 497.103(1)(a)-(g), F.S.
[77] Section 497.101(1), F.S.

- One funeral director who is:
  - Licensed under part III of ch. 497, F.S.,
  - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
  - Operates an incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
  - Are residents of Florida;
  - Have never been licensed funeral directors or embalmers;
  - Are not connected with a cemetery or licensed cemetery company;
  - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
  - At least one of which is at least 60 years of age; and
  - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Two or more members may not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.[78] Board members are appointed for four-year terms, except for the State Health Officer, who serves so long as he or she holds the office.[79]

Disciplinary Grounds and Complaints

Under current law, certain conduct related to funeral, cemetery and consumer services is prohibited and violation of such can lead to denial of application, imposition of discipline, or other enforcement action against the licensee. In January 2024, the DFS responded to complaints against a Jacksonville funeral home. These complaints included "mishandling of cremated remains" and alleged "abandonment" of the funeral business.[80] In the course of its investigation, the DFS and law enforcement were able to execute a warrant issued by the 4th Circuit Court. [81] In addition, the DFS and law enforcement were able to secure the mortuary premises, take proper care of the remains of three human bodies, and work to reunite the bodies with their loved ones.[82] Multiple charges, including one felony count of Grand Theft and one misdemeanor count of Improper Preservation of a Human Body were included in the arrest warrant.[83]

[78] Section 497.101(2), F.S.
[79] Section 497.101(3), F.S.
[80] News4Jax, *Arrest warrant issued for Jacksonville funeral home director accused of theft, mishandling remains*, https://www.news4jax.com/news/local/2024/01/31/jacksonville-funeral-home-director-at-center-of-investigation-after-florida-cfo-says-he-allegedly-abandoned-mortuary/ (last visited Feb. 13, 2024).
[81] The DFS, Press Release, *DFS Secures Felony Arrest Warrant for Jacksonville Funeral Home Director* (Jan. 31, 2024), DFS Secures Felony Arrest Warrant for Jacksonville Funeral Home Director (myfloridacfo.com) (last visited Feb. 13, 2024).
[82] *Id*.
[83] *Id*.

The DFS - Division of Consumer Services

The Division of Consumer Services (DCS) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the FSC.[84] The DCS's duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.[85]

Section 624.307(10)(b), F.S., permits the DCS to impose an administrative penalty on a person who holds a license or certificate of authority from the DFS if that person fails to respond to the DCS's request for information within 20 days. A licensed individual must produce any requested documents not subject to attorney-client or work product privilege.

Insurance Field Representatives and Operations

Chapter 626, F.S., governs the regulation of insurance field representatives, navigators, insurance administrators, unauthorized insurers and surplus lines, viatical settlements, structured settlements, and operations.[86] The powers and duties of the CFO and the DFS in part I of ch. 626, F.S., apply only with respect to insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.[87] Further, the DFS has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons engaged in actions for which a license issued by the DFS is required.[88] The powers and duties of the FSC and the OIR [89] specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.[90] The OIR has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons who engage in actions for which a license or certificate of authority issued by the OIR is required.[91] However, s. 626.016(4), F.S., provides that it is not intended to limit the authority of the DFS and the Division of Investigative and Forensic Services (DIFS) within the DFS, as authorized in s. 626.989, F.S.

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[84] The DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2023-24 through 2027-28*, 15 (Oct. 17, 2022), *available at* http://floridafiscalportal.state.fl.us/Document.aspx?ID=24407&DocType=PDF (last visited Feb. 6, 2024). *See also*, DFS, *Consumer Guides*, https://www.myfloridacfo.com/division/consumers/understanding-insurance/guides (last visited Feb. 6, 2024).

[85] Section 624.307(10)(a), F.S.

[86] This includes licensing and other requirements (part I), general lines agents (part II), life insurance agents (part III), health insurance agents (part IV), title insurance agents (part V), insurance adjusters (part VI), insurance administrators (part VII), and viatical settlements (part X).

[87] Section 626.016(1), F.S.

[88] Section 626.016(3), F.S.

[89] Pursuant to s. 20.121(3), F.S., the Office of Insurance Regulation is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.

[90] Section 626.016(2), F.S.

[91] Section 626.016(3), F.S.

The Division of Insurance Agent and Agency Services (Division) licenses and appoints individuals and entities authorized to transact insurance in Florida as provided in s. 626.016, F.S. Further, the Division receives and reviews applications for insurance licenses and oversees the examination, licensing, and continuing education of licensees. The Division also conducts investigations of alleged violations of the Florida Insurance Code and refers suspected criminal violations of the Florida Insurance Code to the Division's Bureau of Insurance Fraud within the DFS or other law enforcement agencies as appropriate.[92]

Insurance Adjuster Licensure Examination

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.[93] An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."[94] An all-lines adjuster "is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage."[95] Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against his or her insurer.[96]

Among other requirements, an applicant must pass an examination to obtain an adjuster's license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants that obtains certain specified professional designations.[97] The DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard the DFS testing for the all-lines adjuster license.[98]

Public Adjusters

A public adjuster is any person, except a duly licensed attorney-at-law, who, for money, commission, or any other things of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, or who, advertises for employment as an adjuster of such claims.[99] The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of the public adjuster, an insured, or a third-party claimant.[100]

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[92] Sections 624.307, 624.317, and 624.321, F.S.
[93] Insurance Information Institute. *I.I.I. Glossary* (defining "adjuster"), https://www.iii.org/resource-center/iii-glossary/A (last visited Feb. 6, 2024).
[94] Section 626.864, F.S.
[95] Sections 626.015 and 626.8548, F.S.
[96] Section 626.854(1), F.S.
[97] Section 626.221, F.S.
[98] Section 626.221(2)(j), F.S.
[99] Section 626.854(1), F.S.
[100] *Id.*

Surplus Lines Insurer

Surplus lines insurance is coverage for specific risks that the standard or admitted market is either unable or unwilling to cover.[101] While the admitted market is where most consumers find coverage, the surplus lines market is a supplement for those individuals and businesses that cannot find coverage otherwise.[102] Florida law defines "eligible surplus lines insurer" as an unauthorized insurer which has been made eligible by the OIR to issue insurance coverage under the Surplus Lines Law.[103]

Unauthorized Insurers and Surplus Lines

General Lines Agent

A general lines agent[104] is one who sells the following lines of insurance: property;[105] casualty,[106] including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,[107] or a Workers' Compensation self-insurance fund;[108] surety;[109] health;[110] and, marine.[111] The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not property and casualty insurers, they must be licensed as a health insurance agent.[112]

A general lines agent while licensed and appointed as a surplus lines agent may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.[113] A managing general agent while licensed and appointed as a surplus lines agent may accept and place such surplus lines business as is originated by a Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate that agent.[114] Such general lines agent may not knowingly misrepresent to the surplus lines agent any material fact involved in any such insurance or in the eligibility thereof for placement with a surplus lines insurer.[115]

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[101] Florida Surplus Lines Service Office, *Surplus Lines Insurance*, https://www.fslso.com/about/surplus-lines-insurance#:~:text=Surplus%20lines%20insurance%20is%20coverage,that%20cannot%20find%20coverage%20otherwise (last visited Feb. 6, 2024).
[102] *Id.*
[103] Section 626.915, F.S.
[104] Section 626.015(5), F.S.
[105] Section 624.604, F.S.
[106] Section 624.605, F.S.
[107] As defined in s. 624.462, F.S.
[108] Pursuant to s. 624.4621, F.S.
[109] Section 626.606, F.S.
[110] Sections 624.603 and 627.6482, F.S.
[111] Section 624.607, F.S.
[112] Section 626.829, F.S.
[113] Section 626.929(1), F.S.
[114] Section 626.929(2), F.S.
[115] Section 626.929(3), F.S.

Florida Medical Malpractice Joint Underwriting Association

The Florida Medical Malpractice Joint Underwriting Association (FMMJUA) is an insurance risk apportionment plan created by law for the purpose of assuring the availability of medical liability (malpractice) insurance to Florida health care providers (physicians, surgeons, dentists, nurses, physician partnerships or corporations, hospitals, medical facilities and other health care providers).[116] The FMMJUA provides liability insurance for those medical providers who are unable to obtain coverage from the private market.

The FMMJUA is administered through its Board of Governors (Board). The Board is comprised of representatives from the Florida Medical Association, Florida Hospital Association, The Florida Bar, Florida Dental Association, and the insurance industry. Subject to the final approval of the OIR, the Board approves insurance rates, rate classifications, policy forms, and otherwise sets the FMMJUA policy under the framework of the FMMJUA Plan of Operation. Operational and administrative functions are provided by a general manager and staff located in Tallahassee. The general manager is responsible for implementing policy and conducting the daily activities of the FMMJUA.

Guaranty Associations

A guaranty association generally is a nonprofit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company.

Florida Self-Insurers Guaranty Association, Inc.

The Florida Self-Insurers Guaranty Association, Inc. (FSIGA), is a private, nonprofit corporation established in s. 440.385, F.S. The FSIGA is responsible for guaranteeing injured workers of insolvent self-insurers continue to receive workers' compensation benefits. Other than governmental entities, all self-insurers are required to be a member of FSIGA.[117]

Florida Insurance Guaranty Association

Section 631.55, F.S., provides for the creation of the Florida Insurance Guaranty Association, Inc. (FIGA). When a property and casualty insurance company becomes insolvent, FIGA is required by law to assume the claims of the insurer and pay the claims of the company's policyholders.[118] All insurers licensed to sell property and casualty insurance in the state are required to participate in the FIGA as a condition of transacting business in Florida. The FIGA operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.[119]

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[116] Section 627.351, F.S. *See also* Florida Medical Malpractice Joint Underwriting Association, *Welcome to the FMMJUA Web Site*, www.fmmjua.com (last visited Feb. 6, 2024). *See* DFS, Division of Rehabilitation and Liquidation, *Florida Guaranty Funds and Associations*, https://www.myfloridacfo.com/division/receiver/guide-to-the-receivership-process/floridainsuranceguarantyassociations (last visited Feb. 7, 2024).
[117] Florida Self-Insurers Guaranty Association, Inc., *What Is the FSIGA, Inc.?*, https://fsiga.org/ (last visited Feb. 7, 2024).
[118] Section 631.57, F.S.
[119] Section 631.56(1), F.S.

Florida Life and Health Insurance Guaranty Association

Section 631.715, F.S., provides for the creation of the Florida Life and Health Insurance Guaranty Association (FLHIGA). All insurers licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts with or without life contingencies in the state are required to participate in the FLHIGA as a condition of transacting business in Florida. The FLHIGA operates under a board of directors as a nonprofit corporation. The Board consists of nine to eleven members appointed by member insurers.[120]

Florida Health Maintenance Organization Consumer Assistance Plan

Section 631.815, F.S., provides for the creation of the Florida Health Maintenance Organization Consumer Assistance Plan (FHMOCAP). All health maintenance organizations possessing a valid certificate of authority in the state are required to participate in the FHMOCAP as a condition of transacting business in Florida. The FHMOCAP operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by the DFS to serve four-year terms.[121]

Florida Workers' Compensation Insurance Guaranty Association

Section 631.911, F.S., provides the creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated (FWCIGA). All insurers authorized to provide workers' compensation insurance in the state are required to participate in the FWCIGA as a condition of transacting business in Florida. The FWCIGA operates under a board of directors as a nonprofit corporation. The Board consists of eleven members appointed to serve four-year terms.[122]

State Fire Marshal

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal within the DFS. This law provides "it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire."[123] Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; develops fire safety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.

[120] Section 631.716(1), F.S.
[121] Section 631.816(1), F.S.
[122] Section 631.912(1), F.S.
[123] Section 633.104(2), F.S.

The State Fire Marshal is charged with adopting the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code, but is prohibited from adopting a building, mechanical, or plumbing code.[124] Criminal penalties for violation of the Florida Fire Prevention Code, any order or rule of the State Fire Marshal, or any order to cease and desist or to correct conditions, are set forth in s. 633.124, F.S.

Uniform Fire Safety Standards

The DFS is required to establish uniform firesafety standards that apply to:

- All new, existing, and proposed state-owned and state-leased buildings; and
- All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations.[125]

The uniform fire safety standards must be reasonably prudent with respect to protecting life, safety, and property and which take into consideration the characteristics of the people utilizing the subject buildings and structures and other hazards associated with the subject buildings and structures throughout the state.[126] A local authority may not require more stringent uniform fire safety standards with respect to buildings or structures subject to such standards except in limited circumstances.[127]

Motor Vehicle Service Agreement Companies

A person may not transact, administer, market, or attempt any of these activities with respect to a service agreement[128] business in Florida without a license.[129] To qualify for and maintain a license, a service agreement company ("company") must comply with applicable Florida laws (including the Florida Insurance Code), rules and charter powers, and comply with specified requirements, including, in part:

- Being a solvent corporation;

[124] Section 633.202(2), F.S.
[125] Section 633.206(1), F.S.
[126] Section 633.206(2)(a), F.S.
[127] Section 633.206(2)(b), F.S.
[128] Section 634.011(8), F.S., defines "motor vehicle service agreement" or "service agreement" as a contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125, F.S., are expressly excluded from this definition and are exempt from the provisions of this part. The term "motor vehicle service agreement" includes any contract or agreement that provides: (a) for the coverage or protection and which is issued or provided in conjunction with an addictive produce applied to the motor vehicle that is the subject of such contract or agreement; (b) For payment of vehicle protection expenses as defined in s. 634.011(8)(b)1.a., F.S.
[129] Section 634.031(1), F.S.

- Furnishing the OIR with evidence that the management of the company is competent and trustworthy, and can successfully and lawfully manage its affairs;
- Making a deposit required under s. 634.052, F.S.;
- Maintaining the requires reserves and the required ratio of liquid assets to the required reserves;
- Having and maintaining net assets of $500,000, which all of such assets maintained in the United States; and
- Establishing and maintaining an unearned premium reserve that meets certain requirements, including:
  - The unearned premium reserve consists of unencumbered assets equal to a minimum of 50 percent of the unearned gross written premium of each service agreement and must amortize this reserve pro rata over the duration of the service agreement;
  - A company utilizing the 50-percent reserve must not allow its ratio of gross written premium to net assets to exceed 10 to one; and
  - The company must deposit with the DFS securities of the type eligible for deposit by insurers under s. 625.52, F.S., equal to 15 percent of the unearned premium reserve; or
- Is not required to establish and maintain an unearned premium reserve if the company secures and maintains contractual liability insurance in accordance with the following:
  - Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the OIR which meets certain criteria;
  - The contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds if the company does not meet its contractual obligations;
  - If the issuer of the contractual liability policy is fulfilling the service agreements covered by contractual liability policy and the holder cancel the service agreement, the issuer must make a full refund of the unearned premium to the consumer in certain circumstances;
  - The policy's cancellation, termination, or nonrenewal is subject to 90 days written notice by the insurer to the OIR; and
  - The company must provide the OIR with the claims statistics.[130]

A policy issued in compliance with this provision may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.[131]

Home Warranty Associations

Chapter 634, F.S., provides for the regulation of warranty associations. There are three parts to the chapter: Part I for motor vehicle service agreement companies; Part II for home warranty associations; and Part III for service warranty associations.

A home warranty association is any business other than an authorized insurer that issues home warranties.[132] A home warranty includes any agreement whereby a business indemnifies the

[130] Section 634.041, F.S.
[131] Section 634.041(8)(b)6., F.S.
[132] Section 634.301(3), F.S.

warranty holder against the cost of repair or replacement of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance.[133] It does not include or prohibit the giving, at no charge, of usual performance guarantees by either the builder of a home or the manufacturer or seller.[134] The regulation is administered by the OIR.[135]

Bail Bonds

A bail bond is a guarantee by a third-party that a defendant in a criminal case will appear in court at all scheduled proceedings. A bail bond agent posts a surety bond to secure the defendant's release from custody; the defendant provides money or other collateral to secure the bail bond and forfeits the premium (10 percent of the amount of bail set by the court) if he or she fails to appear in court or comply with other conditions of the bond. Bail bond agents must be licensed by the DFS and appointed by insurance carriers to execute bail bonds. If a defendant fails to appear in court, the bail bond agent may apprehend and detain the defendant until the defendant is surrendered to the authorities.[136]

Bail bond agents may execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency at a separate location from the supervising bail bond agent, managing general agent, or insurer that employs the bail bond agent.[137]

Licensure as a Bail Bond Agent

All applicants for bail bond licenses must submit fingerprints for a national criminal background check and pay an application fee. Bail bond agents may not have been convicted of a felony, must be age 18 or older, and must be eligible to work in the United States. A bail bond agent must be appointed by a licensed insurer and the insurer must report the appointment to the DFS. A bail bond agent may not charge a premium other than the rate that has been approved by the OIR, and must retain records related to any bail bonds the agent has executed or countersigned for at least three years after the liability of the surety has been terminated. Additionally, bail bond agents must register with the sheriff and the clerk of the circuit court in the county where the bail bond agent resides. Bail bond agents may not solicit clients at a jail, prison, or courthouse, and may not pay fees for referrals from any person working in the law enforcement community.[138]

[133] Section 634.301(2), F.S.
[134] *Id.*
[135] Section 634.302, F.S.
[136] Sections 648.24 and 624.26, F.S. *See also* Department of Financial Services, Division of Consumer Services, *Bail Bonds Overview*, https://www.myfloridacfo.com/division/consumers/understanding-insurance/bail-bonds-overview (last visited Feb. 6, 2024).
[137] Section 648.355, F.S.
[138] Sections 648.355, 648.33, 648.34, 648.35, 648.36, 648.382, 648.42, and 648.44, F.S.

Ownership of a Bail Bond Agency

The owner of a bail bond agency must be a licensed and appointed bail bond agent.[139] The owner or operator of a bail bond agency must designate a primary bail bond agent who is responsible for the overall operation and management of a bail bond agency location and file the name and license number of the primary bail bond agent and the address of the bail bond agency with the DFS. A primary bail bond agent may supervise only one location, is responsible for hiring employees and may not employ or contract with any person who has been found guilty of a felony.[140]

Continuing Education

Bail bond agents must complete at least 14 hours of continuing education every two years.[141] Schools that offer continuing education must be approved and certified by the DFS, and must offer a minimum of three classroom-instruction continuing education classes per calendar year. Continuing education classes must consist of at least two hours of approved coursework and be taught by a supervising instructor who is approved by the DFS.[142]

Florida Disposition of Unclaimed Property Act

As part of the DFS' statutory responsibilities, the DFS is to collect and return unclaimed property belonging to Florida residents. Chapter 717, F.S., is entitled the Florida Disposition of Unclaimed Property Act, over which the DFS is responsible to administer. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.[143] Until claimed, unclaimed money is deposited into the state school fund to be used for public education.

Pursuant to s. 717.124, F.S., a claimant representative must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under ch. 493, F.S. A claimant representative must register with the DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.[144] In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

Chapter 717, F.S., details how to determine whether property held by a person belonging to another is unclaimed and how to dispose of it. Any intangible property or income held in the

[139] Section 648.285, F.S.
[140] Sections 648.25(6) and 648.387, F.S.
[141] Section 648.385, F.S.
[142] Section 648.386, F.S.
[143] Sections 717.104-717.116, F.S.
[144] Section 717.1400, F.S.

possession of a "holder"[145] for the benefit of another is presumed unclaimed if the owner fails to claim such property for more than five years after the property becomes payable or distributable.[146]

Once the five year period elapses, the holder may file a petition with the DFS and request that the DFS accept custody of the property.[147] Upon delivery of property to the DFS, the state assumes custody and responsibility for the safekeeping of the property. So long as the person who delivers the property to the DFS has done so in good faith, he or she is relieved of any liability to manage the property.[148] While the DFS serves as the custodian for the State of Florida, it does not assume legal ownership of the property.[149]

To notify owners of their unclaimed property, the DFS employs various methods, including database searches.[150] Citizens have the right to claim their property at any time, irrespective of the amount, without incurring any costs.[151] Unclaimed funds are deposited into the State School Fund to support public schools.[152] Importantly, the original amount reported as unclaimed can always be claimed by the owner or their heirs at no cost.[153]

A claimant representative, who must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under Chapter 493, F.S., is required to register with the DFS.[154] A claimant representative must register with DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.[155] In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

Florida Birth-Related Neurological Injury Compensation Association

History

In 1988, the Legislature enacted the Florida Birth-Related Neurological Injury Compensation Plan[156] (Plan) to provide compensation, long-term medical care, and other services to persons

[145] Section 717.101(12), F.S., defines "holder" as a person, wherever organized or domiciled, who is:
- In possession of property belonging to another;
- A trustee in case of a trust; or
- Indebted to another on an obligation.

[146] Section 717.102(1), F.S.
[147] Section 717.117(5), F.S.
[148] Section 717.1201(5), F.S.
[149] Sections 717.104-717.116, F.S.
[150] Florida Department of Financial Services, *Agency Analysis of Senate Bill 1434*, p. 1 (Feb. 9, 2021) (on file with the Senate Committee on Agriculture, Environment, and General Government).
[151] *Id.*
[152] *Id.*
[153] *Id.*
[154] Section 717.124, F.S.
[155] Section 717.1400, F.S.
[156] Section 766.303(1), F.S.

with birth-related neurological injuries.[157] If an infant suffers such an injury, and the physician participates in NICA and delivers obstetrical services in connection with the birth, then an administrative award for a compensable injury is the infant's sole and exclusive remedy for the injury, with exceptions.[158] Although the benefits paid under the Plan are limited, the Plan does not require the claimant to prove malpractice and provides a streamlined administrative hearing process to resolve the claim.[159]

NICA is an independent association. Although it is not a state agency, NICA is subject to regulation and oversight by the Office of Insurance Regulation (OIR) and the Joint Legislative Auditing Committee. Directors on NICA's board are appointed by the Chief Financial Officer.[160] The five-member board of directors of the Florida Birth-Related NICA administers the Plan.[161] Duties of the NICA include:

- Administering the plan;
- Administering the funds collected;
- Reviewing and paying claims;
- Directing the investment and reinvestment of any surplus funds over losses and expenses;
- Reinsuring the risks of the plan in whole or in part;
- Suing and being sued, appearing and defending, in all actions and proceedings in its name; and
- Taking such legal action as may be necessary to avoid payment of improper claims.[162]

Filing a Claim for Benefits under NICA

A claim for compensation under the Plan must be filed within five years of the birth of the infant alleged to be injured.[163] The parents or guardians of the infant must file a petition with the Division of Administrative Hearings (DOAH).[164] Then, the DOAH serves a copy of the petition upon NICA, the physician(s) and hospital named in the petition, the Division of Medical Quality Assurance, and the Agency for Health Care Administration.[165] Within 10 days of filing the petition, the parents or guardian must provide to NICA all medical records, assessments, evaluations and prognoses, documentation of expenses, and documentation of any private or governmental source of services or reimbursement relative to the impairments.[166]

If the ALJ determines that an injury meets the definition of a birth-related neurological injury, compensation from the plan is the exclusive legal remedy.[167] If the ALJ determines that, the

[157] Chapter 88-1, ss. 60-75, Laws of Fla., was enacted by the Legislature to stabilize and reduce malpractice insurance premiums for physicians practicing obstetrics. The intent of the Legislature is to provide compensation, on a no-fault basis, for a limited class of high costs catastrophic injuries, specifically birth-related neurological injuries, that result in unusually high costs for custodial care and rehabilitation. Section 766.301 F.S.
[158] Section 766.31(1), F.S.
[159] See *Florida Birth-Related Neurological Injury Compensation Ass'n v. McKaughan*, 668 So.2d 974, 977 (Fla. 1996).
[160] Section 766.315, F.S., and section 74 of ch. 88-1, Laws of Fla.
[161] Section 766.315(1) and (2), F.S.
[162] Section 766.315(4), F.S.
[163] Section 766.313, F.S.
[164] Section 766.305, F.S.
[165] Section 766.305(2), F.S.
[166] Section 766.305(3), F.S.
[167] Section 766.303(2), F.S., only allows a civil action in place of a claim under the Plan where there is clear and convincing evidence of bad faith or malicious purpose or willful and wanton disregard of human rights, safety, or property.

injury alleged is not a birth-related neurological injury or that a participating physician did not deliver the obstetrical services, the ALJ will enter an order to that effect.[168] The ALJ may also bifurcate the proceeding and address compensability and notice first, and address an award, if any, in a separate proceeding.[169] If any party chooses to appeal the ALJ's order under s. 766.309, F.S., the appeal must be filed in the District Court of Appeal.[170]

NICA Appropriations, Assessments, Reserves and Actuarial Soundness

NICA is a no-fault alternative to medical malpractice lawsuits for injuries which have a high cost and system impact.[171] The funding for the Plan is derived from an initial appropriation of $20 million by the Legislature at the time the Plan was created[172] and annual assessments paid by physicians and hospitals.[173] In the last five years, NICA collected the following amounts in hospital and physician assessments:

- In 2019, $26,989,960;[174]
- In 2020, $27,765,802;[175]
- In 2021, $31,799,087;[176]
- In 2022, $35,830,483;[177] and
- In 2023, $35,076,996.[178]

The NICA may invest Plan funds, subject to limitations described in s. 215.47, F.S. All income derived from investments will be credited to the Plan. The State Board of Administration (SBA) may invest and reinvest funds held on behalf of the Plan in accordance with the trust agreement approved by NICA and the SBA and within the provisions of s. 215.44-215.53, F.S.[179]

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[168] Section 766.309(2), F.S.
[169] Section 766.309(4), F.S.
[170] Section 766.311(1), F.S.
[171] The Florida Birth-Related Neurological Injury Compensation Association, *About NICA*, https://www.nica.com/about-nica/ (last visited Feb. 13, 2024).
[172] Section 766.314(5)(b), F.S.
[173] Section 766.314(4) – (5)(a), F.S., requires non-participating physicians to pay $250 per year, participating physicians to pay $5,000 per year, and hospitals to pay $50 per infant delivered during the prior year.
[174] Turner Consulting, Inc., *Proposed Increase in Parental Award – Section 766.31 (1) (b) (1), Florida Statutes* (Jan. 14, 2020) *See also*, Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2019 and 2018 with Report of Independent Auditor*s, *available at* https://www.nica.com/wp-content/uploads/2021/04/2019-NICA-Audited-Financial-Statements.pdf (last visited Feb. 13, 2024).
[175] *Id*. *See also*, Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2020 and 2019 with Report of Independent Auditor*s, *available at* https://www.nica.com/wp-content/uploads/2021/04/2020-NICA-Audited-Financial-Statements.pdf (last visited Feb. 13, 2024).
[176] Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2021 and 2020 with Report of Independent Auditor*s, *available at* https://www.nica.com/wp-content/uploads/2021/12/2021-NICA-Audited-Financial-Statements.pdf (last visited Feb. 13, 2024).
[177] Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2022 and 2021 with Report of Independent Auditor*s, *available at* https://www.nica.com/wp-content/uploads/2023/03/2022-NICA-Audited-Financial-Statements-1.pdf (last visited Feb. 13, 2024).
[178] Thomas, Howell Ferguson, P.A., NICA Financial Statements and Other Financial Information, *Years Ended June 30, 2023 and 2022 with Report of Independent Auditor*s, *available at* https://www.nica.com/wp-content/uploads/2023/10/06-30-2023-NICA-Audited-Financial-Statements.pdf (last visited Feb. 13, 2024).
[179] Section 766.315(5)(f), F.S.

Section 766.314, F.S., requires the OIR to maintain a $20 million reserve in the Insurance Regulatory Trust Fund with the DFS. If the assessments collected and the appropriation of funds provided by s. 41, ch. 88-277, L.O.F., to the Plan from the trust fund are insufficient to maintain the Plan on an actuarially sound basis, the OIR is authorized to transfer an additional amount up to $20 million to NICA from the Insurance Regulatory Trust Fund reserve.[180]

If required to maintain the Plan on an actuarially sound basis, the OIR is authorized to require each entity licensed to issue casualty insurance, defined in s. 624.601(1)(b), (k) and (q), F.S., to pay into NICA an annual assessment determined by the OIR. The OIR is required to obtain no less than on a biennial basis, an actuarial valuation of NICA's assets and liabilities.[181] The OIR is authorized to increase assessments on a proportional basis as needed, if the OIR determines the Plan cannot be maintained on an actuarially sound basis.[182]

NICA Liabilities

In 2021, an actuarial analysis of NICA was conducted using data valued as of December 31, 2021.[183] The actuarial study (Pinnacle study) showed the total outstanding loss and loss adjustment expenses (LAE) was $1,017,205 which is higher than the corresponding outstanding loss and LAE, of $602.2 million calculated as of December 31, 2019. The Pinnacle study reports the increase to the reserves is driven by three factors:[184]

- An increase in reported and compensable claims in recent years;
- An increase in future costs due to the passage of Senate Bill 1786 in 2021; and
- An increase in future costs related to NICA no longer being considered the payor of last resort.[185]

The Pinnacle study, in its evaluation of the risk or uncertainty of actuarial central estimates determined "uncertainty is magnified by the long duration of benefits and the consequential highly leveraged impact of inflation, interest, medical technology, and life expectancy on future claims costs."[186] Furthermore, the Pinnacle study indicates NICA is encountering an operating loss on a birth year basis[187] and that corrective action should be considered before the underwriting losses compound to an unimaginable level.[188] The Pinnacle study suggested corrective action could include, but not be limited to, assessment increases, reduction of benefits, reconsideration of NICA's status relative to Medicaid, and sunsetting of the program.[189]

[180] Section 766.314(5)(b), F.S.
[181] Section 766.314(7)(a), F.S. The OIR is required to prepare a statement as to the contribution rate applicable with the rate not to be greater than 0.25 percent of net direct premiums written.
[182] Section 766.315(7)(b), F.S.
[183] Pinnacle Actuarial Resources, *NICA Actuarial Review of Loss Reserves as of December 31, 2021, Including Additional Costs of the 2022 Birth/Accident Year* (Dec. 18, 2022), *available at* https://floir.com/docs-sf/default-source/property-and-casualty/birth-related-neurological-injury-compensation/nica-12-31-21-actuarial-report---final.pdf?sfvrsn=331d749e_4 (last visited Feb. 13, 2024).
[184] *Id.*
[185] *Id.*
[186] *Id* at 3.
[187] *Id* at 3.
[188] *Id* at 3.
[189] *Id* at 3.

In late 2022, NICA announced a settlement of $51 million[190] in a false claims act lawsuit, *United States ex rel. Arven et al. v. Florida Birth-Related Neurological Injury Compensation Association et al., No. 19-cv-61053*, (S.D. Fla. Nov. 14, 2022) (*Arven* settlement).[191] The settlement resolves allegations NICA violated the False Claims Act by causing NICA participants to submit their healthcare claims to Medicaid rather than NICA, in violation of Medicaid's status as the payor of last resort under federal law.[192] Pursuant to the terms and conditions of the settlement, NICA agreed to pay $51 million plus interest at a rate of 3.375 percent per annum from September 13, 2022, to no later than thirty days after the effective date of the settlement agreement.[193] NICA estimated the total cost of the settlement, including legal fees and accrued interest, at $53 million – two million dollars more than the settlement agreement, which impacts NICA's assets and its ability to generate investment income to pay claims.[194]

In addition to the *Arven* settlement, NICA has experienced increased costs related to the 2022 changes in the Medicaid fee schedule.[195] The Pinnacle Study reports NICA estimated an increase of $100 million to future claims costs based on the changes to the Medicaid fee schedule.[196] Additionally, the Pinnacle study indicates since December 31, 2021, NICA has experienced investment losses in excess of $250 million.[197] However, the Pinnacle study's discounted reserve estimates reflect, as of December 31, 2021, sufficient assets to support the reserves,[198] and that rising interest rates may also lead to higher returns.[199]

NICA Plan Benefits and Compensation

A $100,000 cash award limit was established when the NICA statutory provisions were enacted in 1988. If the initial award of $100,000 established for the first birth year of 1989 was adjusted for inflation and assuming an annual increase of three percent, this would result in an indicated award of approximately $250,000.[200] In 2021, the Legislature increased claim benefits.[201]

The Plan pays, on behalf of a qualifying infant, the following benefits:

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[190] *Id* at 4 quoting the Pinnacle Study: "While NICA steadfastly believes it would have prevailed had this dispute gone to trials, it recognizes that litigation is inherently unpredictable. In weighing its options, NICA and its Board ultimately decided it was in the best interest of the program to not only avoid future legal expenses, but also to avoid the risk of losing the lawsuit, which could have resulted in billions of dollars in exposure and been a financially devastating outcome."
[191] *Id* at 4. *See also*, U.S. Department of Justice, Office of Public Affairs, Press Release: *Florida Birth-Related Neurological Injury Compensation Plan and Association to Pay $51 Million to Resolve False Claims Act Allegations* (Nov. 14, 2022), https://www.justice.gov/opa/pr/florida-birth-related-neurological-injury-compensation-plan-and-association-pay-51-million (last visited Feb. 13, 2024).
[192] *Id* at 4.
[193] *Id* at 4.
[194] *Id* at 4.
[195] *Id* at 4.
[196] *Id* at 4.
[197] *Id* at 4.
[198] *Id* at 4.
[199] *Id* at 5.
[200] Turner Consulting, Inc., Consultants and Actuaries, *Proposed Increase in Parental Award-Section 766.31(b)(1), Florida Statutes*, (Jan. 14, 2020) (on file with the Senate Committee on Health Policy).
[201] *See* SB 1786 (2021) which increased claim payouts from $100,000 to $250,000, plus necessary medical and maintenance expenses for the lifetime of the claimant.

- Actual expenses for medically necessary and reasonable medical and hospital, habilitative and training, family residential or custodial care, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. At a minimum, compensation must be provided for the following actual expenses:[202]
  - A total annual benefit of up to $10,000 for immediate family members who reside with the infant for psychotherapeutic services obtained from providers licensed under chs. 490 and 491, F.S.;
  - For the life of the child, providing parents or legal guardians with a reliable method of transportation for the care of the child or reimbursing the cost of upgrading an existing vehicle to accommodate the child's needs when it becomes medically necessary for wheelchair transportation. The mode of transportation must take into account the special accommodations required for the specific child. The Plan may not limit such transportation assistance based on the child's age or weight. The Plan must replace any vans purchased by the Plan every seven years or 150,000 miles, whichever comes first;[203]
  - Housing assistance of up to $100,000 for the life of the child, including home construction and modification costs;
- Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which beginning January 1, 2021, may not exceed $250,000. Each January 1, thereafter, the maximum award authorized under this paragraph shall increase by three percent;[204]
  - Parents or legal guardians who received an award prior to January 2, 2021, must receive a retroactive payment in an amount sufficient to bring the total award paid to the parents or legal guardians to $250,000. This additional payment may be made in a lump sum or in periodic payments as designated by the parents or legal guardians and must be paid by July 1, 2021.
- Death benefit of $50,000 for the infant;
  - Parents or legal guardians who received an award prior to January 2, 2021, must receive a retroactive payment in an amount sufficient to bring the total award paid to the parents or legal guardians to $50,000. This additional payment may be made in a lump sum or in periodic payments as designated by the parents or legal guardians and must be paid by July 1, 2021.and
- Reasonable expenses for filing the claim under the plan, including attorney's fees.[205]

The Administrative Law Judge (ALJ) must require the Plan to immediately pay expenses previously incurred and require that future expenses be paid as incurred.[206]

[202] Section 766.31(1)(a), F.S. The Plan excludes coverage for expenses that are compensable by state or federal governments, or by private insurers. *See* s. 766.31(1)(b)1.-4., F.S.
[203] Section 766.31(1)(a)2., F.S.
[204] Section 766.31(1)(d)1.a., F.S.
[205] Section 766.31(1)(e), F.S.
[206] Section 766.31(2), F.S.

III. Effect of Proposed Changes:

Federal Tax Liaison

Section 1 creates s. 17.69, F.S., to establish the position of Federal Tax Liaison within the Department of Financial Services (DFS). The Federal Tax Liaison (liaison), to be appointed by the Chief Financial Officer (CFO), reports directly to the CFO but is not otherwise under the authority of the DFS or of any employee of the DFS. In order to assist the Florida's taxpayers, the tax liaison may:

- Assist taxpayers by answering taxpayer questions;
- Direct taxpayers to the proper departments or offices within the Internal Revenue Service (IRS) in order to hasten resolution of taxpayer issues;
- Prepare recommendations for the IRS of any actions that will help resolve problems encountered by taxpayers;
- Provide information about the policies, practices, and procedures that the IRS uses to ensure compliance with the tax laws; and
- With the consent of the taxpayer, request records from the IRS to assist the liaison in responding to taxpayer inquiries.

Division of Investigative and Forensic Services

Section 2 amends s. 20.121, F.S., to:

- Rename the Division of Investigative and Forensic Services (DIFS) to the Division of Criminal Investigations (DCI) and delete provisions relating to the duties of the DIFS and the bureaus and offices in the DIFS;
- Designate DCI as a criminal justice agency with the authority to initiate and conduct investigations into matters falling under the jurisdiction of the CFO and Fire Marshal; and
- Abolish the Division of Public Assistance Fraud (DPAF). The programs and responsibilities within DPAF will be moved under the DCI (which is the DIFS as renamed by the bill).

Firefighter - Criteria for Cancer-Related Disability and Death Benefits

Section 3 amends s. 112.1816(2), F.F., to clarify that a firefighter diagnosed with cancer, as an alternative to workers' compensation, if the firefighter has been employed at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer is eligible for "Leave time and job retention benefits equivalent to those provided for other injuries or illnesses incurred in the line of duty."

Special Risk Class

Section 4 amends s. 121.0515, F.S., to replace references to employees of the Division of State Fire Marshal with employees of the DFS.

State Risk Management and Safety Programs

Section 5 amends s. 284.44, F.S., to repeal the provision requiring the Division of Risk Management to prepare quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter.

Workers' Compensation

Section 6 amends s. 440.13, F.S., to provide for reimbursement for emergency services and care provided when a maximum reimbursement allowance is not available. In such a case, the maximum allowance must be at 250 percent of the Medicare rate, unless there is a contract, in which case the contract governs reimbursement. Requires the DFS to engage an actuarial services firm to begin development of maximum reimbursement provisions contained within this section. Provides an expiration date of June 30, 2026.

Florida Self-Insurers Guaranty Association

Section 7 amends s. 440.385, F.S., relating to the Florida Self-Insurers Guaranty Association (FSIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FSIGA, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor. The bill provides an exemption for contracts required by law from review by the DFS.

Funeral, Cemetery, and Consumer Services

Section 8 amends s. 497.101, F.S., relating to the Board of Funeral, Cemetery, and Consumer Services (Board). The bill provides that:

- The CFO is to appoint Board members, rather than the Governor, and such appointments are subject to Senate confirmation;
- One of the funeral director members of the Board no longer must own or operate an approved cinerator facility;
- Board members may be reappointed but may not serve for more than eight consecutive years;
- Specifies the State Health Officer shall serve as long as that person holds office; however, the designee of the State Health Officer shall serve at the pleasure of the CFO;
- Provides the CFO may move any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the CFO, to evidence a lack of fitness to sit on the Board. Any vacancy created by a board member's resignation shall be filled by the CFO;
- Members of the Board are subject to the code of ethics under part III of ch. 112, F.S.;
- A Board member may not vote on any measure that would inure to his or her special private gain or loss;
- A Board member may not knowingly accept any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the DFS or Board, which is under consideration for a contract, or is licensed by the DFS;

- Provides Board members who fail to comply with the code of ethics are subject to penalties provided under ss. 112.317 and 112.3173, F.S.[207]
- All meetings of the Board are subject to the open meeting requirements of s. 286.011, F.S., and all books and records of the Board are open to the public for reasonable inspection except as otherwise provided by law; and
- Except for emergency meetings, the DFS must give notice of any Board meeting by publication on the DFS website at least seven days before the meeting. The DFS must publish its agenda at least seven days before the meeting. The agenda must contain the items to be considered in order of presentation. After the agenda has been made available, a change may be made only for good cause.

Section 9 amends s. 497.153, F.S., relating to disciplinary procedures and penalties to provide if service of an administrative complaint on a licensee by certified mail cannot be obtained at the last address provided to the DFS by the licensee, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the licensee in accordance with s. 497.146, F.S.

Section 10 amends s. 497.155, F.S., relating to disciplinary citations and minor violations to provide if service of a citation on a subject by certified mail cannot be obtained at the last address provided to the DFS by the subject, then service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the DFS by the subject in accordance with s. 497.146, F.S.

Section 11 amends s. 497.172, F.S., relating to examinations, inspections and investigations to make investigative file information public if the department issues an emergency order.

Section 12 amends s. 497.386, F.S., relating to storage, preservation, and transportation of human remains. The bill provides:

- In the event of an emergency situation, including abandonment of any establishments or facilities licensed under ch. 497, F.S., or any medical examiner's facility, morgue or cemetery holding facility, the DFS may enter and secure such establishment, facility, or morgue during or outside normal business hours;
- The DFS may remove human remains and cremains from the establishment, facility, or morgue;
- The DFS is authorized to determine if a facility is abandoned and if there is an emergency situation;
- A licensee or licensed facility that accepts transfer of human remains and cremains from the DFS pursuant to an emergency situation or determination of abandonment, will not be held liable for the condition of such remains or cremains at the time of transfer;
- A person who violates subsection (1) or (3) of s. 497.172, F.S., commits a misdemeanor punishable as provided in ss. 775.082 or 775.083, F.S.; and

[207] Penalties under s. 112.317, F.S., for public officers, include: impeachment; removal from office; suspension from office; public censure and reprimand; forfeiture of no more than one-third of his or her salary per month for no more than 12 months; a civil penalty not to exceed $20,000; restitution of any pecuniary benefit received due to the violation committed. Section 112.3173, F.S., provides for forfeiture of retirement benefits when a public officer or employee has been adjudicated guilty of specified felonies.

- A person who violates subsection (2) or subsection(4) of s. 497.172, F.S., commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083 and 775.084, F.S.[208]

Section 13 creates s. 497.469, F.S., relating to fulfillment of pre-need contracts. The bill provides:

- Upon delivery of merchandise or performance of services in fulfillment of a preneed contract, either in part of in whole, a preneed licensee may withdraw the amount deposited in trust plus income earned on such amount for the merchandise delivered or services performed, when adequate documentation is submitted to the trustee;
- That any of the following documentation may be used as proof that a preneed funeral contract has been fulfilled:
  - A certified copy of death certificate;
  - An invoice for merchandise which reflects the name of the purchaser or beneficiary and the contract number;
  - An acknowledgment signed by the purchaser or legally authorized person, acknowledging that merchandise was delivered or services performed; or
  - A burial permit or other documentation provided to a governmental agency; and
- A preneed licensee shall maintain documentation that supports fulfillment of a particular contract until such time as the records are examined by the DFS.

Division of Consumer Services

Surplus Lines Insurers

Section 14 amends s. 624.307, F.S., to require eligible surplus lines insurers to respond, in writing or electronically, to the Division of Consumer Services within the DFS within 14 days after receipt of a written request from the Division for documents and information concerning a consumer complaint.

This section of the bill also requires authorized insurers and eligible surplus lines insurers to file e-mail addresses with the DFS to which requests for response to consumer complaints may be directed. The insurer must designate a contact person for escalated complaint issues and must provide the name, e-mail address, and telephone number of the contact person.

Division of Insurance Agent and Agency Services

Insurance Field Representatives and Operations

Section 15 amends s. 626.171, F.S., to require the DFS to make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication of login credentials only. A separate bill, SB 1078 (2024), proposes to exempt these phone numbers from public records requirements.

[208] A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

Section 16 amends s. 626.221, F.S., to add "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster.

Section 17 amends s. 626.601, F.S., to allow the DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation.

Section 18 amends s. 626.7351, F.S., to add the designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative.

Public Adjusters

Section 19 amends s. 626.878, F.S., to require a licensed adjuster to identify themselves in any advertisements, solicitations or written documents based on the adjuster appointment type held.

This section also provides an adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claim adjusting process. A person who provides these services while the person's license is revoked or suspended acts as an unlicensed adjuster.

Unauthorized Insurers and Surplus Lines

Section 20 amends s. 626.929, F.S., to provide a general lines agent while licensed as a surplus lines agent may appoint licenses with a single surplus license agent appointment pursuant to s. 624.501, F.S. Such an appointed agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer

Florida Medical Malpractice Joint Underwriting Association

Section 21 amends s. 627.351, F.S., relating to the Florida Medical Malpractice Joint Underwriting Association (FMMJUA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FMMJUA, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Guaranty Associations

Florida Insurance Guaranty Association

Section 22 amends s. 631.59, F.S., relating to the Florida Insurance Guaranty Association (FIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FIGA, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be

competitively procured and be awarded to the most responsible and responsive vendor. The bill clarifies these provisions do not apply to claims defense counsel or claims vendors if contracts with all vendors which may exceed $100,000 are provided to the DFS for prior approval.

Florida Life and Health Insurance Guaranty Association

Section 23 amends s. 631.722, F.S., relating to the Florida Life and Health Guaranty Association (FLHGA) to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FLHGA, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Health Maintenance Organization Consumer Assistance Plan

Section 24 amends s. 631.821, F.S., relating to the Florida Health Maintenance Organization Consumer Assistance Plan (Plan), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the Plan, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

Florida Workers' Compensation Insurance Guaranty Association

Section 25 amends s. 631.921, F.S., relating to the Florida Workers' Compensation Guaranty Association (FWCIGA), to require the DFS to approve, beginning July 1, 2024, all contracts entered into, and purchases made by the FWCIGA, which are valued at $100,000 or more. The DFS must approve or deny the contract within 10 days or it is deemed approved. All such contracts must be competitively procured and be awarded to the most responsible and responsive vendor.

State Fire Marshal

Section 26 amends s. 633.124, F.S., to adopt the National Fire Protection Association, Inc., Standard 1126, 2021 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 27 amends s. 633.202, F.S., relating to the Florida Fire Prevention Code to provide the State Fire Marshal may not adopt an accessibility code, since accessibility is provided for under the Florida Building Code Americans with Disabilities Act (ADA) accessibility code.

Section 28 amends s. 633.206, F.S., to require the DFS to establish uniform fire safety standards for mobile food dispensing vehicles and energy storage systems.

Motor Vehicle Service Agreement Companies

Section 29 amends s. 634.041, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Section 30 amends s. 634.081, F.S., to allow motor vehicle service agreement companies to utilize multiple contractual liability insurance policies when backing their financial obligations.

Home Warranty Associations

Section 31 amends s. 634.3077, F.S., to provide that a home service warranty association (association) is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association complies with the following:

- The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the OIR with the following:
  - A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, that clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the OIR that the association or its parent corporation continues to maintain the net worth required under this paragraph; and
  - The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may subject the association to suspension or revocation of its license.

If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following must be met:

- The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the OIR;
- A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the OIR written notice at least 90 days before the effective date of the cancellation, termination, or modification and the OIR approves the request in writing;
- Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section;
- If the association or parent corporation does not demonstrate to the satisfaction of the OIR compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification; and
- The association must maintain at all times net assets of at least $750,000.

Section 32 amends s. 634.317, F.S., to exempt a municipality, a county government, a special district, an entity operated by a municipality or county government, or an employee or agent of a municipality, county government, special district, or entity operated by a municipality or county government from the licensing and appointment requirements set forth in s. 634.317, F.S.

Bail Bonds

Section 33 amends s. 648.25, F.S., to provide the following definitions:
- "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company; and
- "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody.

Section 34 amends s. 648.26, F.S., to provide the papers, documents, reports, or any other records of an investigation (related to the regulation of bail bonds) by the DFS that are made confidential and exempt from the public records law until such investigation is completed or ceases to be active, are not confidential and exempt once the DFS or the OIR files a formal administrative complaint, emergency order, or consent order against the individual or entity.

The bill also provides the confidential and exempt investigative records may be disclosed to the subject or the subject's representative in order to review the details of the investigation.

Section 35 amends s. 648.30, F.S., to provide bail bond agents are not required to be employed with a bail bond agency.

Section 36 s. 648.355, F.S., to remove the requirement of the submission of a full face photograph with a limited surety's or bail bond agent's application for license.

Florida Disposition of Unclaimed Property Act

Definitions

Section 37 amends s. 717.101, F.S., to provide or revise definitions for the following terms: "audit"; "audit agent"; "banking organization"; "business association"; "claimant's representative"; "domicile"; "due diligence"; "electronic"; "financial organization"; "holder"; "intangible property", to include virtual currency; "owner"; "person"; "record"; "unclaimed property purchase agreement"; "unclaimed property recovery agreement"; and "virtual currency". The bill repeals the definition of "ultimate equitable owner".

Owner's Expression of Interest

Section 38 amends s. 717.102, F.S., to provide a presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An owner's expression of interest in property includes:
- A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

- An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;
- Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;
- Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
- A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or
- Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

Bank Deposits

Section 39 amends s. 717.106, F.S., to update a cross-reference.

Virtual Currency

Section 40 creates s. 717.1065, F.S., to provide:

- Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within five years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity; and
- A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

Stock or Equity Interest in a Business Association

Section 41 amends s. 717.1101, F.S., to provide that stock or other equity interest in a business association is presumed unclaimed on the date of the earliest of the following:

- Three years after the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property;
- Three years after the date of the death of the owner, as evidenced by:
  - Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

  - Receipt by the holder of a copy of the death certificate of the owner;
  - Confirmation by the holder of the owner's death through other means; or
  - Other evidence from which the holder may reasonably conclude that the owner is deceased; or
- One year after the date on which the holder receives notice under subparagraph 2. if the notice is received two years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of two years or less.

Agents and Fiduciaries

Section 42 amends s. 717.112, F.S., to provide that intangible property held in a fiduciary capacity for the benefit of another person is presumed unclaimed unless the owner has within five years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated "*in writing*" concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Property Held by Fiduciaries under Trust Instruments

Section 43 amends s. 717.1125, F.S., to provide that the provisions in that section do not relieve a fiduciary of its duties under the Florida Trust Code.

Reporting Threshold and Notice to Owners

Section 44 amends s. 717.117, F.S., effective January 1, 2025, to require holders to report owner or account information for unclaimed property valued at $10 or more to the DFS, rather than the current threshold of $50, and that such reporting be made electronically. The bill provides the DFS may request any other information, with the exception of traveler's checks and money orders, as prescribed by rule.

The bill provides written notice to the apparent owner must:

- Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is 30 days after the date of notice)";
- Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice;
- State that the property will be turned over to the custody of the DFS if no response is received within 30 days after the date of the notice;
- State that any property that is not legal tender of the United States may be sold or liquidated by the DFS;
- State that after the property is turned over to the DFS, an apparent owner seeking return of the property may file a claim with the DFS; and
- State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the DFS.

Reporting Requirements for Virtual Currency

Section 45 amends s. 717.119 F.S., to provide virtual currency reported on the annual report must be remitted to the DFS with the report. The holder must liquidate the virtual currency within 30 days before the filing of the report and remit the proceeds to the DFS. Upon delivery of the proceeds, the holder is relieved of all liability for any losses or damages resulting by the delivery of the virtual currency proceeds.

The bill provides a holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder. Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligations under the chapter. A holder is not prohibited from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible for the complete, accurate, and timely reporting of the property.

Good Faith Payment or Delivery of Property

Section 46 amends s. 717.1201, F.S., to provide that a holder's substantial compliance with s. 717.117(4), F.S., and good faith payment or delivery of property terminates any legal relationship between the holder and the owner and releases the holder from liability that may arise from such payment or delivery, and such delivery and payment may be pled as a defense in any suit or action brought by reason of such delivery or payment. This provision does not relieve a fiduciary of its duties under the Florida Trust Code or Florida Probate Code.

If the holder delivers property to the DFS in good faith and thereafter any other person or state claims the property, the DFS must defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state. The bill provides a payment or delivery of property is made in good faith if:

- The payment or delivery was made in conjunction with an accurate and acceptable report;
- The payment or delivery was made in a reasonable attempt to comply with the chapter and other applicable Florida law;
- The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter; and
- There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

If it appears to the DFS that, because of mistake of fact or error, a person has delivered to the DFS pursuant any property not required to be so delivered, the DFS may, within five years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with the chapter.

Probate Proceedings

Section 47 amends s. 717.1242, F.S., to include devisee, heir, personal representative, or other interested person of an estate, as those terms are defined in the Florida Probate Code and the Florida Trust Code, among those persons who must file a claim with the DFS for any interest in unclaimed property.

Threshold for Small Estate Accounts

Section 48 amends s. 717.1243, F.S., to increase the threshold for small estate accounts to be accompanied with a signed affidavit from $10,000 to $20,000.

Tolling of 10-Year Enforcement Period

Section 49 amends s. 717.129, F.S., to provide the ten-year period of limitation on the DFS to enforce the provisions of the chapter is tolled by the earlier of the DFS's or audit agent's delivery of a notice that a holder is subject to an audit or examination or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Investigations, Examinations and Auditor's Fees

Section 50 amends s. 717.1301, F.S., to revise the powers of the DFS in regards to enforcement of the chapter. The powers include the authority to:

- Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim;
- Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to the chapter to determine whether the person complied with the chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the DFS;
- Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with the chapter;
- Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided;
- Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action; and
- Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

If a person is subject to reporting property under the chapter, the DFS may require the person to file a verified report that:

- States whether the person is holding property reportable under the chapter;
- Describes the property not previously reported, the property about which the DFS has inquired, or the property that is in dispute as to whether it is reportable under the chapter; and
- States the amount or value of the property.

The DFS may authorize a compliance review of a report for a specified reporting year that is limited to the contents of the report filed and all supporting documents. If the review results in a finding of a deficiency in unclaimed property due and payable, the DFS must notify the holder in writing of the amount of deficiency within one year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the DFS may seek to enforce the assessment under subsection (1). The DFS is not required to conduct a review under this section before initiating an audit.

The bill provides in a contract providing for the location or collection of unclaimed property, the DFS may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The DFS must annually report to the CFO the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

The bill provides if any material obtained during an investigation or examination contains a holder's financial or proprietary information, such information may not be disclosed or made public after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Any such material may be considered a trade secret and exempt from the public records law.

The bill provides the fee for the costs of the investigation or audit shall be remitted to the DFS within 30 days after the date of notification the fee is due and owing and allows the DFS to charge interest at the rate of 12 percent per annum.

Records Retention

Section 51 amends s. 717.1311, F.S., to increase the duration holders must retain records of unclaimed property from five to 10 years.

Purchase of Unclaimed Property

Section 52 amends s. 717.1322, F.S., to remove the requirement that a person must be registered with the DFS in order to purchase unclaimed property.

Audit Reports

Section 53 amends s. 717.1333, F.S., to make conforming changes due to the revised definition of "audit agent."

Penalties

Section 54 amends s. 717.134, F.S., to provide the penalties only apply to willful violations of the chapter.

Recovery and Purchase Agreements, Bankruptcy and Electronic Signatures

Section 55 amends s. 717.135, F.S., to remove threshold of $2,000 or less for agreements that may be signed electronically, allowing all such agreements to be signed electronically.

The bill provides this section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy estate representative or other person or entity authorized pursuant to Title 11 of the United States Code or an order of a bankruptcy court to act on behalf of or for the benefit of the debtor, its creditors, and its bankruptcy estate.

Registration

Section 56 amends s. 717.1400, F.S., to makes conforming changes for allowing anyone to purchase unclaimed property.

Disbursement of Proceeds and Savings Bonds

Sections 57 and 58 amend ss. 197.582 and 717.1382, F.S., respectively to conform cross-references necessitated by changes made in the bill.

Florida-Birth Related Neurological Injury Compensation Association (NICA)

Section 59 amends s. 766.302, F.S., relating to definitions, to remove the exclusion of 20 percent of the asset value from the calculation of assets and liabilities under s. 766.314(9)(c), F.S.

Section 60 amends s. 766.314, F.S., relating to assessments and plan of operation, to provide that if the total of all current estimates equals or exceeds 100 percent (presently, it is 80 percent) of the funds on hand and the funds that will become available within the next 12 months, the association may not accept any new claims without express authority from the Legislature.

Section 62 requires NICA, in consultation with the Office of Insurance Regulation and the Agency for Health Care Administration, to provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2024. The report must include:

- Recommendations for defining actuarial soundness for the association, including options for phase-in, if appropriate.
- Recommendations for timing of reporting actuarial soundness and to whom it should be reported.
- Recommendations for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

Division of Law Revision

Section 61 directs the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Effective Date

Section 63 provides that, except as otherwise expressly provided, the bill is effective upon becoming a 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:

The bill is titled "an act relating to the Department of Financial Services" (DFS).

Section 19 of the bill is related to the Florida Medical Malpractice Joint Underwriting Association (FMMJUA) and requires the DFS to review and approve all contracts entered into and all purchases made by the association valued at $100,000 or more. Currently, the DFS has no role in the FMMJUA. Bestowing such a role to the DFS may present a constitutional single subject concern.

While the DFS has a role in the statute as to agents, i.e., individual licensees, the Office of Insurance Regulation (OIR) is the regulator of service agreement companies and Home Warranty Agreements; thus, is incongruous with the title of the bill. This may present a constitutional single subject concern.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Emergency services and care providers under the workers' compensation system, when a maximum reimbursement allowance is not available, will be reimbursed at 250 percent of the Medicare rate, unless there is a contract, in which case the contract governs reimbursement.

Adjusters may experience additional advertising costs.

Applicants are subject to filing and application fees under s. 624.501, F.S.

Due to lowering the aggregate reporting in Section 44 from $50 to $10, there may be a small impact on the total dollar value of disbursements from the Unclaimed Property Trust Fund. Currently, more than 98 percent of the value of all funds held is for accounts greater than $50.[209]

Under Section 48, owners of small estate accounts may experience a positive impact as those accounts with an aggregate value of $20,000 or less (rather than $10,000 or less) require a signed affidavit.[210]

As it relates to recovery agreements and purchase agreements for claims filed by a claimant's representative or purchaser, Section 55 removes the $2,000 or less threshold for electronic signature of the Unclaimed Property Recovery Agreement, resulting in a positive impact.

C. Government Sector Impact:

The bill has a significant impact on state revenues and expenditures.

Department of Financial Services

Within the Department of Financial Services (DFS), the bill makes numerous changes that will require systems and process changes in the DFS. With regards to a reduction in expenses, the DFS is:

- No longer required to submit quarterly reports of the total amount of salary indemnification benefits paid and the total amount of reimbursements from each agency to the State Risk Management Trust Fund for initial costs each quarter (Section 5); and
- Able to serve administrative complaints, disciplinary citations, minor violations and written notice of violation by email in certain situations (Sections 9 and 10).

These changes should result in savings in terms of staff time spent towards preparing service of process and the costs related to other types of service of process.

Section 6 of the bill requires the DFS to engage an actuarial firm to begin development of maximum reimbursement allowances but does not appropriate any funds to do so.

The DFS is authorized to adopt rules to implement provisions of the bill. In addition, the DFS will need to update all software to reflect the changes to multiple divisions contemplated in the bill. However, the cost of any technology changes or rulemaking can be absorbed within existing resources.

In order to ensure competitive procurement, Section 7 and Sections 21 – 25 of the bill require the DFS to approve, beginning July 1, 2024, all contracts (excluding those

[209] The Florida Department of Financial Services, *Senate Bill Analysis 1098* (Jan. 26, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).
[210] *Id.*

contracts which are expressly stated as exempt) entered into, and purchases made by various associations, which are valued at $100,000 or more within ten days. The DFS has not indicated if such review would cause additional workload upon staff.

The bill creates a new third degree felony for violation of s. 497.386, F.S., which is punishable by up to five years in prison.[211] The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not met to review the bill. A final impact, if any, is not available at this time.

The cost for the DFS, local and state law enforcement agencies and the court to respond to, investigate and process any civil or criminal cases related to an emergency situation in the death care business is unknown. State and local governments, as well as the court system, may experience an increase in costs should these emergency situations arise.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill merges and abolishes a division within the Department of Financial Services (DFS) and renames another division. These subunits are currently recognized as criminal justice agencies by the Federal Bureau of Investigation (FBI).[212] The Florida Department of Law Enforcement (FDLE) is the FBI's Criminal Justice Information Services (CJIS) Systems Agency for Florida. Any abolishment or renaming, merging of these divisions necessitates the FDLE involvement. The FDLE should be included to ensure the newly created merged and renamed division meets the criminal justice subunit designation as well as to ensure access to state and federal CJIS systems are property authorized.[213]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 112.1816, 121.0515, 284.44, 440.13, 440.385, 497.101, 497.153, 497.155, 497.172, 497.386, 624.307, 626.171, 626.221, 626.601, 626.7351, 626.878, 626.929, 627.351, 631.59, 631.722, 631.821, 631.921, 633.124, 633.202, 633.206, 634.041, 634.081, 634.3077, 634.317, 648.25, 648.26, 648.30, 648.355, 717.101, 717.102, 717.106, 717.1101, 717.112, 717.1125, 717.117, 717.119, 717.1201, 717.1242, 717.1243, 717.129, 717.1301, 717.1311, 717.1322, 717.1333, 717.134, 717.135, 717.1400, 197.582, 717.1382, 766.302 and 766.314.

This bill creates the following sections of the Florida Statutes: 17.69, 497.469 and 717.1065.

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[211] A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S. Under s. 775.084, F.S., violent career criminals, habitual felony offenders, habitual violent felony offenders or three-time felony offenders, the court may sentence such third degree felony offenders to five to 10 years, not exceeding 15 years, imprisonment.

[212] The Florida Department of Law Enforcement, *Senate Bill Analysis 1098* (Jan. 12, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

[213] *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 by Fiscal Policy Committee on February 22, 2024:
The committee substitute reorganizes and rewords certain provisions and:

- Amends s. 112.1816(2), F.S., to clarify that a firefighter diagnosed with cancer, as an alternative to workers' compensation, if the firefighter has been employed at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer is eligible for "Leave time and job retention benefits equivalent to those provided for other injuries or illnesses incurred in the line of duty."
- Provides that any of the following documentation may be used as proof that a preneed funeral contract has been fulfilled:
  - A certified copy of death certificate;
  - An invoice for merchandise which reflects the name of the purchaser or beneficiary and the contract number;
  - An acknowledgment signed by the purchaser or legally authorized person, acknowledging that merchandise was delivered or services performed; or
  - A burial permit or other documentation.
- Revises the definition of "transfer bond" for purposes of bail bond agent regulation to mean "the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody."
- Provides that, for purposes of the disposition of unclaimed property, if a holder of unclaimed property learns or receives confirmation of an apparent owner's death, the property is presumed unclaimed 2 years after the date of death, unless a fiduciary appointed to represent the estate of the apparent owner has made an expression of interest in the property before the expiration of the 2-year period.
- Provides that provisions within the Florida Disposition of Unclaimed Property Act do not relieve a fiduciary of its duties under the Florida Trust Code of Florida Probate Code.
- Revises the due date to September 1, 2024, for the required NICA study of recommendations for ensuring a revenue level to maintain actuarial soundness.

CS by Appropriations Committee on Agriculture, Environment and General Government on February 13, 2024;
The committee substitute:.

- Revises the special risk provision to refer to employees of the Department of Financial Services (DFS) rather than the State Fire Marshal and retains the current effective employment date of July 1, 2008;
- Removes provisions related to My Safe Florida Home;
- As it relates to Workers' Compensation:
  - Revises provision on reimbursement for emergency services and care, without a maximum reimbursement allowance, to be 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement;

  - Authorizes the DFS to engage an actuarial firm to being development of maximum reimbursement allowances for emergency care services;
  - Provides an expiration date of June 30, 2026; and
  - Grants rulemaking authority to DFS;
- Exempts Florida Self-Insurers Guaranty Association contracts that are required by law from DFS approval;
- Maintains Senate confirmation for Board of Funeral, Cemetery, and Consumer Services appointments;
- Adds the following death care industry provisions:
  - Makes investigative file information public if the department issues an emergency order pursuant to s. 497.156;
  - Authorizes, in the event of an emergency situation, the department to enter and secure an establishment outside of normal business hours, and remove human remains and cremains from the establishment;
  - Provides a third degree criminal penalty for violations; and
  - Provides restrictions on when a preneed licensee may withdraw funds from the amount deposited in trust;
- Removes a provision in bill related to a notice of change in policy terms;
- Provides Florida Insurance Guaranty Association legal contracts are not subject to bidding;
- Expands definition of local government employee that is exempt from the home warranty licensure requirements;
- Restores exemption for traveler's checks and money orders for unclaimed property information required to be reported;
- Removes provision increasing unclaimed property trust fund balance to $65 million;
- Removes garnishment provision on unclaimed property;
- Revises provisions for Florida Birth-Related Neurological Injury Compensation Association (NICA) to:
  - Removes the exclusion of 20 percent of the asset value from the calculation of assets and liabilities;
  - Requires NICA to review estimates to determine if all current estimates equals or exceeds 100 percent of the funds on hand and the funds which will become available within the next 12 months;
  - Requires NICA to conduct a study of recommendations for ensuring a revenue level to maintain actuarial soundness;
  - Provides a due date of July 1, 2024, for the NICA study and directs who shall receive the report; and
- Removes an appropriation funding associated with the creation of a position in Section 1 within the DFS.

CS by Banking and Insurance Committee on January 22, 2024:
The committee substitute:

- Creates the position of Federal Tax Liaison within the Department of Financial Services and appropriates 110,000 in rate, $183,863 in recurring funds and $5,067 in non-recurring funds to support the position;

- Replaces incorrect references to "association" and "board" on lines 804-813 of the bill, and inserts "department;"
- Revises the Notice of Change provision on lines 1100 and 1101 of the bill to allow the Notice to run on consecutive pages, if necessary;
- Removes Section 22 from the bill that required each insurer subject to the Florida Insurance Guaranty Association requirements to prepare a data transfer plan;
- Restores current law for the definition of "intangible property" on lines 1747 - 1750 of the bill;
- Revises the provision on lines 1925 – 1932 of the bill to add the term "virtual currency" in place of the term "instrument;"
- Provides that the changes in Section 44 of the bill become effective on January 1, 2025;
- Replaces the word "abandoned" on line 2205 of the bill with the word "unclaimed;" and;
- Restores current law on lines 2331-2344 of the bill.

B. Amendments:

None.

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
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02/25/2024	.	
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The Committee on Fiscal Policy (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 316 - 2705
and insert:

Section 3. Subsection (2) of section 112.1816, Florida Statutes, is amended to read:

112.1816 Firefighters; cancer diagnosis.—

(2) Upon a diagnosis of cancer, a firefighter is entitled to all of the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440, if the

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firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer:

(a) Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer.

(b) A one-time cash payout of $25,000, upon the firefighter's initial diagnosis of cancer.

(c) Leave time and employee retention benefits equivalent to those provided for other injuries or illnesses incurred in the line of duty.

If the firefighter elects to continue coverage in the employer-sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits specified in paragraphs (a) and (b) must be made available by the former employer of a firefighter for 10 years following the date on which the firefighter terminates employment so long as the firefighter otherwise met the criteria specified in this subsection when he or she terminated employment and was not subsequently employed as a firefighter following that date. ~~For purposes of determining leave time and employee retention policies, the employer must consider a firefighter's cancer diagnosis as an injury or illness incurred in the line of duty.~~

Section 4. Paragraph (f) of subsection (2) and paragraph

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(h) of subsection (3) of section 121.0515, Florida Statutes, are amended to read:

121.0515 Special Risk Class.—

(2) MEMBERSHIP.—

(f) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h).

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(h) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);

2. Crime laboratory technician (class code 8461);

3. Crime laboratory analyst (class code 8463);

4. Senior crime laboratory analyst (class code 8464);

5. Crime laboratory analyst supervisor (class code 8466);

6. Forensic chief (class code 9602); or

7. Forensic services quality manager (class code 9603);

Section 5. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each~~

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~~state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from state agencies to the State Risk Management Trust Fund for initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive Office of the Governor pursuant to this section.~~

Section 6. Subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by hospitals and ambulatory surgical centers. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction

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with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. A hospital or an ambulatory surgical center shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.

(b) Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(c) Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d)1. Outpatient reimbursement for scheduled surgeries shall be 60 percent of charges.

2. Reimbursement for emergency services and care as defined in s. 395.002 which does not include a maximum reimbursement allowance must be 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement. Upon this subparagraph taking effect, the department shall engage with an actuarial services firm to begin development of maximum

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reimbursement allowances for services subject to the reimbursement provisions of this subparagraph. This subparagraph expires June 30, 2026.

(e)1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.

2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances that the department provides to carriers and self-insurers.

(f) Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(g) Maximum reimbursement for surgical procedures shall be 140 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(h) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average

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wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health

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care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers.

(j) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care

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facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking

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possession of that medication.

Section 7. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10) through (14), respectively, and a new subsection (9) is added to that section, to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(9) CONTRACTS AND PURCHASES.—

(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The

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association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

(d) Contracts that are required by law are exempt from this section.

Section 8. Present subsection (7) of section 497.101, Florida Statutes, is redesignated as subsection (11), subsections (1) through (4) are amended, and a new subsection (7) and subsections (8), (9), and (10) are added to that section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by ~~the Governor from nominations made by~~ the Chief Financial Officer and confirmed by the Senate. ~~The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled.~~ One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors

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licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter ~~and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter~~. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

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(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more than 8 consecutive years.~~, and~~ The State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer ~~Governor~~.

(4) The Chief Financial Officer ~~Governor may suspend and the Senate~~ may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private

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gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of his or her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

(10)(a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the department shall give notice of any board meeting by publication on the department’s website at least 7 days before the meeting. The department shall publish a meeting agenda on its website at

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least 7 days before the meeting. The agenda must contain the items to be considered, in order of presentation. After the agenda has been made available, a change may be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 9. Paragraph (a) of subsection (4) of section 497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 10. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject’s last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address

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provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the subject to the department in accordance with s. 497.146.

Section 11. Paragraph (d) of subsection (3) of section 497.172, Florida Statutes, is amended to read:

497.172 Public records exemptions; public meetings exemptions.—

(3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—

(d) Information made confidential and exempt pursuant to this subsection may be disclosed by the department as follows:

1. To the probable cause panel of the board, for the purpose of probable cause proceedings pursuant to s. 497.153.

2. To any law enforcement agency or other government agency in the performance of its official duties and responsibilities.

3. If the department uncovers information of immediate and serious concern to the public health, safety, or welfare, it may disseminate such information as it deems necessary for the public health, safety, or welfare.

4. If the department issues an emergency order pursuant to s. 497.156.

Section 12. Present subsection (5) of section 497.386, Florida Statutes, is redesignated as subsection (6), a new subsection (5) and subsection (7) are added to that section, and present subsection (5) of that section is amended, to read:

497.386 Storage, preservation, and transportation of human remains.—

(5) In the event of an emergency situation, including the abandonment of any establishments or facilities licensed under

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this chapter or any medical examiner's facility, morgue, or cemetery holding facility, the department may enter and secure such establishment, facility, or morgue during or outside of normal business hours, and remove human remains and cremains from the establishment, facility, or morgue. For purposes of this subsection, the department shall determine if a facility is abandoned and if there is an emergency situation. A licensee or licensed facility that accepts transfer of human remains and cremains from the department pursuant to this subsection may not be held liable for the condition of any human remains or cremains at the time of transfer.

(6) A person who violates subsection (1) or subsection (3) ~~any provision of this section~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) A person who violates subsection (2) or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Section 497.469, Florida Statutes, is created to read:

497.469 Fulfillment of preneed contracts.—

(1) Upon delivery of merchandise or performance of services in fulfillment of a preneed contract, either in part or in whole, a preneed licensee may withdraw the amount deposited in trust plus income earned on such amount for the merchandise delivered or services performed, when adequate documentation is submitted to the trustee.

(2) Any of the following documentation is satisfactory evidence to show that a preneed contract has been fulfilled:

(a) A certified copy of death certificate.

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(b) An invoice for merchandise which reflects the name of the purchaser or beneficiary and the contract number.

(c) An acknowledgment signed by the purchaser or legally authorized person, acknowledging that merchandise was delivered or services performed.

(d) A burial permit or other documentation provided to a governmental agency.

(3) The preneed licensee shall maintain documentation that supports fulfillment of a particular contract until such records are examined by the department.

Section 14. Present paragraphs (c) and (d) of subsection (10) of section 624.307, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and paragraph (b) of that subsection is amended, to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority or made an eligible surplus lines insurer by the department or the office shall respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $5,000 per violation upon any entity licensed by the department or the

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office and up to $1,000 per violation by any individual licensed by the department or the office.

(c) Each insurer issued a certificate of authority or made an eligible surplus lines insurer shall file with the department an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). Such insurer shall also designate a contact person for escalated complaint issues and shall provide the name, e-mail address, and telephone number of such person. A licensee of the department, including an agency or a firm, may elect to designate an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). If a licensee, including an agency or a firm, elects not to designate an e-mail address, the department shall direct requests for response to consumer complaints to the e-mail of record for the licensee in the department's licensing system. An insurer or a licensee, including an agency or a firm, may change designated contact information at any time by submitting the new information to the department using the method designated by rule by the department.

Section 15. Subsection (2) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number, residence address, business address, mailing address, contact telephone numbers, including a business telephone number, and e-

mail address.

(b) A statement indicating the method the applicant used or is using to meet any required prelicensing education, knowledge, experience, or instructional requirements for the type of license applied for.

(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant’s defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant’s gender (male or female).

(g) The applicant’s native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant’s race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or

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ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for applicants to submit cellular telephone numbers as part of the application process on a voluntary basis only for the purpose of two-factor authentication of secure login credentials.

Section 16. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by

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the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 17. Subsection (6) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from s. 119.07 unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the individual or entity being investigated or its representative, or to share such information with any law enforcement agency or other regulatory body.

Section 18. Subsection (3) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department may ~~shall~~ not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(3) Within 4 years preceding the date that the application for license was filed with the department, the applicant has

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earned the designation of Accredited Advisor in Insurance (AAI), Associate in General Insurance (AINS), or Accredited Customer Service Representative (ACSR) from the Insurance Institute of America; the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors; the designation of Certified Professional Service Representative (CPSR) from the National Foundation for CPSR; the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives; the designation of Certified Insurance Representative (CIR) from All-Lines Training; the designation of Chartered Customer Service Representative (CCSR) from American Insurance College; the designation of Professional Customer Service Representative (PCSR) from the Professional Career Institute; the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC; the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in the state whose curriculum is approved by the department and includes comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or a degree from an accredited institution of higher learning approved by the department when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance. The department shall adopt rules establishing standards for the approval of curriculum.

Section 19. Section 626.878, Florida Statutes, is amended to read:

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626.878 Rules; code of ethics.—

(1) An adjuster shall subscribe to the code of ethics specified in the rules of the department. The rules shall implement the provisions of this part and specify the terms and conditions of contracts, including a right to cancel, and require practices necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claims adjusting process, including estimating, completing, filing, negotiating, appraising, mediating, umpiring, or effecting settlement of a claim for loss or damage covered under an insurance contract. A person who provides these services while the person’s license is revoked or suspended acts as an unlicensed adjuster.

Section 20. Subsection (1) of section 626.929, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A licensed and appointed general lines agent while also licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of

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insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines agent under this part may appoint these licenses with a single surplus license agent appointment pursuant to s. 624.501. Such agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

Section 21. Paragraphs (j) is added to subsection (4) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this subsection which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny a contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process by a minimum of three vendors. The formal bid solicitation process must include all of the following:

a. The time and date for the receipt of bids, the

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proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

b. All the contractual terms and conditions applicable to the procurement.

3. Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department by electronic delivery.

Section 22. Subsection (5) is added to section 631.59, Florida Statutes, to read:

631.59 Duties and powers of department and office; association contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the

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proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

(d) Paragraphs (b) and (c) do not apply to claims defense counsel or claims vendors if contracts with all vendors which may exceed $100,000 are provided to the department for prior approval in accordance with paragraph (a).

Section 23. Subsection (6) is added to section 631.722, Florida Statutes, to read:

631.722 Powers and duties of department and office; association contracts and purchases.—

(6)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation

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conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 24. Subsection (5) is added to section 631.821, Florida Statutes, to read:

631.821 Powers and duties of the department; board contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation

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conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The plan must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the board must be made available, upon request, to the department via electronic delivery.

Section 25. Section 631.921, Florida Statutes, is amended to read:

631.921 Department powers; board contracts and purchases.—

(1) The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department for the immediately preceding calendar year in a form approved by the department.

(2)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval

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request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 26. Paragraph (b) of subsection (3) of section 633.124, Florida Statutes, is amended to read:

633.124 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

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1. The structure has a fire protection system installed in compliance with s. 633.334.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use of a pyrotechnic display in an occupied structure, such permit has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 27. Subsection (2) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may not adopt a building, mechanical, accessibility, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206. The State Fire Marshal shall incorporate within sections of the Florida

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Fire Prevention Code provisions addressing regional and local concerns and variations.

Section 28. Paragraph (b) of subsection (1) of section 633.206, Florida Statutes, is amended to read:

633.206 Uniform firesafety standards.—The Legislature hereby determines that to protect the public health, safety, and welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, mobile food dispensing vehicles, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the

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buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 29. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer or insurers approved by the office, which hold ~~holds~~ a certificate of authority under s. 624.401 to do business within this state, or secured through ~~a~~ risk retention groups ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance

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policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted

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as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 30. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of $750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of $3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 31. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new

subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy

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was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the office that the association or its parent corporation continues to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Securities Dealers Automated Quotations system, or other

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recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following requirements must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

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2. The association must maintain at all times net assets of at least $750,000.

Section 32. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees. A municipality, a county government, a special district, an entity operated by a municipality or county government, or an employee or agent of a municipality, a county government, a special district, or an entity operated by a municipality or county government is exempt from the licensing and appointing requirements of this section.

Section 33. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) "Referring bail bond agent" means the limited surety agent who is requesting the transfer bond. The referring bail bond agent is the agent held liable for the transfer bond, along with the issuing surety company.

(11) "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody.

Section 34. Subsection (3) of section 648.26, Florida

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Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the subject or the subject's representative, or to share such information with any law enforcement agency or other regulatory body.

Section 35. Paragraph (a) of subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or bail bond agency or perform any of the

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functions, duties, or powers prescribed for bail bond agents or bail bond agencies under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter ~~and employed by a bail bond agency~~.

Section 36. Subsection (1) of section 648.355, Florida Statutes, is amended to read:

648.355 Limited surety agents and professional bail bond agents; qualifications.—

(1) The applicant shall furnish, with the application for license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) ~~and a recent credential-sized, fullface photograph of the applicant~~. The department may not issue a license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 37. Section 717.101, Florida Statutes, is amended to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Aggregate" means the amounts reported for owners of unclaimed property of less than $10 ~~$50~~ or where there is no name for the individual or entity listed on the holder's records, regardless of the amount to be reported.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Audit" means an action or proceeding to examine and

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verify a person's records, books, accounts, and other documents to ascertain and determine compliance with this chapter.

(4) "Audit agent" means a person with whom the department enters into a contract with to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the audit on behalf of the person or contractor.

(5) ~~(3)~~ "Banking organization" means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company, savings bank, industrial savings bank, land bank, safe-deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization~~.

(6) ~~(4)~~ "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or

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association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit ~~corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit~~.

(7) ~~(5)~~ "Claimant" means the person on whose behalf a claim is filed.

(8) "Claimant's representative" means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or a private investigator who is duly licensed to do business in this state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9) ~~(6)~~ "Credit balance" means an account balance in the customer's favor.

(10) ~~(7)~~ "Department" means the Department of Financial Services.

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(11)~~(8)~~ "Domicile" means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; or the state of home office for a federally charted entity ~~incorporated under the laws of a state, or, for an unincorporated business association, the state where the business association is organized~~.

(12)~~(9)~~ "Due diligence" means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, providing written notice as described in this chapter by electronic mail if an apparent owner has elected such delivery, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(14)~~(10)~~ "Financial organization" means a ~~state or federal~~ savings association, savings and loan association, savings bank, industrial bank, bank, banking organization, trust company, international bank agency, cooperative bank, building and loan

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association, or credit union.

(15) ~~(11)~~ "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16) ~~(12)~~ "Holder" means:

(a) A person~~, wherever organized or domiciled,~~ who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or~~:~~

~~(a) In possession of property belonging to another;~~

(b) A trustee in case of a trust~~; or~~

~~(c) Indebted to another on an obligation~~.

(17) ~~(13)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18) ~~(14)~~ "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, virtual currency, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in

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business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19) ~~(15)~~ "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20) ~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21) ~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

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(22)~~(18)~~ "Owner" means a person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property ~~a depositor in the case of a deposit, a beneficiary in the case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative~~.

(23) "Person" means an individual; an estate; a business association; a corporation; a firm; an association; a joint adventure; a partnership; a government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24)~~(19)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26)~~(20)~~ "Reportable period" means the calendar year ending December 31 of each year.

(27)~~(21)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

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(28)~~(22)~~ "Trust instrument" means a trust instrument as defined in s. 736.0103.

~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to purchase unclaimed property from an owner.

(30) "Unclaimed Property Recovery Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to obtain an owner's consent and authority to recover unclaimed property on the owner's behalf.

(31)~~(24)~~ "United States" means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32)~~(25)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

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(33)(a) "Virtual currency" means digital units of exchange which:

1. Have a centralized repository or administrator;

2. Are decentralized and have no centralized repository or administrator; or

3. May be created or obtained by computing or manufacturing effort.

(b) The term does not include any of the following:

1. Digital units that:

a. Are used solely within online gaming platforms;

b. Have no market or application outside of the online gaming platforms in sub-subparagraph a.;

c. Cannot be converted into, or redeemed for, fiat currency or virtual currency; and

d. Can or cannot be redeemed for real-world goods, services, discounts, or purchases.

2. Digital units that can be redeemed for:

a. Real-world goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer or other designated merchants; or

b. Digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or virtual currency.

3. Digital units used as part of prepaid cards.

Section 38. Subsections (3) and (4) are added to section 717.102, Florida Statutes, to read:

717.102 Property presumed unclaimed; general rule.—

(3) A presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An

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owner's expression of interest in property includes:

(a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(b) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(c) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;

(d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(e) A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or

(f) Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

(4) If a holder learns or receives confirmation of an apparent owner's death, the property is presumed unclaimed 2 years after the date of death, unless a fiduciary appointed to

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represent the estate of the apparent owner has made an expression of interest in the property before the expiration of the 2-year period. This subsection may not be construed to extend the otherwise applicable dormancy period prescribed by this chapter.

Section 39. Subsection (5) of section 717.106, Florida Statutes, is amended to read:

717.106 Bank deposits and funds in financial organizations.—

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least $50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This subsection shall apply to accounts opened on or after October 1, 1990.

Section 40. Section 717.1065, Florida Statutes, is created to read:

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

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(2) A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the virtual currency unless there is a valid and enforceable written contract between the holder and the owner of the virtual currency pursuant to which the holder may impose those charges and the holder does not regularly reverse or otherwise cancel those charges with respect to the virtual currency.

Section 41. Paragraph (a) of subsection (1) of section 717.1101, Florida Statutes, is amended to read:

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of ~~3 years after~~ the earliest of the following:

1. Three years after ~~The date of~~ the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property ~~dividend, stock split, or other distribution unclaimed by the apparent owner~~;

2. Three years after the date of the death of the owner, as evidenced by: ~~The date of a statement of account or other notification or communication that was returned as undeliverable; or~~

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate

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of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less ~~The date the holder discontinued mailings, notifications, or communications to the apparent owner~~.

Section 42. Subsection (1) of section 717.112, Florida Statutes, is amended, and a new subsection (6) is added to that section, to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent, except as provided in ss. 717.1125 and 733.816, is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(6) This section does not relieve a fiduciary of its duties under applicable Florida law.

Section 43. Section 717.1125, Florida Statutes, is amended

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to read:

717.1125 Property held by fiduciaries under trust instruments.—All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person under a trust instrument is presumed unclaimed unless the owner has, within 2 years after it has become payable or distributable, increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary. This section does not relieve a fiduciary of its duties under the Florida Trust Code.

Section 44. Effective January 1, 2025, section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department ~~on such forms as the department may prescribe by rule. In lieu of forms, a report identifying 25 or more different apparent owners must be submitted by the holder~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) Except for traveler's checks and money orders, the name, social security number or taxpayer identification number, ~~and~~ date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of $10 ~~$50~~ or more.

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(b) For unclaimed funds that ~~which~~ have a value of $10 ~~$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information required to be provided under paragraph (a) for both ~~full name, taxpayer identification number or social security number, date of birth, if known, and last known address of~~ the insured or annuitant and ~~of~~ the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or ~~and~~ identifying number associated with the property, a ~~if any, or~~ description of the property, and the amount appearing from the records to be due. Items of value less than $10 ~~under $50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than $10, a zero balance report may be filed for that reporting period

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~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of $10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

~~(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter~~.

(3)~~(h)~~ Credit balances, customer overpayments, security deposits, and refunds having a value of less than $10 may ~~shall~~ not be presumed unclaimed.

(4)~~(2)~~ If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder must ~~shall~~ file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5)~~(3)~~ The report must be filed before May 1 of each year. The report applies ~~shall apply~~ to the preceding calendar year. Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of $10 per day up to a maximum of $500 for the failure to timely report, if an extension was not provided or if the holder of the property failed ~~the failure~~ to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty must ~~shall~~ be remitted to the department within 30 days after the date of the notification to

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the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date.~~ The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report ~~has been processed and added to the unclaimed property database subsequent to a determination that the report~~ is accurate and acceptable and that the reported property is the same as the remitted property.

(6)~~(4)~~ Holders of inactive accounts having a value of $50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic ~~an~~ address for the apparent owner which the holder's records do not disclose to be

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inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is at least 30 days after the date of the notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department as unclaimed property if no response to this letter is received.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8) ~~(5)~~ Any holder of intangible property may file with the department a petition for determination that the property is

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unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4) ~~(2)~~, and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

(9) ~~(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10) ~~(7)~~(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

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(11) ~~(8)~~ (a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 45. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent,

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subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 46. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder;~~ payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of the property. Any person who pays or delivers unclaimed property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(6)

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and good faith payment or delivery of unclaimed property to the department releases the holder from liability that may arise from such payment or delivery, and such delivery and payment may be pled as a defense in any suit or action brought by reason of such delivery or payment. This paragraph does not relieve a fiduciary of its duties under the Florida Trust Code or Florida Probate Code.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of unclaimed property is made in good faith if:

(a) The payment or delivery was made in conjunction with an accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter and other applicable Florida law.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

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(3)~~(2)~~ Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4)~~(3)~~ Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5)~~(4)~~ The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

~~(5) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any~~

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~~liability on the claim.~~

~~(6) For the purposes of this section, "good faith" means that:~~

~~(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.~~

~~(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed for the purposes of this chapter.~~

~~(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.~~

(6) ~~(7)~~ Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such

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money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

Section 47. Subsection (1) of section 717.1242, Florida Statutes, is amended to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to unclaimed ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in the Florida Probate Code and the Florida Trust Code ~~s. 731.201~~, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

Section 48. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of $20,000 ~~$10,000~~ or less and no probate proceeding is pending.

Section 49. Subsection (2) of section 717.129, Florida

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Statutes, is amended to read:

717.129 Periods of limitation.—

(2) The department may not commence an ~~No~~ action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property or any other duty of a holder under this chapter ~~may be commenced by the department with respect to any duty of a holder under this chapter~~ more than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a holder is subject to an audit or examination under s. 717.1301 or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 50. Section 717.1301, Florida Statutes, is amended to read:

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the

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records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s.

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717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

~~(1) The department may make investigations and examinations within or outside this state of claims, reports, and other records as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas, and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.~~

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~~(2) Subpoenas for witnesses whose evidence is deemed material to any investigation or examination under this section may be issued by the department under seal of the department, or by any court of competent jurisdiction, commanding such witnesses to appear before the department at a time and place named and to bring such books, records, and documents as may be specified or to submit such books, records, and documents to inspection. Such subpoenas may be served by an authorized representative of the department.~~

~~(3) If any person shall refuse to testify, produce books, records, and documents, or otherwise refuse to obey a subpoena issued under this section, the department may present its petition to a court of competent jurisdiction in or for the county in which such person resides or has its principal place of business, whereupon the court shall issue its rule nisi requiring such person to obey forthwith the subpoena issued by the department or show cause for failing to obey said subpoena. Unless said person shows sufficient cause for failing to obey the subpoena, the court shall forthwith direct such person to obey the same subject to such punishment as the court may direct including, but not limited to, the restraint, by injunction or by appointment of a receiver, of any transfer, pledge, assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents as the court deems appropriate, until such person has fully complied with such subpoena and the department has completed its investigation or examination. The department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on~~

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~~its calendar. Costs incurred by the department to obtain an order granting, in whole or in part, its petition shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.~~

~~(4) Witnesses shall be entitled to the same fees and mileage as they may be entitled by law for attending as witnesses in the circuit court, except where such examination or investigation is held at the place of business or residence of the witness.~~

(5) The material compiled by the department in an investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered ~~material compiled~~ by the department in an investigation or audit ~~examination~~ under this chapter remain ~~remains~~ confidential ~~after the department's investigation or examination is complete~~ if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit ~~examination~~ of the

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records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit ~~the examination~~ against the holder ~~at the rate of $100 per 8-hour day for each investigator or examiner~~. ~~Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker-days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 51. Subsection (1) of section 717.1311, Florida Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 ~~5~~ years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the

department.

Section 52. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to

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probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such agent or employee was violating any provision of this chapter.

Section 53. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and worksheets, investigator ~~examiner's worksheets, investigative~~ reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent ~~auditor, examiner,~~ or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent ~~auditor, examiner,~~ or investigator, after being duly authenticated by the audit agent ~~auditor, examiner,~~ or investigator, may be admitted as competent evidence upon the oath of the audit agent ~~auditor, examiner,~~ or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 54. Subsections (1) and (2) of section 717.134, Florida Statutes, are amended to read:

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717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not reported until an appropriate ~~a~~ report is provided ~~rendered for any person who willfully fails to render any report required under this chapter~~. Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter~~.

Section 55. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the

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Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchasing claimant's representative.

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchasing claimant's representative.

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number.

(f) For the Unclaimed Property Purchase Agreement, a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant <u>or seller</u>, to sign the agreement electronically ~~for claims of $2,000 or less~~. All electronic

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signatures on the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific, exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the case of a purchase agreement, which may not exceed 30 percent of the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the claimant's representative exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

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(6) A claimant's representative may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the Unclaimed Property Purchase Agreement~~ may not contain language that makes the agreement irrevocable or that creates an assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy estate representative or other person or entity authorized pursuant to Title 11 of the United States Code or an order of a

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bankruptcy court to act on behalf of or for the benefit of the debtor, its creditors, and its bankruptcy estate.

Section 56. Subsections (1), (2), and (3) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to

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disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's

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public accounting firm employer.

(3) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

Section 57. Paragraph (a) of subsection (2) of section 197.582, Florida Statutes, is amended to read:

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197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus must be paid over and disbursed by the clerk as set forth in subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c), that amount must be treated as surplus and distributed in the same manner. The clerk shall distribute the surplus to the governmental units for the payment of any lien of record held by a governmental unit against the property, including any tax certificates not incorporated in the tax deed application and omitted taxes, if any. If there remains a balance of undistributed funds, the balance must be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

.... COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description: .....

Pursuant to chapter 197, Florida Statutes, the above

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property was sold at public sale on ...(date of sale)..., and a surplus of $...(amount)... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated: ....

Clerk of Court

Section 58. Subsection (1) of section 717.1382, Florida Statutes, is amended to read:

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state,

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including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder in accordance with ss. 717.117(1) and (5) ~~ss. 717.117(1) and (3)~~ and 717.119, if the department is not in possession of the bond.

Section 59. Paragraph (c) of subsection (10) of section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(10) "Family residential or custodial care" means care normally rendered by trained professional attendants which is beyond the scope of child care duties, but which is provided by family members. Family members who provide nonprofessional residential or custodial care may not be compensated under this act for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family residential or custodial care shall be performed only at the direction and control of a physician when such care is medically necessary. Reasonable charges for expenses for family residential or custodial care provided by a family member shall be determined as follows:

~~(c) The award of family residential or custodial care as defined in this section shall not be included in the current estimates for purposes of s. 766.314(9)(c).~~

Section 60. Paragraph (c) of subsection (9) of section 766.314, Florida Statutes, is amended to read:

766.314 Assessments; plan of operation.—

(9)

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(c) If the total of all current estimates equals or exceeds 100 ~~80~~ percent of the funds on hand and the funds that will become available to the association within the next 12 months from all sources described in subsection (4) ~~subsections (4)~~ and paragraph (5)(a) ~~(5) and paragraph (7)(a)~~, the association may not accept any new claims without express authority from the Legislature. ~~Nothing in~~ This section does not preclude ~~precludes~~ the association from accepting any claim if the injury occurred 18 months or more before the effective date of this suspension. Within 30 days after the effective date of this suspension, the association shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, the Office of Insurance Regulation, the Agency for Health Care Administration, and the Department of Health of this suspension.

Section 61. The Division of Law Revision is directed to prepare a reviser's bill for the 2025 Regular Session of the Legislature to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Section 62. The Florida Birth-Related Neurological Injury Compensation Association shall, in consultation with the Office of Insurance Regulation and the Agency for Health Care Administration, provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives by September 1, 2024, which shall include, but not be limited to, all of the following:

(1) Recommendations for defining actuarial soundness for the association, including options for phase-in, if appropriate.

(2) Recommendations for timing of reporting actuarial

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soundness and to whom it should be reported.

(3) Recommendations for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

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

And the title is amended as follows:

Delete lines 17 - 249

and insert:

Assistance Fraud; amending s. 112.1816, F.S.; revising the benefits a firefighter is entitled to upon a diagnosis of cancer; amending s. 121.0515, F.S.; revising requirements for the Special Risk Class membership; amending s. 284.44, F.S.; deleting provisions relating to certain quarterly reports prepared by the Division of Risk Management; amending s. 440.13, F.S.; providing the reimbursement schedule requirements for emergency services and care under workers' compensation under certain circumstances; requiring the department to engage with an actuarial services firm under certain circumstances for a specified purpose; providing for future expiration; authorizing the department to adopt rules; amending s. 440.385, F.S.; providing requirements for certain contracts entered into and purchases made after a specified date by the Florida Self-Insurers Guaranty Association, Incorporated; providing duties of the department and the association relating to such contracts and purchases; providing that certain

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contracts are exempt from certain provisions; amending s. 497.101, F.S.; revising the requirements for appointing and nominating members of the Board of Funeral, Cemetery, and Consumer Services; revising the members' terms; revising the authority to remove board members; providing for appointments to fill vacancies on the board; providing that board members are subject to the code of ethics under part III of ch. 112, F.S.; providing requirements for board members' conduct; specifying prohibited acts; providing penalties; providing requirements for board meetings, books, and records; requiring notices of board meetings; providing requirements for board meetings; amending s. 497.153, F.S.; authorizing service by e-mail of administrative complaints against certain licensees under certain circumstances; amending s. 497.155, F.S.; authorizing service of citations by e-mail under certain circumstances; amending s. 497.172, F.S.; revising the circumstances under which information made confidential and exempt may be disclosed by the department; amending s. 497.386, F.S.; authorizing the department to take certain actions in the event of an emergency situation; requiring the department to make certain determinations; prohibiting a licensee or licensed facility that accepts the transfer of human remains and cremains from being liable for the condition of human remains and cremains under certain circumstances; revising criminal penalties for violations of provisions related to storage,

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preservation, and transportation of human remains and cremains; creating s. 497.469, F.S.; authorizing a preneed licensee to withdraw a specified amount deposited into trust under certain circumstances; providing that certain documentation is satisfactory evidence to show that a preneed contract has been fulfilled; requiring a preneed licensee to maintain certain documentation for a specified timeframe; amending s. 624.307, F.S.; requiring eligible surplus lines insurers to respond to the department or the Office of Insurance Regulation after receipt of requests for documents and information concerning consumer complaints; providing penalties for failure to comply; requiring authorized insurers and eligible surplus lines insurers to file e-mail addresses with the department and to designate contact persons for specified purposes; authorizing changes of designated contact information; amending s. 626.171, F.S.; requiring the department to make provisions for certain insurance license applicants to submit cellular telephone numbers for a specified purpose; amending s. 626.221, F.S.; providing a qualification for an all-lines adjuster license; amending s. 626.601, F.S.; revising construction; amending s. 626.7351, F.S.; revising qualifications for a customer representative’s license; amending s. 626.878, F.S.; providing duties and prohibited acts for adjusters; amending s. 626.929, F.S.; specifying that licensed and appointed general lines agents, rather than

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general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents; authorizing general lines agents that are also licensed as surplus lines agents to make certain appointments; authorizing such agents to originate specified business and accept specified business; prohibiting such agents from being appointed by a certain insurer or transacting certain insurance; amending s. 627.351, F.S.; providing requirements for certain contracts entered into and purchases made after a specified date by the Florida Joint Underwriting Association; providing duties of the department and the association regarding such contracts and purchases; amending s. 631.59, F.S.; providing requirements for certain contracts entered into and purchases made after a specified date by the Florida Insurance Guaranty Association, Incorporated; providing duties of the department and the association regarding such contracts and purchases; providing applicability; amending ss. 631.722, 631.821, and 631.921, F.S.; providing requirements for certain contracts entered into and purchases made after a specified date by the Florida Life and Health Insurance Guaranty Association, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan, and the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, respectively; providing duties of the department and of the associations and boards

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regarding such contracts and purchases; amending s. 633.124, F.S.; updating the edition of a manual for the use of pyrotechnics; amending s. 633.202, F.S.; revising the duties of the State Fire Marshal; amending s. 633.206, F.S.; revising the applicability of requirements for uniform firesafety standards established by the department; amending s. 634.041, F.S.; specifying the conditions under which service agreement companies do not have to establish and maintain unearned premium reserves; amending s. 634.081, F.S.; revising the conditions under which service agreement companies' licenses are not suspended or revoked under certain circumstances; amending s. 634.3077, F.S.; revising requirements for certain contractual liability insurance obtained by home warranty associations; providing that such associations are not required to establish unearned premium reserves or maintain contractual liability insurance; authorizing such associations to allow their premiums to exceed certain limitations under certain circumstances; providing requirements for such associations; providing a penalty; amending s. 634.317, F.S.; providing that certain entities and their employees and agents are exempt from certain licensing and appointment requirements; amending s. 648.25, F.S.; defining the terms "referring bail bond agent" and "transfer bond"; amending s. 648.26, F.S.; revising the circumstances under which investigatory records of the department are confidential and exempt

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from public records requirements; revising construction; amending s. 648.30, F.S.; revising circumstances under which a person or entity may act in the capacity of a bail bond agent or bail bond agency and perform certain functions, duties, and powers; amending s. 648.355, F.S.; revising the requirements for limited surety agents and professional bail bond agents license applications; amending s. 717.101, F.S.; defining and revising terms; amending s. 717.102, F.S.; providing a rebuttal to a presumption of unclaimed property; providing requirements for such rebuttal; providing that, under certain circumstances, certain property is presumed unclaimed 2 years after the date of the apparent owner’s death; providing an exception; providing construction; amending s. 717.106, F.S.; conforming a cross-reference; creating s. 717.1065, F.S.; providing circumstances under which virtual currency held or owing by banking organizations is not presumed unclaimed; prohibiting virtual currency holders from deducting certain charges from the amount of certain virtual currency under certain circumstances; providing an exception; amending s. 717.1101, F.S.; revising the date on which stocks and other equity interests in business associations are presumed unclaimed; amending s. 717.112, F.S.; providing that certain intangible property and income or increment thereon held by attorneys in fact and by agents in a fiduciary capacity are presumed unclaimed under

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certain circumstances; revising the requirements for claiming such property; providing construction; amending s. 717.1125, F.S.; providing construction; amending s. 717.117, F.S.; deleting the paper option for reports by holders of unclaimed funds and property; revising the reporting requirements for owners of unclaimed property and funds; authorizing the department to extend reporting dates under certain circumstances; revising the circumstances under which the department may impose and collect penalties; requiring holders of certain inactive accounts to notify apparent owners; revising the manner of sending such notices; providing requirements for such notices; amending s. 717.119, F.S.; requiring certain virtual currency to be remitted to the department; providing requirements for the liquidation of such virtual currency; providing that holders of such virtual currency are relieved of all liability upon delivery of the virtual currency to the department; prohibiting holders from assigning or transferring certain obligations or from complying with certain provisions; providing that certain entities are responsible for meeting holders' obligations and complying with certain provisions under certain circumstances; providing construction; amending s. 717.1201, F.S.; providing that good faith payments or deliveries of unclaimed property to the department release holders from certain liabilities; authorizing a certain defense in certain suits or actions; providing

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construction; requiring the department to defend the holder against certain claims and indemnify the holder against certain liability; specifying when a payment or delivery of unclaimed property is made in good faith; authorizing the department to refund and redeliver certain money and property under certain circumstances and within a specified timeframe; amending s. 717.1242, F.S.; revising legislative intent; amending s. 717.1243, F.S.; revising applicability of certain provisions relating to unclaimed small estate accounts; amending s. 717.129, F.S.; revising the requirements and the tolling for the periods of limitation relating to duties of holders of unclaimed funds and property; amending s. 717.1301, F.S.; revising the department's authorities on the disposition of unclaimed funds and property for specified purposes; prohibiting certain materials from being disclosed or made public under certain circumstances; providing an exception; revising the basis for the department's cost assessment against holders of unclaimed funds and property; amending s. 717.1311, F.S.; revising the recordkeeping requirements for funds and property holders; amending s. 717.1322, F.S.; revising acts that are violations of specified provisions and constitute grounds for administrative enforcement actions and civil enforcement by the department; providing that claimants' representatives, rather than registrants, are subject to civil enforcement and disciplinary

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actions for certain violations; amending s. 717.1333, F.S.; conforming provisions to changes made by the act; amending s. 717.134, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; revising the information that certain agreements relating to unclaimed property must disclose; deleting a requirement for Unclaimed Property Purchase Agreements; providing applicability; amending s. 717.1400, F.S.; deleting a circumstance under which certain persons must register with the department; amending ss. 197.582 and 717.1382, F.S.; conforming cross-references; amending s. 766.302, F.S.; revising the manner in which reasonable charges for expenses for family residential or custodial care are determined; amending s. 766.314, F.S.; revising the prohibition relating to the Florida Birth-Related Neurological Injury Compensation Plan accepting new claims; providing a directive to the Division of Law Revision; requiring the Florida Birth-Related Neurological Injury Compensation Association, in consultation with specified entities, to submit, by a specified date, a specified report to the Governor, the Chief Financial Officer, and the Legislature; specifying requirements for the report; providing

By the Appropriations Committee on Agriculture, Environment, and General Government; the Committee on Banking and Insurance; and Senator DiCeglie

601-03258-24 20241098c2

A bill to be entitled

An act relating to the Department of Financial Services; creating s. 17.69, F.S.; creating the federal tax liaison position within the department; providing the purpose of the position; requiring the Chief Financial Officer to appoint the federal tax liaison; providing that such liaison reports to the Chief Financial Officer but is not under the authority of the department or any employee of the department; authorizing the federal tax liaison to perform certain actions; amending s. 20.121, F.S.; renaming the Division of Investigative and Forensic Services in the Department of Financial Services as the Division of Criminal Investigations; deleting provisions relating to duties of such division and to bureaus and offices in such division; abolishing the Division of Public Assistance Fraud; amending s. 121.0515, F.S.; revising requirements for the Special Risk Class membership; amending s. 284.44, F.S.; deleting provisions relating to certain quarterly reports prepared by the Division of Risk Management; amending s. 440.13, F.S.; providing the reimbursement schedule requirements for emergency services and care under workers' compensation under certain circumstances; requiring the department to engage with an actuarial services firm under certain circumstances; providing for future expiration; authorizing the department to adopt rules; amending s. 440.385, F.S.; providing requirements for certain contracts entered into and purchases made by

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601-03258-24 20241098c2

the Florida Self-Insurers Guaranty Association, Incorporated; providing duties of the department and the association relating to these contracts and purchases; providing that certain contracts are exempt from certain provisions; amending s. 497.101, F.S.; revising the requirements for appointing and nominating members of the Board of Funeral, Cemetery, and Consumer Services; revising the members' terms; revising the authority to remove board members; providing for appointments to fill vacancies on the board; providing that board members are subject to the code of ethics under part III of ch. 112, F.S.; providing requirements for board members' conduct; specifying prohibited acts; providing penalties; providing requirements for board meetings, books, and records; requiring notices of board meetings; providing requirements for board meetings; amending s. 497.153, F.S.; authorizing service by e-mail of administrative complaints against certain licensees under certain circumstances; amending s. 497.155, F.S.; authorizing service of citations by e-mail under certain circumstances; amending s. 497.172, F.S.; revising the information made confidential and exempt which may be disclosed by the department; amending s. 497.386, F.S.; authorizing the department to take certain actions in the event of an emergency situation; requiring the department to make certain determinations; prohibiting a licensee or licensed facility that accepts the transfer of human remains

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and cremains from being liable for the condition of human remains and cremains under certain circumstances; revising criminal penalties for violations of provisions related to storage, preservation, and transportation of human remains and cremains; creating s. 497.469, F.S.; authorizing a preneed licensee to withdraw a specified amount deposited into trust under certain circumstances; providing that certain documentation is the only satisfactory evidence to show that a preneed contract has been fulfilled; requiring a preneed licensee to maintain certain documentation for a specified timeframe; amending s. 624.307, F.S.; requiring eligible surplus lines insurers to respond to the department or the Office of Insurance Regulation after receipt of requests for documents and information concerning consumer complaints; providing penalties for failure to comply; requiring authorized insurers and eligible surplus lines insurers to file e-mail addresses with the department and to designate contact persons for specified purposes; authorizing changes of designated contact information; amending s. 626.171, F.S.; requiring the department to make provisions for certain insurance license applicants to submit cellular telephone numbers for a specified purpose; amending s. 626.221, F.S.; providing a qualification for an all-lines adjuster license; amending s. 626.601, F.S.; revising construction; amending s. 626.7351, F.S.; providing a qualification for a

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customer representative's license; amending s. 626.878, F.S.; providing duties and prohibited acts for adjusters; amending s. 626.929, F.S.; specifying that licensed and appointed general lines agents, rather than general lines agents, may engage in certain activities while also licensed and appointed as surplus lines agents; authorizing general lines agents that are also licensed as surplus lines agents to make certain appointments; authorizing such agents to originate specified business and accept specified business; prohibiting such agents from being appointed by a certain insurer or transacting certain insurance; amending s. 627.351, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Joint Underwriting Association; providing duties of the department and the association regarding such contracts and purchases; amending s. 631.59, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Insurance Guaranty Association, Incorporated; providing duties of the department and the association regarding such contracts and purchases; providing applicability; amending ss. 631.722, 631.821, and 631.921, F.S.; providing requirements for certain contracts entered into and purchases made by the Florida Life and Health Insurance Guaranty Association, the board of directors of the Florida Health Maintenance Organization Consumer Assistance Plan, and the board of directors of the Florida

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Workers' Compensation Insurance Guaranty Association, respectively; providing duties of the department and of the associations and boards regarding such contracts and purchases; amending s. 633.124, F.S.; updating the edition of a manual for the use of pyrotechnics; amending s. 633.202, F.S.; revising the duties of the State Fire Marshal; amending s. 633.206, F.S.; revising the requirements for uniform firesafety standards established by the department; amending s. 634.041, F.S.; specifying the conditions under which service agreement companies do not have to establish and maintain unearned premium reserves; amending s. 634.081, F.S.; specifying the conditions under which service agreement companies' licenses are not suspended or revoked under certain circumstances; amending s. 634.3077, F.S.; specifying requirements for certain contractual liability insurance obtained by home warranty associations; providing that such associations are not required to establish unearned premium reserves or maintain contractual liability insurance; authorizing such associations to allow their premiums to exceed certain limitations under certain circumstances; amending s. 634.317, F.S.; providing that certain entities and their employees and agents are exempt from certain licensing and appointment requirements; amending s. 648.25, F.S.; defining terms; amending s. 648.26, F.S.; revising the circumstances under which investigatory records of the department are confidential and exempt from public

records requirements; revising construction; amending s. 648.30, F.S.; revising circumstances under which a person or entity may act in the capacity of a bail bond agent or bail bond agency and perform certain functions, duties, and powers; amending s. 648.355, F.S.; revising the requirements for limited surety agents and professional bail bond agents license applications; amending s. 648.43, F.S.; revising requirements for bail bond agents to execute and countersign transfer bonds; amending s. 717.101, F.S.; defining and revising terms; amending s. 717.102, F.S.; providing a rebuttal to a presumption of unclaimed property; providing requirements for such rebuttal; amending s. 717.106, F.S.; conforming a cross-reference; creating s. 717.1065, F.S.; providing circumstances under which virtual currency held or owing by banking organizations is not presumed unclaimed; prohibiting virtual currency holders from deducting certain charges from the amount of certain virtual currency under certain circumstances; providing an exception; amending s. 717.1101, F.S.; revising the date on which stocks and other equity interests in business associations are presumed unclaimed; amending s. 717.112, F.S.; providing that certain intangible property held by attorneys in fact and by agents in a fiduciary capacity are presumed unclaimed under certain circumstances; revising the requirements for claiming such property; amending s. 717.117, F.S.; deleting the paper option for reports

by holders of unclaimed funds and property; revising the requirements for reporting the owners of unclaimed property and funds; authorizing the department to extend reporting dates under certain circumstances; revising the circumstances under which the department may impose and collect penalties; requiring holders of certain inactive accounts to notify apparent owners; revising the manner of sending such notices; providing requirements for such notices; amending s. 717.119, F.S.; requiring certain virtual currency to be remitted to the department; providing requirements for the liquidation of such virtual currency; providing that holders of such virtual currency are relieved of all liability upon delivery of the virtual currency to the department; prohibiting holders from assigning or transferring certain obligations or from complying with certain provisions; providing that certain entities are responsible for meeting holders' obligations and complying with certain provisions under certain circumstances; providing construction; amending s. 717.1201, F.S.; providing that good faith payments and deliveries of property to the department relieve holders of all liability; authorizing the department to refund and redeliver certain money and property under certain circumstances; amending s. 717.1242, F.S.; revising legislative intent; providing circumstances under which the department is considered an interested party in probate proceedings; amending s. 717.1243, F.S.; revising applicability of certain

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provisions relating to unclaimed small estate accounts; amending s. 717.129, F.S.; revising the requirements and the tolling for the periods of limitation relating to duties of holders of unclaimed funds and property; amending s. 717.1301, F.S.; revising the department's authorities on the disposition of unclaimed funds and property for specified purposes; prohibiting certain materials from being disclosed or made public under certain circumstances; revising the basis for the department's cost assessment against holders of unclaimed funds and property; amending s. 717.1311, F.S.; revising the recordkeeping requirements for funds and property holders; amending s. 717.1322, F.S.; revising acts that are violations of specified provisions and constitute grounds for administrative enforcement actions and civil enforcement by the department; providing that claimants' representatives, rather than registrants, are subject to civil enforcement and disciplinary actions for certain violations; amending s. 717.1333, F.S.; conforming provisions to changes made by the act; amending s. 717.134, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; revising the information that certain agreements relating to unclaimed property must disclose; applying certain provisions relating to such agreements to purchasers; deleting a requirement for Unclaimed Property Purchase Agreements; providing nonapplicability; amending s. 717.1400, F.S.; deleting

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a circumstance under which certain persons must register with the department; amending ss. 197.582 and 717.1382, F.S.; conforming cross-references; amending s. 766.302, F.S.; revising the manner reasonable charges for expenses for family residential or custodial care are determined; amending s. 766.314, F.S.; revising the prohibition relating to accepting new claims to the Florida Birth-Related Neurological Injury Compensation Plan; providing that such plan does not constitute the exclusive remedy for certain persons; requiring the Florida Birth-Related Neurological Injury Compensation Association to submit a specified report to the Governor, the Chief Financial Officer, and the Legislature; requiring recommendations made in the report to be in consultation with specified stakeholders; providing a directive to the Division of Law Revision; providing effective dates.

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

Section 1. Section 17.69, Florida Statutes, is created to read:

17.69 Federal tax liaison.—

(1) The federal tax liaison position is created within the department. The purpose of the position is to assist the taxpayers of this state as provided in subsection (3).

(2) The Chief Financial Officer shall appoint the federal tax liaison. The federal tax liaison reports directly to the

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Chief Financial Officer but is not otherwise under the authority of the department or of any employee of the department.

(3) The federal tax liaison may do all of the following:

(a) Assist taxpayers by answering taxpayer questions.

(b) Direct taxpayers to the proper departments or offices within the Internal Revenue Service in order to hasten resolution of taxpayer issues.

(c) Prepare recommendations for the Internal Revenue Service of any actions that will help resolve problems encountered by taxpayers.

(d) Provide information about the policies, practices, and procedures that the Internal Revenue Service uses to ensure compliance with the tax laws.

(e) With the consent of the taxpayer, request records from the Internal Revenue Service to assist the liaison in responding to taxpayer inquiries.

Section 2. Present paragraphs (g) through (n) of subsection (2) of section 20.121, Florida Statutes, are redesignated as paragraphs (f) through (m), respectively, and paragraph (e) and present paragraph (f) of that subsection are amended, to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(e) The Division of Criminal Investigations ~~Investigative and Forensic Services~~, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may initiate and conduct investigations into any matter under the jurisdiction of the Chief Financial Officer and Fire Marshal

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within or outside of this state as it deems necessary. ~~If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state law enforcement and, if applicable, federal prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate. The division shall include the following bureaus and office:~~

~~1. The Bureau of Forensic Services;~~

~~2. The Bureau of Fire, Arson, and Explosives Investigations;~~

~~3. The Office of Fiscal Integrity, which shall have a separate budget;~~

~~4. The Bureau of Insurance Fraud; and~~

~~5. The Bureau of Workers' Compensation Fraud.~~

~~(f) The Division of Public Assistance Fraud, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division shall conduct investigations pursuant to s. 414.411 within or outside of the state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of the state has or may have been violated, it shall refer any records supporting such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.~~

Section 3. Paragraph (f) of subsection (2) and paragraph (h) of subsection (3) of section 121.0515, Florida Statutes, are amended to read:

121.0515 Special Risk Class.—

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(2) MEMBERSHIP.—

(f) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory and meet the special criteria set forth in paragraph (3)(h).

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(h) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services ~~Division of State Fire Marshal~~ in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);

2. Crime laboratory technician (class code 8461);

3. Crime laboratory analyst (class code 8463);

4. Senior crime laboratory analyst (class code 8464);

5. Crime laboratory analyst supervisor (class code 8466);

6. Forensic chief (class code 9602); or

7. Forensic services quality manager (class code 9603);

Section 4. Subsection (6) of section 284.44, Florida Statutes, is amended to read:

284.44 Salary indemnification costs of state agencies.—

~~(6) The Division of Risk Management shall prepare quarterly reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees indicating for each state agency the total amount of salary indemnification benefits paid to claimants and the total amount of reimbursements from state agencies to the State Risk Management Trust Fund for~~

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~~initial costs for the previous quarter. These reports shall also include information for each state agency indicating the number of cases and amounts of initial salary indemnification costs for which reimbursement requirements were waived by the Executive Office of the Governor pursuant to this section.~~

Section 5. Subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by hospitals and ambulatory surgical centers. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All

compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. A hospital or an ambulatory surgical center shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.

(b) Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(c) Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d)1. Outpatient reimbursement for scheduled surgeries shall be 60 percent of charges.

2. Reimbursement for emergency services and care as defined in s. 395.002 which does not include a maximum reimbursement allowance must be 250 percent of Medicare, unless there is a contract, in which case the contract governs reimbursement. Upon this subparagraph taking effect, the department shall engage with an actuarial services firm to begin development of maximum reimbursement allowances for services subject to the reimbursement provisions of this subparagraph. This subparagraph expires June 30, 2026.

(e)1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.

2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances that the department provides to carriers and self-insurers.

(f) Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(g) Maximum reimbursement for surgical procedures shall be 140 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

(h) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times

the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges.

In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers.

(j) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers'

compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 6. Present subsections (9) through (13) of section 440.385, Florida Statutes, are redesignated as subsections (10)

through (14), respectively, and a new subsection (9) is added to that section, to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(9) CONTRACTS AND PURCHASES.—

(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the

department via electronic delivery.

(d) Contracts that are required by law are exempt from this section.

Section 7. Present subsection (7) of section 497.101, Florida Statutes, is redesignated as subsection (11), subsections (1) through (4) are amended, and a new subsection (7) and subsections (8), (9), and (10) are added to that section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, 9 of whom shall be appointed by ~~the Governor from nominations made by~~ the Chief Financial Officer and confirmed by the Senate. ~~The Chief Financial Officer shall nominate one to three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit one to three additional nominations for that vacancy until the vacancy is filled.~~ One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a funeral director licensed under part III of this chapter who is

associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter ~~and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter~~. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Two members of the board must be consumers who are residents of this state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the two consumer members must be at least 60 years of age. One member of the board must be a consumer who is a resident of this state; is licensed as a certified public accountant under chapter 473; has never been licensed as a funeral director or an embalmer; is not a principal or an employee of any licensee licensed under this chapter; and does not otherwise have control, as defined in s. 497.005, over any licensee licensed under this chapter. One member of the board must be a principal of a monument establishment licensed under this chapter as a monument builder. One member must be the State Health Officer or her or his designee. There may not be two or more board members who are principals or employees of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years and may be reappointed; however, a member may not serve for more than 8 consecutive years.~~, and~~ The State Health Officer shall

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serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Chief Financial Officer ~~Governor~~.

(4) The Chief Financial Officer ~~Governor may suspend and the Senate~~ may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Chief Financial Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue. Any vacancy so created shall be filled as provided in subsection (1).

(7) Members of the board are subject to the code of ethics under part III of chapter 112. For purposes of applying part III of chapter 112 to activities of the members of the board, those persons are considered public officers, and the department is considered their agency. A board member may not vote on any measure that would inure to his or her special private gain or loss and, in accordance with s. 112.3143(2), may not vote on any measure that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of his or

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her relative or business associate. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(8) In accordance with ss. 112.3148 and 112.3149, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the department or the board, which is under consideration for a contract, or which is licensed by the department.

(9) A board member who fails to comply with subsection (7) or subsection (8) is subject to the penalties provided under ss. 112.317 and 112.3173.

(10)(a) All meetings of the board are subject to the requirements of s. 286.011, and all books and records of the board are open to the public for reasonable inspection except as otherwise provided by s. 497.172 or other applicable law.

(b) Except for emergency meetings, the department shall give notice of any board meeting by publication on the department's website at least 7 days before the meeting. The department shall publish a meeting agenda on its website at least 7 days before the meeting. The agenda must contain the items to be considered, in order of presentation. After the agenda has been made available, a change may be made only for

good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change must be at the earliest practicable time.

Section 8. Paragraph (a) of subsection (4) of section 497.153, Florida Statutes, is amended to read:

497.153 Disciplinary procedures and penalties.—

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida Rules of Civil Procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department. If service by certified mail cannot be made at the last address provided by the licensee to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the licensee to the department in accordance with s. 497.146.

Section 9. Paragraph (e) of subsection (1) of section 497.155, Florida Statutes, is amended to read:

497.155 Disciplinary citations and minor violations.—

(1) CITATIONS.—

(e) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address in accordance with s. 497.146. If service by certified mail cannot be made at the last address provided by the subject to the department, service may be made by e-mail, delivery receipt required, sent to the most recent e-mail address provided by the subject to the department in

accordance with s. 497.146.

Section 10. Paragraph (d) of subsection (3) of section 497.172, Florida Statutes, is amended to read:

497.172 Public records exemptions; public meetings exemptions.—

(3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—

(d) Information made confidential and exempt pursuant to this subsection may be disclosed by the department as follows:

1. To the probable cause panel of the board, for the purpose of probable cause proceedings pursuant to s. 497.153.

2. To any law enforcement agency or other government agency in the performance of its official duties and responsibilities.

3. If the department uncovers information of immediate and serious concern to the public health, safety, or welfare, it may disseminate such information as it deems necessary for the public health, safety, or welfare.

4. If the department issues an emergency order pursuant to s. 497.156.

Section 11. Present subsection (5) of section 497.386, Florida Statutes, is redesignated as subsection (6), a new subsection (5) and subsection (7) are added to that section, and present subsection (5) of that section is amended, to read:

497.386 Storage, preservation, and transportation of human remains.—

(5) In the event of an emergency situation, including the abandonment of any establishments or facilities licensed under this chapter or any medical examiner's facility, morgue, or cemetery holding facility, the department may enter and secure such establishment, facility, or morgue during or outside of

normal business hours, and remove human remains and cremains from the establishment, facility, or morgue. For purposes of this subsection, the department shall determine if a facility is abandoned and if there is an emergency situation. A licensee or licensed facility that accepts transfer of human remains and cremains from the department pursuant to this subsection may not be held liable for the condition of any human remains or cremains at the time of transfer.

(6) A person who violates subsection (1) or subsection (3) ~~any provision of this section~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) A person who violates subsection (2) or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 12. Section 497.469, Florida Statutes, is created to read:

497.469 Fulfillment of preneed contracts.—

(1) Upon delivery of merchandise or performance of services in fulfillment of a preneed contract, either in part or in whole, a preneed licensee may withdraw the amount deposited in trust plus income earned on such amount for the merchandise delivered or services performed, when adequate documentation is submitted to the trustee.

(2) All of the following documentation is the only satisfactory evidence to show that a preneed contract has been fulfilled:

(a) Certified copy of death certificate.

(b) Acknowledgment signed by the purchaser or legally authorized person, acknowledging that merchandise was delivered

or services performed by the preneed licensee.

(3) The preneed licensee shall maintain documentation that supports fulfillment of a particular contract until such records are examined by the department.

Section 13. Present paragraphs (c) and (d) of subsection (10) of section 624.307, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and paragraph (b) of that subsection is amended, to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority or made an eligible surplus lines insurer by the department or the office shall respond, in writing or electronically, to the division within 14 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $5,000 per violation upon any entity licensed by the department or the office and up to $1,000 per violation by any individual licensed by the department or the office.

(c) Each insurer issued a certificate of authority or made an eligible surplus lines insurer shall file with the department an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). Such

insurer shall also designate a contact person for escalated complaint issues and shall provide the name, e-mail address, and telephone number of such person. A licensee of the department, including an agency or a firm, may elect to designate an e-mail address to which requests for response to consumer complaints shall be directed pursuant to paragraph (b). If a licensee, including an agency or a firm, elects not to designate an e-mail address, the department shall direct requests for response to consumer complaints to the e-mail of record for the licensee in the department's licensing system. An insurer or a licensee, including an agency or a firm, may change designated contact information at any time by submitting the new information to the department using the method designated by rule by the department.

Section 14. Subsection (2) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number, residence address, business address, mailing address, contact telephone numbers, including a business telephone number, and e-mail address.

(b) A statement indicating the method the applicant used or is using to meet any required prelicensing education, knowledge, experience, or instructional requirements for the type of license applied for.

(c) Whether he or she has been refused or has voluntarily

surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations. The department shall make provisions for applicants to submit cellular telephone numbers as part of the

application process on a voluntary basis only for the purpose of two-factor authentication of secure login credentials.

Section 15. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; Registered Claims Adjuster (RCA) from American Insurance College; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 16. Subsection (6) of section 626.601, Florida

Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from s. 119.07 unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the individual or entity being investigated or its representative, or to share such information with any law enforcement agency or other regulatory body.

Section 17. Subsection (3) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department may ~~shall~~ not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(3) Within 4 years preceding the date that the application for license was filed with the department, the applicant has earned the designation of Accredited Advisor in Insurance (AAI), Associate in General Insurance (AINS), or Accredited Customer Service Representative (ACSR) from the Insurance Institute of America; the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors; the designation of Certified Professional Service Representative

(CPSR) from the National Foundation for CPSR; the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives; the designation of Certified Insurance Representative (CIR) from All-Lines Training; the designation of Chartered Customer Service Representative (CCSR) from American Insurance College; the designation of Professional Customer Service Representative (PCSR) from the Professional Career Institute; the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC; the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in the state whose curriculum is approved by the department and includes comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or a degree from an accredited institution of higher learning approved by the department when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance. The department shall adopt rules establishing standards for the approval of curriculum.

Section 18. Section 626.878, Florida Statutes, is amended to read:

626.878 Rules; code of ethics.—

(1) An adjuster shall subscribe to the code of ethics specified in the rules of the department. The rules shall implement the provisions of this part and specify the terms and conditions of contracts, including a right to cancel, and require practices necessary to ensure fair dealing, prohibit

conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims.

(2) A person licensed as an adjuster must identify himself or herself in any advertisement, solicitation, or written document based on the adjuster appointment type held.

(3) An adjuster who has had his or her licensed revoked or suspended may not participate in any part of an insurance claim or in the insurance claims adjusting process, including estimating, completing, filing, negotiating, appraising, mediating, umpiring, or effecting settlement of a claim for loss or damage covered under an insurance contract. A person who provides these services while the person's license is revoked or suspended acts as an unlicensed adjuster.

Section 19. Subsection (1) of section 626.929, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A licensed and appointed general lines agent while also licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor.

(4) A general lines agent while licensed as a surplus lines agent under this part may appoint these licenses with a single surplus license agent appointment pursuant to s. 624.501. Such agent may only originate surplus lines business and accept surplus lines business from other originating Florida-licensed

general lines agents appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor. Such agent may not be appointed by or transact general lines insurance on behalf of an admitted insurer.

Section 20. Paragraphs (j) is added to subsection (4) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION CONTRACTS AND PURCHASES.—

(j)1. After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this subsection which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny a contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

2. All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process by a minimum of three vendors. The formal bid solicitation process must include all of the following:

a. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

b. All the contractual terms and conditions applicable to the procurement.

3. Evaluation of bids by the association must include

consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department by electronic delivery.

Section 21. Subsection (5) is added to section 631.59, Florida Statutes, to read:

631.59 Duties and powers of department and office; association contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include

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consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

(d) Paragraphs (b) and (c) do not apply to claims defense counsel or claims vendors if contracts with all vendors which may exceed $100,000 are provided to the department for prior approval in accordance with paragraph (a).

Section 22. Subsection (6) is added to section 631.722, Florida Statutes, to read:

631.722 Powers and duties of department and office; association contracts and purchases.—

(6)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the association pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the association. The association must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the association contemplates renewal of the contract, including the price for each year for which the

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contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the association must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 23. Subsection (5) is added to section 631.821, Florida Statutes, to read:

631.821 Powers and duties of the department; board contracts and purchases.—

(5)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the

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contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The plan must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the board must be made available, upon request, to the department via electronic delivery.

Section 24. Section 631.921, Florida Statutes, is amended to read:

631.921 Department powers; board contracts and purchases.—

(1) The corporation shall be subject to examination by the department. By March 1 of each year, the board of directors shall cause a financial report to be filed with the department for the immediately preceding calendar year in a form approved by the department.

(2)(a) After July 1, 2024, all contracts entered into, and all purchases made by, the board pursuant to this section which are valued at or more than $100,000 must first be approved by the department. The department has 10 days to approve or deny the contract or purchase upon electronic receipt of the approval request. The contract or purchase is automatically approved if the department is nonresponsive.

(b) All contracts and purchases valued at or more than $100,000 require competition through a formal bid solicitation conducted by the board. The board must undergo a formal bid solicitation process. The formal bid solicitation process must

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include all of the following:

1. The time and date for the receipt of bids, the proposals, and whether the board contemplates renewal of the contract, including the price for each year for which the contract may be renewed.

2. All the contractual terms and conditions applicable to the procurement.

(c) Evaluation of bids by the board must include consideration of the total cost for each year of the contract, including renewal years, as submitted by the vendor. The association must award the contract to the most responsible and responsive vendor. Any formal bid solicitation conducted by the association must be made available, upon request, to the department via electronic delivery.

Section 25. Paragraph (b) of subsection (3) of section 633.124, Florida Statutes, is amended to read:

633.124 Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in compliance with s. 633.334.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use of a pyrotechnic display in an occupied structure, such permit

has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 26. Subsection (2) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may not adopt a building, mechanical, accessibility, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

Section 27. Paragraph (b) of subsection (1) of section 633.206, Florida Statutes, is amended to read:

633.206 Uniform firesafety standards.—The Legislature hereby determines that to protect the public health, safety, and

welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, mobile food dispensing vehicles, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, energy storage systems, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 28. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer or insurers approved by the office, which hold ~~holds~~ a certificate of authority under s. 624.401 to do business within this state, or secured through ~~a~~ risk retention groups ~~group~~, which are ~~is~~ authorized to do business within this state under s. 627.943 or s. 627.944. Such insurers ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or pay 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be

considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 29. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The office shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of $750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurers ~~insurer~~ or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. However, if a service agreement company has been licensed by the office in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of $3 million that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.

Section 30. Present subsection (5) of section 634.3077, Florida Statutes, is redesignated as subsection (6), a new subsection (5) is added to that section, and subsection (3) of that section is amended, to read:

634.3077 Financial requirements.—

(3) An association may ~~shall~~ not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of

the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance shall be obtained from an insurer or insurers that hold ~~holds~~ a certificate of authority to do business within the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy. For purposes of this subsection, the contractual liability policy shall contain the following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer issuing the policy shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy may not be canceled or not renewed by ~~either~~ the insurer or the association unless 60 days' written notice thereof has been given to the office by the insurer before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy shall insure all home warranty contracts that were issued while the policy was in effect whether or not the premium has been remitted to the insurer.

(5) An association licensed under this part is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the

association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million, and a quarterly written certification to the office that the association or its parent corporation continues to maintain the net worth required under this paragraph.

2. The association's or its parent corporation's Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Securities Dealers Automated Quotations system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following requirements must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. A cancellation, termination, or modification of the guarantee does not become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Before the effective date of the cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, the association or parent association shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

2. The association must maintain at all times net assets of at least $750,000.

Section 31. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for

remuneration in this state unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees. A municipality, a county government, a special district, an entity operated by a municipality or county government, or an employee or agent of a municipality, county government, special district, or entity operated by a municipality or county government is exempt from the licensing and appointing requirements of this section.

Section 32. Present subsection (9) of section 648.25, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) and subsection (11) are added to that section, to read:

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

(9) "Referring bail bond agent" is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.

(11) "Transfer bond" means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

Section 33. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from s. 119.07(1) until such investigation is completed or ceases to be active, unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity. For the purpose of this section, an investigation is considered active while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, to review the details of the investigation with the subject or the subject's representative, or to share such information with any law enforcement agency or other regulatory body.

Section 34. Paragraph (a) of subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or bail bond agency or perform any of the functions, duties, or powers prescribed for bail bond agents or bail bond agencies under this chapter unless that person or

entity is qualified, licensed, and appointed as provided in this chapter ~~and employed by a bail bond agency~~.

Section 35. Subsection (1) of section 648.355, Florida Statutes, is amended to read:

648.355 Limited surety agents and professional bail bond agents; qualifications.—

(1) The applicant shall furnish, with the application for license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) ~~and a recent credential-sized, fullface photograph of the applicant~~. The department may not issue a license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

Section 36. Subsection (3) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; approval by office; filing of copies; notification of transfer bond.—

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name, ~~and~~ address, and license number of the referring bail bond agent.

Section 37. Section 717.101, Florida Statutes, is amended to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Aggregate" means the amounts reported for owners of unclaimed property of less than $50 or where there is no name

for the individual or entity listed on the holder's records, regardless of the amount to be reported.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Audit" means an action or proceeding to examine and verify a person's records, books, accounts, and other documents to ascertain and determine compliance with this chapter.

(4) "Audit agent" means a person with whom the department enters into a contract with to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the audit on behalf of the person or contractor.

(5) ~~(3)~~ "Banking organization" means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include Federal Reserve Banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization ~~state or national bank, international banking entity or similar entity, trust company,~~

~~savings bank, industrial savings bank, land bank, safe-deposit company, private bank, or any organization otherwise defined by law as a bank or banking organization~~.

(6) ~~(4)~~ "Business association" means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit ~~corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes, whether for profit or not for profit~~.

(7) ~~(5)~~ "Claimant" means the person on whose behalf a claim is filed.

(8) "Claimant's representative" means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or private investigator who is duly licensed to do business in this state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant's behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement

entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9) ~~(6)~~ "Credit balance" means an account balance in the customer's favor.

(10) ~~(7)~~ "Department" means the Department of Financial Services.

(11) ~~(8)~~ "Domicile" means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; or the state of home office for a federally charted entity ~~incorporated under the laws of a state, or, for an unincorporated business association, the state where the business association is organized~~.

(12) ~~(9)~~ "Due diligence" means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, providing written notice as described in this chapter by electronic mail if an apparent owner has elected such delivery, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13) "Electronic" means relating to technology having

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electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(14) ~~(10)~~ "Financial organization" means a ~~state or federal~~ savings association, savings and loan association, savings bank, industrial bank, bank, banking organization, trust company, international bank agency, cooperative bank, building and loan association, or credit union.

(15) ~~(11)~~ "Health care provider" means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16) ~~(12)~~ "Holder" means:

(a) A person~~, wherever organized or domiciled,~~ who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or~~:~~

~~(a) In possession of property belonging to another;~~

(b) A trustee in case of a trust~~; or~~

~~(c) Indebted to another on an obligation~~.

(17) ~~(13)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18) ~~(14)~~ "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, virtual currency, drafts, deposits,

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interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19) ~~(15)~~ "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, "last known address" includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20) ~~(16)~~ "Lawful charges" means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21) ~~(17)~~ "Managed care payor" means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22) ~~(18)~~ "Owner" means a person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property ~~a depositor in the case of a deposit, a beneficiary in the case of a trust or a deposit in trust, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative~~.

(23) "Person" means an individual; estate; business association; corporation; firm; association; joint adventure; partnership; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24) ~~(19)~~ "Public corporation" means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) ~~(20)~~ "Reportable period" means the calendar year ending

December 31 of each year.

(27)~~(21)~~ "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

(28)~~(22)~~ "Trust instrument" means a trust instrument as defined in s. 736.0103.

~~(23) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.~~

(29) "Unclaimed Property Purchase Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to purchase unclaimed property from an owner.

(30) "Unclaimed Property Recovery Agreement" means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant's representative to obtain an owner's consent and authority to recover unclaimed property on the owner's behalf.

(31)~~(24)~~ "United States" means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32)~~(25)~~ "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(33)(a) "Virtual currency" means digital units of exchange that:

1. Have a centralized repository or administrator;

2. Are decentralized and have no centralized repository or administrator; or

3. May be created or obtained by computing or manufacturing effort.

(b) The term does not include any of the following:

1. Digital units that:

a. Are used solely within online gaming platforms;

b. Have no market or application outside of the online gaming platforms in sub-subparagraph a.;

c. Cannot be converted into, or redeemed for, fiat currency or virtual currency; and

d. Can or cannot be redeemed for real-world goods, services, discounts, or purchases.

2. Digital units that can be redeemed for:

a. Real-world goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer or other designated merchants; or

b. Digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or virtual currency.

3. Digital units used as part of prepaid cards.

Section 38. Subsections (3) and (4) are added to section 717.102, Florida Statutes, to read:

717.102 Property presumed unclaimed; general rule.—

(3) A presumption that property is unclaimed is rebutted by an apparent owner's expression of interest in the property. An owner's expression of interest in property includes:

(a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(b) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(c) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;

(d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(e) A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or

(f) Any other action by the apparent owner which reasonably

demonstrates to the holder that the apparent owner knows that the property exists.

(4) A deceased owner is incapable of expressing an interest in property.

Section 39. Subsection (5) of section 717.106, Florida Statutes, is amended to read:

717.106 Bank deposits and funds in financial organizations.—

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least $50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This subsection shall apply to accounts opened on or after October 1, 1990.

Section 40. Section 717.1065, Florida Statutes, is created to read:

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

(2) A holder may not deduct from the amount of any virtual

currency subject to this section any charges imposed by reason of the virtual currency unless there is a valid and enforceable written contract between the holder and the owner of the virtual currency pursuant to which the holder may impose those charges and the holder does not regularly reverse or otherwise cancel those charges with respect to the virtual currency.

Section 41. Paragraph (a) of subsection (1) of section 717.1101, Florida Statutes, is amended to read:

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of ~~3 years after~~ the earliest of the following:

1. Three years after ~~The date of~~ the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property ~~dividend, stock split, or other distribution unclaimed by the apparent owner~~;

2. Three years after the date of the death of the owner, as evidenced by: ~~The date of a statement of account or other notification or communication that was returned as undeliverable; or~~

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

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c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less ~~The date the holder discontinued mailings, notifications, or communications to the apparent owner~~.

Section 42. Subsection (1) of section 717.112, Florida Statutes, is amended to read:

717.112 Property held by agents and fiduciaries.—

(1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent, except as provided in ss. 717.1125 and 733.816, is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Section 43. Effective January 1, 2025, section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as

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unclaimed property under this chapter shall report to the department ~~on such forms as the department may prescribe by rule. In lieu of forms, a report identifying 25 or more different apparent owners must be submitted by the holder~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) Except for traveler's checks and money orders, the name, social security number or taxpayer identification number, ~~and~~ date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of $10 ~~$50~~ or more.

(b) For unclaimed funds that ~~which~~ have a value of $10 ~~$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information required to be provided under paragraph (a) for both ~~full name, taxpayer identification number or social security number, date of birth, if known, and last known address of~~ the insured or annuitant and ~~of~~ the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or ~~and~~ identifying number associated with the property, a ~~if any, or~~

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description of the property, and the amount appearing from the records to be due. Items of value less than $10 ~~under $50~~ each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than $10, a zero balance report may be filed for that reporting period

~~(f) Any person or business association or public corporation holding funds presumed unclaimed and having a total value of $10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.~~

~~(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter~~.

(3) ~~(h)~~ Credit balances, customer overpayments, security deposits, and refunds having a value of less than $10 may ~~shall~~ not be presumed unclaimed.

(4) ~~(2)~~ If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder must ~~shall~~ file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine

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the names of all prior holders.

(5) ~~(3)~~ The report must be filed before May 1 of each year. The report applies ~~shall apply~~ to the preceding calendar year. Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of $10 per day up to a maximum of $500 for the failure to timely report, if an extension was not provided or if the holder of the property failed ~~the failure~~ to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty must ~~shall~~ be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. ~~On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date.~~ The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report ~~has been processed and added to the unclaimed property database subsequent to a determination that the report~~ is accurate and acceptable and that the reported property is the same as the remitted property.

(6) ~~(4)~~ Holders of inactive accounts having a value of $50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available

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for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic ~~an~~ address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before (insert date that is at least 30 days after the date of the notice)."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department as unclaimed property if no response

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to this letter is received.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8)~~(5)~~ Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4)~~(2)~~, and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

(9)~~(6)~~ Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10)~~(7)~~(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property

held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

(11)~~(8)~~(a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

Section 44. Present subsections (4), (5), and (6) of section 717.119, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) and subsection (8) are added to that section, to read:

717.119 Payment or delivery of unclaimed property.—

(4) All virtual currency reported under this chapter on the

annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of the property.

Section 45. Section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder ~~relieved from~~ liability; reimbursement of holder paying claim; reclaiming for owner; ~~defense of holder;~~ payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of property to the department, the state assumes custody and responsibility for the safekeeping of property. Any person who pays or delivers property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(4) and good faith payment or delivery of property to the department terminates any legal relationship between the holder and the owner with respect to the property reported and releases and discharges the holder from any and all liability to the owner, the owner's heirs, personal representatives, successors, or assigns by reason of such payment or delivery, regardless of whether such property is in fact and in law unclaimed property, and such delivery and payment may be plead as a bar to recovery and are a conclusive defense in any suit or action brought by the owner, the owner's heirs, personal representatives, successors, and assigns or any claimant against the holder by reason of such delivery or payment.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the

department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of property is made in good faith if:

(a) The payment or delivery was made in conjunction with an accurate and acceptable report.

(b) The payment or delivery was made in a reasonable attempt to comply with this chapter.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(3) ~~(2)~~ Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4) ~~(3)~~ Any holder who has delivered property, including a

certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5) ~~(4)~~ The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

~~(5) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.~~

~~(6) For the purposes of this section, "good faith" means that:~~

~~(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.~~

~~(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed for the purposes of this chapter.~~

~~(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.~~

(6)~~(7)~~ Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered, the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

Section 46. Present subsection (2) of section 717.1242, Florida Statutes, is redesignated as subsection (3), a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that,

pursuant to this chapter ~~s. 717.124~~, the department determines the merits of claims and entitlements to ~~for~~ property paid or delivered to the department under this chapter. Consistent with this legislative intent, any ~~estate or~~ beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

(2) If a beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in s. 731.201, of an estate seeks administration of the estate, of which unclaimed property makes up 50 percent or more of the assets, the department is considered an interested party and must be provided with notice of any such proceeding as provided in the Florida Probate Code and the Florida Probate Rules.

Section 47. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(4) This section ~~only~~ applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of $20,000 ~~$10,000~~ or less and no probate proceeding is pending.

Section 48. Subsection (2) of section 717.129, Florida Statutes, is amended to read:

717.129 Periods of limitation.—

(2) The department may not commence an ~~No~~ action or proceeding to enforce this chapter with respect to the

reporting, payment, or delivery of property or any other duty of a holder under this chapter ~~may be commenced by the department with respect to any duty of a holder under this chapter~~ more than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a holder is subject to an audit or examination under s. 717.1301 or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Section 49. Section 717.1301, Florida Statutes, is amended to read:

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to

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determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s. 717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of

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the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

~~(1) The department may make investigations and examinations within or outside this state of claims, reports, and other records as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas, and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.~~

~~(2) Subpoenas for witnesses whose evidence is deemed material to any investigation or examination under this section may be issued by the department under seal of the department, or by any court of competent jurisdiction, commanding such~~

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~~witnesses to appear before the department at a time and place named and to bring such books, records, and documents as may be specified or to submit such books, records, and documents to inspection. Such subpoenas may be served by an authorized representative of the department.~~

~~(3) If any person shall refuse to testify, produce books, records, and documents, or otherwise refuse to obey a subpoena issued under this section, the department may present its petition to a court of competent jurisdiction in or for the county in which such person resides or has its principal place of business, whereupon the court shall issue its rule nisi requiring such person to obey forthwith the subpoena issued by the department or show cause for failing to obey said subpoena. Unless said person shows sufficient cause for failing to obey the subpoena, the court shall forthwith direct such person to obey the same subject to such punishment as the court may direct including, but not limited to, the restraint, by injunction or by appointment of a receiver, of any transfer, pledge, assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents as the court deems appropriate, until such person has fully complied with such subpoena and the department has completed its investigation or examination. The department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Costs incurred by the department to obtain an order granting, in whole or in part, its petition shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.~~

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~~(4) Witnesses shall be entitled to the same fees and mileage as they may be entitled by law for attending as witnesses in the circuit court, except where such examination or investigation is held at the place of business or residence of the witness.~~

(5) The material compiled by the department in an investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and information gathered ~~material compiled~~ by the department in an investigation or audit ~~examination~~ under this chapter remain ~~remains~~ confidential ~~after the department's investigation or examination is complete~~ if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit ~~examination~~ of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit ~~the examination~~ against the holder ~~at the rate of $100 per 8-hour~~

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~~day for each investigator or examiner. Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker-days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed.~~ The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

Section 50. Subsection (1) of section 717.1311, Florida Statutes, is amended to read:

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 ~~5~~ years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

Section 51. Paragraph (j) of subsection (1) and subsection (3) of section 717.1322, Florida Statutes, are amended to read:

717.1322 Administrative and civil enforcement.—

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(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement to file a claim for unclaimed property owned by another, ~~or a contract or agreement to purchase unclaimed property,~~ unless such person is registered with the department under this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(3) A claimant's representative ~~registrant~~ is subject to civil enforcement and the disciplinary actions specified in

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subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative ~~registrant~~ knew or should have known that such agent or employee was violating any provision of this chapter.

Section 52. Subsection (1) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports and worksheets, investigator ~~examiner's worksheets, investigative~~ reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent ~~auditor, examiner,~~ or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent ~~auditor, examiner,~~ or investigator, after being duly authenticated by the audit agent ~~auditor, examiner,~~ or investigator, may be admitted as competent evidence upon the oath of the audit agent ~~auditor, examiner,~~ or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 53. Subsections (1) and (2) of section 717.134, Florida Statutes, are amended to read:

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and

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25 percent of the value of property not reported until an appropriate ~~a~~ report is provided ~~rendered for any person who willfully fails to render any report required under this chapter~~. Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of $500 per day up to a maximum of $5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered ~~for any person who willfully refuses to pay or deliver abandoned property to the department as required under this chapter~~.

Section 54. Section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative or a purchaser; fees and costs, or total net gain.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Unclaimed Property Recovery Agreement" and a form entitled "Unclaimed Property Purchase Agreement."

(2) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must include and disclose all of the following:

(a) The total dollar amount of unclaimed property accounts claimed or sold.

(b) The total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchaser ~~purchasing claimant's representative~~.

(c) The total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchaser ~~purchasing claimant's representative~~.

(d) The net dollar amount to be received by the claimant or the seller.

(e) For each account claimed, the unclaimed property account number.

(f) For the Unclaimed Property Purchase Agreement, a statement that the amount of the purchase price will be remitted to the seller by the purchaser within 30 days after the execution of the agreement by the seller.

(g) The name, address, e-mail address, phone number, and license number of the claimant's representative, or the name, address, e-mail address, and phone number of the purchaser.

(h)1. The manual signature of the claimant or seller and the date signed, affixed on the agreement by the claimant or seller.

2. Notwithstanding any other provision of this chapter to the contrary, the department may allow an apparent owner, who is also the claimant or seller, to sign the agreement electronically ~~for claims of $2,000 or less~~. All electronic signatures on the Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase Agreement must be affixed on the agreement by the claimant or seller using the specific,

exclusive eSignature product and protocol authorized by the department.

(i) The social security number or taxpayer identification number of the claimant or seller, if a number has been issued to the claimant or seller.

(j) The total fees and costs, or the total discount in the case of a purchase agreement, which may not exceed 30 percent of the claimed amount. In the case of a recovery agreement, if the total fees and costs exceed 30 percent, the fees and costs shall be reduced to 30 percent and the net balance shall be remitted directly by the department to the claimant. In the case of a purchase agreement, if the total net gain of the purchaser exceeds 30 percent, the claim will be denied.

(3) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has made payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A claimant's representative or a purchaser must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative or a purchaser only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative or a purchaser may not use or distribute any other agreement of any type, conveyed by any method, with respect to the claimant or seller which relates,

directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative or a purchaser is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

(7) The Unclaimed Property Recovery Agreement ~~and the Unclaimed Property Purchase Agreement~~ may not contain language that makes the agreement irrevocable or that creates an assignment of any portion of unclaimed property held by the department.

(8) When a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that a subsequent claim has not been filed or is not pending for the claimant at the time of approval.

(9) This section does not supersede s. 717.1241.

(10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding in accordance with the United States Bankruptcy Code.

Section 55. Subsections (1), (2), and (3) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's public accounting firm employer.

(3) In order to file claims as a claimant's representative, ~~acquire ownership of or entitlement to unclaimed property,~~ receive a distribution of fees and costs from the department,

and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

Section 56. Paragraph (a) of subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus must be paid over and disbursed by the clerk as set forth in

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

subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c), that amount must be treated as surplus and distributed in the same manner. The clerk shall distribute the surplus to the governmental units for the payment of any lien of record held by a governmental unit against the property, including any tax certificates not incorporated in the tax deed application and omitted taxes, if any. If there remains a balance of undistributed funds, the balance must be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~. Any service charges and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

.... COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description: .....

Pursuant to chapter 197, Florida Statutes, the above property was sold at public sale on ...(date of sale)..., and a surplus of $...(amount)... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as

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described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

To the extent possible, these funds will be used to satisfy in full each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated: .....

Clerk of Court

Section 57. Subsection (1) of section 717.1382, Florida Statutes, is amended to read:

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder

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in accordance with ss. 717.117(1) and (5) ~~ss. 717.117(1) and (3)~~ and 717.119, if the department is not in possession of the bond.

Section 58. Paragraph (c) of subsection (10) of section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(10) "Family residential or custodial care" means care normally rendered by trained professional attendants which is beyond the scope of child care duties, but which is provided by family members. Family members who provide nonprofessional residential or custodial care may not be compensated under this act for care that falls within the scope of child care duties and other services normally and gratuitously provided by family members. Family residential or custodial care shall be performed only at the direction and control of a physician when such care is medically necessary. Reasonable charges for expenses for family residential or custodial care provided by a family member shall be determined as follows:

~~(c) The award of family residential or custodial care as defined in this section shall not be included in the current estimates for purposes of s. 766.314(9)(c).~~

Section 59. Paragraph (c) of subsection (9) of section 766.314, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

766.314 Assessments; plan of operation.—

(9)

(c) If the total of all current estimates equals or exceeds 100 ~~80~~ percent of the funds on hand and the funds that will become available to the association within the next 12 months

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from all sources described in subsection (4) ~~subsections (4)~~ and paragraphs (5)(a) ~~(5)~~ and ~~paragraph~~ (7)(a), the association may not accept any new claims without express authority from the Legislature. ~~Nothing in~~ This section does not preclude ~~precludes~~ the association from accepting any claim if the injury occurred 18 months or more before the effective date of this suspension. Within 30 days after the effective date of this suspension, the association shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, the Office of Insurance Regulation, the Agency for Health Care Administration, and the Department of Health of this suspension.

(10)(a) By July 1, 2024, the association shall provide a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives which includes all of the following:

1. Options for defining actuarial soundness for the association, including options for phase-in, if appropriate.

2. Options for timing of reporting actuarial soundness and to whom it should be reported.

3. Options for ensuring a revenue level to maintain actuarial soundness, including options for phase-in, if appropriate.

(b) Any recommendations made in the report must be in consultation with appropriate stakeholders, including, but not limited to, any of the following:

1. The Office of Insurance Regulation.

2. Hospitals.

3. Participating physicians.

4. Nonparticipating physicians.

5. Casualty insurers.

6. The Agency for Health Care Administration.

7. Parents of current NICA participants.

Section 60. The Division of Law Revision is directed to prepare a reviser's bill for the 2025 Regular Session of the Legislature to change the term "Division of Investigative and Forensic Services" wherever the term appears in the Florida Statutes to "Division of Criminal Investigations."

Section 61. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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

02/22/24
Meeting Date

FISCAL POLICY
Committee

SB 1098
Bill Number or Topic

Amendment Barcode (if applicable)

Name CHASE MITCHELL

Phone 850 413-4938

Address 400 S MONROE ST
Street

Email CHASE.MITCHELL@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:
DEPT OF FINANCIAL SERVICES

☐ 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. 2020-2022JointRules.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

2-22-24
Meeting Date

FISCAL Policy
Committee

1098
Bill Number or Topic

814858
Amendment Barcode (if applicable)

Name WAYNE "BERNIE" BERNOSKA Phone 321-231-9116

Address 343 W. MADISON St Email BERNIE@FPFP.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: FLORIDA PROFESSIONAL FIREFIGHTERS

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 1154
INTRODUCER:	Criminal Justice Committee and Senator Simon
SUBJECT:	Probation and Community Control Violations
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Vaughan	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1154 amends s. 948.06, F.S., to revise provisions related to probation and the Alternative Sanctioning Program (ASP). The bill requires a court to modify or continue, rather than revoke probation, if a probationer meets specified criteria. The bill includes as part of that criteria that the probationer has not been found in violation on two or more separate occasions. A court may modify probation and include up to 90 days jail for a first violation and up to 120 days for a second violation, as a condition of probation.

If the violation is a low risk violation, the court must hold a hearing on a violation of probation within 30 days after arrest or after counsel appears for the probationer or offender, whichever occurs later. If the hearing is not held within 30 days, the court must release the probationer or offender without bail unless the court determines that the hearing was not held in the applicable time frame due to circumstances attributable to the probationer or offender. The court may impose nonmonetary conditions of release.

The bill amends s. 921.0024, F.S., to provide that if a community sanction violation is committed by a felony offender and such community sanction violation is resolved through the alternative sanctioning program, no points are assessed. If a community sanction violation that has not been resolved through the alternative sanctioning program is before the court, no points are assessed for prior violations that were resolved through the alternative sanctioning program.

The bill may have a negative indeterminate prison bed impact (i.e., reduced demand on prison bed capacity). See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Probation and Community Control

Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions.[1] Community control is a more intensive form of supervision involving an individualized program that restricts the offender's movement within the community, home, or residential placement.[2]

Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.[3] The court may also impose special conditions, such as community service hours, regular drug or alcohol testing, no contact orders, and treatment programs.[4] Failure to meet any condition of supervision is a violation of probation or community control (VOP).

Generally, upon a finding that an offender violated probation or community control, the court may revoke, modify, or continue supervision.[5] If the court revokes supervision, it may impose any sentence that was permissible at the offender's initial sentencing.[6]

If a violent felony offender of special concern (VFOSC)[7] commits a VOP and the court finds the VFOSC poses a danger to the community, the court must revoke probation and sentence the offender up to the statutory maximum, or longer if permitted by law.[8]

When a person is arrested for committing a crime, he or she is generally entitled to pretrial release on reasonable conditions under the Florida Constitution.[9] However, a person taken into custody for a VOP does not have a constitutional right to release pending the disposition of the VOP.[10] If the offender qualifies as a VFOSC, the court is prohibited from granting pretrial release.[11]

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[1] Section 948.001(8), F.S.
[2] Section 948.001(3), F.S.
[3] Section 948.03(1), F.S.
[4] Section 948.03(2), F.S.
[5] Section 948.06(2)(a), F.S.
[6] Section 948.06(2)(b), F.S.
[7] A VFOSC is an offender who commits a specified qualifying offense or is in a special status like habitual violent felony offender and meets other specified criteria. Examples of qualified offenses include murder, kidnapping, and sexual battery. For a complete list of criteria, see s. 948.06(8), F.S.
[8] Section 948.06(8)(e)2.a., F.S.
[9] Art. I, s. 14, Fla. Const. Exceptions include when a person is charged with a capital offense or offense punishable by life and the proof of guilt is evident or the presumption is great, or if no conditions can reasonably protect the community from risk of physical harm.
[10] *Bernhardt v. State*, 288 So. 2d 490, 497 (Fla. 1974).
[11] Section 903.0351(1)(a), F.S.

Alternative Sanctioning Program

Section 948.06(9), F.S., requires each judicial circuit to establish an alternative sanctioning program (ASP) as provided in that subsection. The chief judge of each judicial circuit may, by administrative order, define additional sanctions or eligibility criteria and specify the process for reporting technical violations through the alternative sanctioning program. Any sanctions recommended for imposition through an alternative sanctions program must be submitted to the court by the probation officer for approval before imposing the sanction.[12]

If a probationer or offender on community control commits a technical violation, the probation officer must determine whether the probationer or offender on community control is eligible for the ASP. If the probation officer determines that the probationer or offender on community control is eligible, the probation officer may proceed with the ASP in lieu of filing an affidavit of violation with the court. For purposes of s. 948.06, F.S., the term "technical violation" means an alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.[13]

The ASP identifies eligible offenders, eligible violations, and permissible sanctions. Eligible violations are classified as either low-risk or moderate-risk.

Low-risk violations only apply to probationers, not offenders on community control, and include:
- A positive drug or alcohol test result;
- Failure to report to the probation office;
- Failure to report a change in address or other required information;
- Failure to attend a required class, treatment or counseling session, or meeting;
- Failure to submit to a drug or alcohol test;
- Violation of curfew;
- Failure to meet a monthly quota for any required probation condition, including making restitution payments, paying court costs, and completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with people engaged in criminal activity; or
- Any other violation as determined by administrative order of the chief judge of the circuit.[14]

Moderate-risk violations include:
- Any violation classified as low-risk when committed by an offender on community control;
- Failure to remain at an approved residence by an offender on community control;
- A third low-risk violation by a probationer; or
- Any other violation as determined by administrative order of the chief judge of the circuit.[15]

[12] Section 948.06(9)(a), F.S.
[13] Section 948.06(1)(c), F.S.
[14] Section 948.06(9)(b), F.S.
[15] Section 948.06(9)(c), F.S.

Participation in an ASP is voluntary.[16] However, in no circumstance does participation in an ASP convert a withhold of adjudication into an adjudication of guilt.[17]

If a probationer or offender on community control is eligible for the ASP, he or she may:

- Waive participation in the program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court; or
- Elect to participate in the ASP after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
  - Be represented by legal counsel.
  - Require the state to prove his or her guilt before a neutral and detached hearing body.
  - Subpoena witnesses and present to a judge evidence in his or her defense.
  - Confront and cross-examine adverse witnesses.
  - Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed.[18]

If the probationer or offender on community control admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.[19]

The court may impose the recommended sanction or direct the department to submit a violation report, affidavit, and warrant to the court.[20]

If a probationer or offender on community control waives or discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer or offender on community control to a technical violation may not be used as evidence in subsequent proceedings.[21]

The permissible sanctions correspond to the violation risk level. For example, a probation officer may impose sanctions such as additional community service hours, counseling or treatment, drug testing, or curfew in response to a low-risk violation.[22] In response to a moderate-risk violation, examples of additional sanctions include residential treatment or electronic monitoring for up to 90 days or a maximum jail sentence of up to 21 days.[23] Such responses are designed to be

[16] Section 948.06(9)(g), F.S.
[17] Section 948.06(9)(e)9.b. and (f)7.b., F.S.
[18] Section 948.06(9)(h)1., F.S.
[19] Section 948.06(9)(h)2., F.S.
[20] Section 948.06(9)(i), F.S.
[21] Section 948.06(9)(j), F.S.
[22] Section 948.06(9)(e), F.S.
[23] Section 948.06(9)(f), F.S.

proportional to the severity of the technical violation and to directly respond to the nature of the technical violation.

Offenders are disqualified from alternative sanctioning under any of the following circumstances:

- The offender is a VFOSC;
- The violation is a felony, misdemeanor, or criminal traffic offense;
- The violation is absconding;
- The violation is of a stay-away order or no-contact order;
- The violation is not identified as low-risk or moderate-risk by statute or administrative order;
- The offender has a prior moderate-risk level violation during the same term of supervision;
- The offender has three prior low-risk level violations during the same term of supervision;
- The term of probation is scheduled to terminate in less than 90 days; or
- The terms of the sentence prohibit alternative sanctioning.[24]

Court Modification of Probation Order and Jail Term for Low-Risk Violation

Section 948.06(2)(f), F.S., requires a court to modify probation and imposes a 90-day jail cap for specified probationers appearing before a court for committing a low-risk technical violation. Unless waived by a defendant, a court is required to modify or continue a probationary term, when all of the following apply:

- The term of supervision is probation, rather than community control.
- The probationer does not qualify as a violent felony offender of special concern.
- The violation is a low-risk technical violation.
- The court has not previously found the probationer in violation of probation during the current term of supervision.

If a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification of probation, a court may revoke probation and sentence the probationer to 90 days in county jail.[25]

Criminal Punishment Code and Community Sanction Violation Points

The Criminal Punishment Code[26] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).[27] Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates and points may also be added or multiplied for other enumerated factors. The lowest permissible sentence is when the total sentence points are equal to or less than 44 points is any non-state prison sanction, unless the court determines that a prison sentence is appropriate. If the total sentence points exceed 44 points, the lowest permissible sentence in prison months is

[24] Section 948.06(9)(d), F.S.
[25] Section 948.06(2)(f)3., F.S.
[26] Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.
[27] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

calculated by a specified formula.[28] Absent mitigation,[29] the permissible sentencing range under the Code is generally the lowest permissible sentence up to and including the maximum penalty provided under s. 775.082, F.S.[30]

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

- If the community sanction violation includes a new felony conviction before the sentencing court, 12 community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.
- If the community sanction violation is committed by a VFOSC:
  - Twelve community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:
    - The violation does not include a new felony conviction; and
    - The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.
  - Twenty-four community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes a new felony conviction.[31]

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.[32]

III. Effect of Proposed Changes:

The bill amends s. 948.06, F.S., to revise provisions related to probation and the Alternative Sanctioning Program (ASP). The bill requires a court to modify or continue, rather than revoke probation, if a probationer meets specified criteria. The bill includes as part of that criteria that the probationer has not been found in violation on two or more separate occasions. A court may modify probation and include up to 90 days jail for a first violation and up to 120 days for a second violation, as a condition of probation.

If the violation is a low risk violation, the court must hold a hearing on a violation of probation within 30 days after arrest or after counsel appears for the probationer or offender, whichever occurs later. If the hearing is not held within 30 days, the court must release the probationer or offender without bail unless the court determines that the hearing was not held in the applicable time frame due to circumstances attributable to the probationer or offender. The court may impose nonmonetary conditions of release.

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[28] Section 921.0024, F.S., provides the formula is the total sentence points minus 28 times 0.75.
[29] The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.
[30] If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.
[31] Section 921.0024(1)(b), F.S.
[32] *Id.*

The bill amends s. 921.0024, F.S., to provide that if a community sanction violation is committed by a felony offender and such community sanction violation is resolved through the alternative sanctioning program, no points are assessed. If a community sanction violation that has not been resolved through the alternative sanctioning program is before the court, no points are assessed for prior violations that were resolved through the alternative sanctioning program.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill has a negative indeterminate impact on prison beds (unquantifiable decrease in prison beds) due to the possible increased use of alternative sanctions programs and the subsequent decrease in the number of technical violators sent to prison.[33]

[33] Office of Economic and Demographic Research *SB 1154*, http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1154.pdf

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 921.0024 and 948.06.

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 Criminal Justice on February 6, 2024:

The committee substitute:

- Restructures and clarifies the intent of the language. Under the amendment if any community sanction violation is resolved through the alternative sanctioning program, no points are assessed.

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 Criminal Justice; and Senator Simon

591-02983-24 20241154c1

A bill to be entitled

An act relating to probation and community control violations; amending s. 921.0024, F.S.; revising the sentencing score sheet to reflect the absence of community sanction points assessed in certain circumstances; amending s. 948.06, F.S.; revising sanctions for probation violations; providing for hearings within a specified time period for low-risk probation or community control violations; providing for the release of offenders in certain circumstances if a hearing is not held; providing for nonmonetary conditions of release; making technical changes; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 921.0024, Florida Statutes, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender’s legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing.

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Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

I. The violation does not include a new felony conviction; and

II. The community sanction violation is not based solely on the probationer or offender’s failure to pay costs or fines or make restitution payments.

b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes a new felony conviction.

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

If the community sanction violation is resolved through the

alternative sanctioning program under s. 948.06(9), no points are assessed. If a community sanction violation not resolved through the alternative sanctioning program is before the court, no points are assessed for prior violations that were resolved through the alternative sanctioning program.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of thirty (30) points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were

committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his or her possession: a firearm as defined in s. 790.001, an additional eighteen (18) sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001, an additional twenty-five (25) sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Violent offenses committed against specified justice system personnel: If the primary offense is a violation of s. 775.0823(2), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points

are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Offense related to a criminal gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03, the subtotal sentence points are multiplied by 1.5. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are multiplied by 1.5.

Adult-on-minor sex offense: If the offender was 18 years of age

or older and the victim was younger than 18 years of age at the time the offender committed the primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed a sexual battery under chapter 794 or a lewd act under s. 800.04 or s. 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; or s. 847.0135(5), the subtotal sentence points are multiplied by 2.0. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Section 2. Paragraph (f) of subsection (2) and subsection (4) of section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(2)

(f)1. Except as provided in subparagraph 3. or upon waiver by the probationer, the court shall modify or continue a probationary term upon finding a probationer in violation when all of the following apply:

a. The term of supervision is probation.

b. The probationer does not qualify as a violent felony offender of special concern, as defined in paragraph (8)(b).

c. The violation is a low-risk technical violation, as

defined in paragraph (9)(b).

d. The court has not, on two or more separate occasions, previously found the probationer in violation of his or her probation pursuant to a filed violation of probation affidavit during the current term of supervision. A probationer who has successfully completed sanctions through the alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

2. Upon modifying probation under subparagraph 1., the court may include in the sentence a maximum of 90 days in county jail as a special condition of probation. If the court has previously found the probationer in violation of his or her probation and modified probation with up to 90 days in county jail as a special condition of probation, it may, upon modification of probation under subparagraph 1., include in the sentence a maximum of 120 days in county jail as a special condition of probation.

3. Notwithstanding s. 921.0024, if a probationer meets the criteria for mandatory modification in subparagraph 1. but has less time on supervision remaining than the number of days in jail authorized in subparagraph 2. ~~than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification or continuation in subparagraph 1.~~, the court may revoke probation and sentence the probationer to a maximum of 90 or 120 days in county jail as provided in subparagraph 2.

4. For purposes of imposing a jail sentence under this paragraph only, the court may grant credit only for time served in the county jail since the probationer's most recent arrest

for the violation. However, the court may not order the probationer to a total term of incarceration greater than the maximum provided by s. 775.082.

(4) Notwithstanding any other provision of this section, a felony probationer or an offender in community control who is arrested for violating his or her probation or community control in a material respect may be taken before the court in the county or circuit in which the probationer or offender was arrested. That court shall advise him or her of the charge of a violation and, if such charge is admitted, shall cause him or her to be brought before the court that granted the probation or community control. If the violation is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing. However, if the probationer or offender is under supervision for any criminal offense proscribed in chapter 794, s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a registered sexual predator or a registered sexual offender, or is under supervision for a criminal offense for which he or she would meet the registration criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the effective date of those sections, the court must make a finding that the probationer or offender is not a danger to the public prior to release with or without bail. In determining the danger posed by the offender's or probationer's release, the court may consider the nature and circumstances of the violation and any new offenses charged; the offender's or probationer's past and present conduct, including convictions of crimes; any record of arrests without conviction for crimes involving violence or sexual crimes; any other

evidence of allegations of unlawful sexual conduct or the use of violence by the offender or probationer; the offender's or probationer's family ties, length of residence in the community, employment history, and mental condition; his or her history and conduct during the probation or community control supervision from which the violation arises and any other previous supervisions, including disciplinary records of previous incarcerations; the likelihood that the offender or probationer will engage again in a criminal course of conduct; the weight of the evidence against the offender or probationer; and any other facts the court considers relevant. The court, as soon as is practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel. If the alleged violation is a low-risk violation, as defined in paragraph (9)(b), the court shall, within 30 days after the probationer's or offender's arrest, give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel. If a hearing is not held within 30 days after such arrest, the court must release the probationer or offender without bail unless the court finds that a hearing was not held in the applicable timeframe due to circumstances attributable to the probationer or offender. If the probationer or offender is released, the court may impose nonmonetary conditions of release. After the hearing, the court shall make findings of fact and forward the findings to the court that granted the probation or community control and to the probationer or offender or his or her attorney. The findings of fact by the hearing court are binding on the court that granted the probation or community control. Upon the probationer or

offender being brought before it, the court that granted the probation or community control may revoke, modify, or continue the probation or community control or may place the probationer into community control as provided in this section. However, the probationer or offender shall not be released and shall not be admitted to bail, but shall be brought before the court that granted the probation or community control if any violation of felony probation or community control other than a failure to pay costs or fines or make restitution payments is alleged to have been committed by:

(a) A violent felony offender of special concern, as defined in this section;

(b) A person who is on felony probation or community control for any offense committed on or after March 12, 2007, ~~the effective date of this act~~ and who is arrested for a qualifying offense as defined in this section; or

(c) A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b), a three-time violent felony offender as defined in s. 775.084(1)(c), or a sexual predator under s. 775.21, and who is arrested for committing a qualifying offense as defined in this section on or after March 12, 2007 ~~the effective date of this act~~.

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

The Florida Senate

APPEARANCE RECORD

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

2/24/22
Meeting Date

S Fiscal Pol
Committee

SB 1754
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michele Combs Phone

Address Christian Coalition of Florida 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

FP
Committee

1154
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIMINAL DEF LAWYERS Phone (407) 435-3194

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

SB 1254
Bill Number or Topic

S Fiscal Pol
Committee

Amendment Barcode (if applicable)

Name Katie Bohnett ("Bow-Net")

Phone 850.339.9599

Address 7773 Seminole Dr
Street

Email kbohnett@stcandjust.org

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: Alliance for Safety and Justice

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1188
INTRODUCER:	Fiscal Policy Committee; Health Policy Committee; and Senator Garcia
SUBJECT:	Office Surgeries
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Fav/CS**
2.	Rossitto-Van Winkle	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1188 provides office surgery practice standards and additional enforcement authority to the Department of Health (DOH) over physician offices in which physicians perform certain liposuction procedures or gluteal fat grafting procedures, also known as Brazilian Butt Lifts (BBLs).

The bill requires that, in addition to other circumstances that require office surgery registration:

- Physicians register their offices for office surgery with the DOH if they intend to perform liposuction procedures in their offices in which more than 1,000 cc of supernatant fat is temporarily or permanently removed. Current law does not specify temporarily or permanently.
- Physicians register their offices for office surgery with the DOH if they intend to perform gluteal fat grafting procedures in their offices. Current law does not expressly require registration for the performance of such procedures by name.
- Physicians register their offices for office surgery with the DOH if they intend to perform certain liposuction procedures during which the patient is rotated between the supine, lateral, and prone positions.

The bill:

- Modifies the penalty for performing surgery in an unregistered office, if the surgery requires office registration, from a fine of $5,000 per day to $5,000 per incident, to allow the DOH to fine a physician for multiple offenses committed during the same day.

- Authorizes the DOH to utilize a heightened inspection procedures for office surgery registration and updates and provides detailed directions to the DOH regarding requirements for physician office surgery inspections and requires applicants to identify in the application specific personnel and procedures and regularly update that information with the boards.
- Requires that physicians who have registered their offices prior to July 1, 2024, to update their registration, if a physician performs gluteal fat grafting procedures or certain liposuction procedures during the office surgery.
- Creates a registration update process with an updated registration inspection at next annual inspection and provides additional time for compliance with additional requirements and procedures upon request.
- Requires office surgery applicants to document that the applicant has met the applicable requirements of s. 469 of the Florida Building Code for office surgery suites if they perform gluteal fat grafting procedures or certain liposuction procedures.
- Creates new sections of statute for all levels of office surgeries to codify existing rules of the Board of Medicine (BOM) and Board of Osteopathic Medicine (BOOM).
- Creates additional restrictions on liposuction procedures when performed in combination with another separate surgical procedure during a single Level II or Level III operation.
- Creates standards for office surgery anesthesia by adopting Standards of the American Society of Anesthesiologists for Basic Anesthetic Monitoring.
- Authorizes the boards to make rules for additional standards of practice for office procedures and surgeries as warranted for patient safety and the evolution of technology and practice, to administer registration and registration update processes, and inspections and safety of office procedures and surgeries.
- Provides an exemption for physicians who are dually licensed as dentists while such practitioner is performing dental procedures that are regulated under the practice of dentistry.

The bill takes effect upon becoming law.

II. Present Situation:

Regulation of Office Surgeries

The Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM) (collectively, the boards)[1], within the DOH[2], have authority to adopt rules to regulate practice of medicine and osteopathic medicine, respectively. The boards have authority to establish, by rule, standards of practice for particular settings.[3] Such standards may include education and training; medications, including anesthetics; assistance of and delegation to other personnel; sterilization; performance of complex or multiple procedures; records; informed consent; and policy and procedures manuals.[4]

[1]Chapter 458, F.S., regulates the practice of allopathic medicine, and ch. 459, F.S., regulates the practice of osteopathic medicine.
[2] The Dept. of Health, Division of Medical Quality Assurance (MQA), serves as the principle administrative unit for the Board of Medicine and the Board of Osteopathic Medicine.
[3] Sections 458.331(v) and 459.015(z), F.S.
[4] *Id.*

The boards set forth the standards of practice that must be met for office surgeries. An office surgery is any surgery that is performed outside a facility licensed under ch. 390, F.S., or ch. 395, F.S.[5] There are several levels of office surgeries governed by rules adopted by the boards, which set forth the scope of each level of office surgeries, the equipment and medications that must be available, and the training requirements for personnel present during the surgery.

Registration

A physician is required to register his or her office with the DOH to perform liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, a level II office surgery, or a level III office surgery.[6]

Each registered office must designate a physician who is responsible for complying with all laws and regulations establishing safety requirements for such offices.[7] The designated physician is required to notify the DOH within 10 days of hiring any new recovery or surgical team personnel.[8] The office must notify the DOH within 10 calendar days after the termination of a designated physician relationship.[9]

The DOH must inspect any office where office surgeries will be done before the office is registered.[10] If the office refuses such inspection, it will not be registered until the inspection can be completed. If an office that has already been registered with the DOH refuses inspection, its registration will be immediately suspended and remain suspended until the inspection is completed, and the office must close for 14 days.[11]

The DOH must inspect each registered office annually unless the office is accredited by a nationally recognized accrediting agency approved by the respective board. Such inspections may be unannounced.[12]

The DOH's license verification web page indicates there are 1,816 office surgery registrations.[13]

Standards of Practice

Prior to performing any surgery, a physician must evaluate the risks of anesthesia and the surgical procedure to be performed.[14] A physician must maintain a complete record of each surgical procedure, including the anesthesia record, if applicable, and written informed consent.[15]

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[5] Fla. Admin. Code Rs. 64B8-9.009(1)(d) and 64B15-14.007(1)(d), (2023). Abortion clinics are licensed under ch. 390, F.S., and facilities licensed under ch. 395, F.S., include hospitals, ambulatory surgery centers, mobile surgical facilities, and certain intensive residential treatment programs.
[6] Sections 458.328(1) and 459.0138(1), F.S.
[7] Fla Admin. Code Rs. 64B8-9.0091(1) and 64B15-14.0076(1), (2023).
[8] *Id.*
[9] *Id.*
[10] *Supra* note 5.
[11] *Id.*
[12] *Id.*
[13] Florida Agency for Health Care Administration, House Bill 1561, 2024 Agency Legislative Bill Analysis (Jan. 18, 2024) (on file with the Senate Committee on Health Policy).
[14] Fla. Admin. Code Rs. 64B8-9.009(2) and 64B15-14.007(2), (2023).
[15] *Id.* A physician does not need to obtain written informed consent for minor Level I procedures limited to the skin and mucosa.

The written consent must reflect the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider, and that a choice of anesthesia provider exists.[16]

Physicians performing office surgeries must maintain a log of all liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed and Level II and Level III surgical procedures performed, which includes:[17]

- A confidential patient identifier;
- The time the patient arrives in the operating suite;
- The name of the physician who provided medical clearance;
- The surgeon's name;
- The diagnosis;
- The CPT codes for the procedures performed;
- The patient's ASA classification;
- The type of procedure performed;
- The level of surgery;
- The anesthesia provider;
- The type of anesthesia used;
- The duration of the procedure;
- The type of post-operative care;
- The duration of recovery;
- The disposition of the patient upon discharge;
- A list of medications used during surgery and recovery; and
- Any adverse incidents.

Such logs must be maintained for at least six years from the last patient contact and must be provided to the DOH investigators upon request.[18]

For elective cosmetic and plastic surgery procedures performed in a physician's office:[19]

- The maximum planned duration of all planned procedures cannot exceed eight hours.
- A physician must discharge the patient within 24 hours, and overnight stay may not exceed 23 hours and 59 minutes.
- The overnight stay is strictly limited to the physician's office.
- If the patient has not sufficiently recovered to be safely discharged within the 24-hour period, the patient must be transferred to a hospital for continued post-operative care.

Office surgeries are prohibited from:

- Resulting in blood loss greater than ten percent of blood volume in a patient with normal hemoglobin;

[16] *Id.* A patient may use an anesthesiologist, anesthesiologist assistant, another appropriately trained physician, certified registered nurse anesthetist, or physician assistant.
[17] Fla. Admin. Code Rs. 64B8-9.009(2)(a) and 64B15-14.007(2)(a), (2023).
[18] *Id.*
[19] Fla. Admin. Code Rs. 64B8-9.009(2)(f) and 64B15-14.007(2)(f), (2023).

- Requiring major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, excluding laparoscopy;
- Involving a major blood vessel with direct visualization by open exposure of the vessel, not including percutaneous endovascular treatment[20]; or
- Being emergent or life threatening.

Levels of Office Surgeries

Level I

Level I involves the most minor of surgeries, which require minimal sedation[21] or local or topical anesthesia, and have a remote chance of complications requiring hospitalization.[22] Level I procedures include:[23]

- Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas and repair of lacerations, or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient;
- Liposuction involving the removal of less than 4,000 cc supernatant fat; and
- Incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of urethra, cryptoscopic procedures, and closed reduction of simple fractures or small joint dislocations (e.g., finger and toe joints).

Level II

Level II office surgeries involve moderate sedation[24] and require the physician office to have a transfer agreement with a licensed hospital that is no more than 30 minutes from the office.[25] Level II office surgeries, include but are not limited to:[26]

- Hemorrhoidectomy, hernia repair, large joint dislocations, colonoscopy, and liposuction involving the removal of up to 4,000 cc supernatant fat; and
- Any surgery in which the patient's level of sedation is that of moderate sedation and analgesia or conscious sedation.

A physician performing a Level II office surgery must:[27]

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[20] Such treatment addresses conditions such as peripheral artery disease and other arterial blockages.
[21] Minimal sedation is a drug-induced state during which the patient responds normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilator and cardiovascular functions are not impaired. Controlled substances are limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.
[22] Fla. Admin. Code Rs. 64B8-9.009(3) and 64B15-14.007(3), (2023).
[23] *Id.*
[24] Moderate sedation or conscious sedation is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulations. No interventions are needed to manage the patient's airway and spontaneous ventilation is adequate. Cardiovascular function is maintained. Reflex withdrawal from a painful stimulus is not considered a purposeful response.
[25] Fla. Admin. Code Rs. 64B8-9.009(4) and 64B15-14.007(4), (2023).
[26] *Id.*
[27] *Id.*

- Have staff privileges at a licensed hospital to perform the same procedure in that hospital as the surgery being performed in the office setting;
- Demonstrate to the appropriate board that he or she has successfully completed training directly related to and include the procedure being performed, such as board certification or eligibility to become board-certified; or
- Demonstrate comparable background, training, or experience.

A physician, or a facility where the procedure is being performed, must have a transfer agreement with a licensed hospital within a reasonable proximity[28] if the physician performing the procedure does not have staff privileges to perform the same procedure at a licensed hospital within a reasonable proximity.

Anesthesiology must be performed by an anesthesiologist, a certified registered nurse anesthetist (CRNA), or a qualified physician assistant (PA). An appropriately-trained physician, PA, or registered nurse with experience in post-anesthesia care, must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia.[29]

Level IIA

Level IIA office surgeries are those Level II surgeries with a maximum planned duration of five minutes or less and in which chances of complications requiring hospitalization are remote.[30] A physician, physician assistant, registered nurse, or licensed practical nurse must assist the surgeon during the procedure and monitor the patient in the recovery room until the patient is recovered from anesthesia.[31] The assisting health care practitioner must be appropriately certified in advanced cardiac life support, or in the case of pediatric patients, pediatric advanced life support.[32]

Level III

Level III office surgeries are the most complex and require deep sedation or general anesthesia.[33] A physician performing the surgery must have staff privileges to perform the same procedure in a hospital.[34] The physician must also have knowledge of the principles of general anesthesia.

[28] Transport time to the hospital must be 30 minutes of less.
[29] *Id.* The assisting practitioner must be trained in advanced cardiovascular life support, or for pediatric patients, pediatric advanced life support.
[30] Fla. Admin. Code Rs. 64B-9.009(5) and 64B15-14.007(5), (2023).
[31] *Id.*
[32] *Id.*
[33] Deep sedation is a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. A patient may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. General anesthesia is a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. The use of spinal or epidural anesthesia is considered Level III.
[34] Fla. Admin. Code Rs. 64B8-9.009(6) and 64B15-14.007(6), (2023). The physician may also document satisfactory completion of training directly related to and include the procedure being performed.

Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I or II[35] are appropriate candidates for Level III office surgery. For all ASA Class II patients above the age of 50, the surgeon must obtain a complete work-up performed prior to the performance of Level III surgery in a physician office setting.[36] If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative electrocardiogram and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.[37] All Level III surgeries on patients classified as ASA III[38] and higher must be performed in a hospital or an ambulatory surgery center.

During the procedure, the physician must have one assistant who has current certification in advanced cardiac life support. Additionally, the physician must have emergency policies and procedures related to serious anesthesia complications, which address:

- Airway blockage (foreign body obstruction);
- Allergic reactions;
- Bradycardia;
- Bronchospasm;
- Cardiac arrest;
- Chest pain;
- Hypoglycemia;
- Hypotension;
- Hypoventilation;
- Laryngospasm;
- Local anesthetic toxicity reaction; and
- Malignant hypothermia.

Gluteal Fat Grafting Procedure

Gluteal fat grafting (a.k.a. the Brazilian Butt Lift or BBL) is a surgical procedure that takes supernatant fat from one part of a person's body by liposuction, usually from the waist, back, or abdomen, purifies the supernatant fat, and then injects the supernatant fat in tiny droplets back into the patient's buttocks. The amount of supernatant fat that is temporarily removed from one part of the body and then transferred to the buttocks varies greatly between patients, and the

[35] An ASA Class I patient is a normal, healthy, non-smoking patient, with no or minimal alcohol use. An ASA Class II patient is a patient with mild systemic disease without substantive functional limitations. Examples include current smoker, social alcohol drinker, pregnancy, obesity, well-controlled hypertension with diabetes, or mild lung disease. *See* American Society of Anesthesiologists, *ASA Physical Status Classification System*, (Oct. 15, 2014, last amended Dec. 13, 2020), available at https://www.asahq.org/standards-and-guidelines/asa-physical-status-classification-system (last visited on Feb. 2, 2024).

[36] *Id.*

[37] *Id.*

[38] An ASA Class III patient is a patient with severe systemic disease who has substantive functional limitations and/or one or more moderate to severe diseases. This may include poorly controlled diabetes or hypertension, chronic obstructive pulmonary disease, morbid obesity, active hepatitis, alcohol dependence or abuse, implanted pacemaker, premature infant, recent history of myocardial infarction, cerebrovascular disease, transient ischemic attack, or coronary artery disease.

patient may be turned 180 degrees while under general anesthesia following harvesting of the supernatant fat.[39]

When a surgeon performs a gluteal fat grafting procedure in an office setting, supernatant fat is removed from various parts of the patient's body but may only be injected into the subcutaneous space of the buttocks and must never cross the gluteal muscle fascia. Intramuscular or submuscular fat injections are prohibited.[40]
The risks associated with a gluteal fat grafting procedure include:[41]

- Excessive bleeding;
- Fat embolism, or fat that gets stuck in a vein and then in the lungs;
- Seroma, or fluid build-up under the skin;
- Necrosis, or large volumes of supernatant fat cells that fail to survive transfer;
- Significant scarring;
- Undesirable results; and
- Death.

The rate of fatal complications from gluteal fat grafting is higher than any other cosmetic procedure.[42] South Florida carries the highest BBL mortality rate, by far, in the nation with 25 deaths occurring between 2010 and 2022.[43] According to a study of the deaths that occurred in South Florida, the surgical setting and the short surgical times for these cases were the most significant contributing factors to the deaths.[44] Of the 25 deaths, 23 of the surgeries were found to have been performed at what the researchers classified as high-volume, low-budget clinics. These clinics were found to have employed a practice model based on minimal patient interaction. All of the deaths resulted from pulmonary fat embolism, which occurs when a vein wall is injured during the injection process, allowing fat to enter the pulmonary vessels.[45]

360 Degree Liposuction Procedures

The 360 degree Liposuction may include liposuction of areas of body, including but not limited to the following, while under general anesthesia:

- Upper back;
- Lower back;
- Hip roll;
- Mid back;
- Flanks;
- Abdomen;

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[39] McLintock, Kaitlyn, *Your Comprehensive Guide To The Brazilian Butt Lift,* (Oct. 29, 2021) available at https://plasticsurgerypractice.com/treatment-solutions/innovations/industry-trends/your-comprehensive-guide-to-the-brazilian-butt-lift/ (last visited Feb. 2,, 2024).
[40] Fla. Admin. Code Rs. 64B8-9.009(2)(c) and 64B15-14.007(2)((c) (2023).
[41] Cleveland Clinic, *Fat Transfer*, available at https://my.clevelandclinic.org/health/treatments/24027-fat-transfer (last visited Feb. 2, 2024).
[42] Pazmiño, Pat; Garcia, Onelio, *Brazilian Butt Lift–Associated Mortality: The South Florida Experience*, Aesthetic Surgery Journal, Vol. 43, (Feb 2023), pps. 162–178, available at https://doi.org/10.1093/asj/sjac224 (last visited Feb. 2, 2024).
[43] *Id.*
[44] *Id.*
[45] *Id.*

- Arms;
- Thighs; and
- Presacral triangle.

The 360 Degree Liposuction Combined with a BBL

The 360 degree liposuction with the BBL is a new popular cosmetic procedure and is actually two surgical procedures performed at the same time.[46] The 360 degree liposuction harvests excess supernatant fat from various areas of the body as noted above and involves turning the patient over 360 degrees while under general anesthesia; and then placing the patient on his or her abdomen, face down, and undergoing a BBL.[47]

The risks associated with the 360 degree liposuction with the BBL includes:
- Hemorrhage;
- Pain;
- Skin discoloration;
- Infections,
- Fluid accumulation;
- Blood building up at the incision or underneath the buttocks;
- Skin loss; and
- Pulmonary embolism.[48]

Adding the BBL to 360 degree liposuction makes the procedure longer and potentially more dangerous, especially regarding the complication of a fat embolism and excessive blood loss, which could lead to death.[49]

The Vasovagal Response

During general anesthesia for a 360 degree liposuction and BBL there is also the possible complication of excessive vasovagal stimulation caused by turning the patient over 180 degrees or 360 degrees, creating life-threatening vasovagal syncope and triggering bradycardia, hypotension, and progressing to cardiac arrest and even death.[50] Painful stimulus of the bronchial, pharyngeal, laryngeal, esophageal mucosa and peritoneum stretch, and reduced blood volume can increase the vagal activity, leading to severe bradycardia, hypotension, and cardiac

[46] Kao, Y.-M.; Chen, K.-T.;Lee, K.-C.; Hsu, C.-C.; Chien, Y.-C., *Pulmonary Fat Embolism Following Liposuction and Fat Grafting: A Review of Published Cases.* Healthcare (May 11 2023), 11, 1391. available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10218620/pdf/healthcare-11-01391.pdf (last visited Feb. 2, 2024).
[47] McLintock, Kaitlyn, *Your Comprehensive Guide To The Brazilian Butt Lift,* (Oct. 29, 2021) available at https://plasticsurgerypractice.com/treatment-solutions/innovations/industry-trends/your-comprehensive-guide-to-the-brazilian-butt-lift/ (last visited Feb. 2, 2024).
[48] *Id.*
[49] Kaiser HA, Saied NN, Kokoefer AS, Saffour L, Zoller JK, Helwani MA.,PLOS ONE, (Jan. 22, 2020) Incidence and prediction of intraoperative and postoperative cardiac arrest requiring cardiopulmonary resuscitation and 30-day mortality in non-cardiac surgical patients, available at https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0225939&type=printable (last visited Feb. 2, 2024).
[50] *Id.*

arrest. Even venous cannulation, neuraxial, and regional anesthesia techniques have been attributed to vasovagal syncope.[51]

Under Florida law, liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III operations, only in the following circumstances:[52]

- When combined with abdominoplasty, liposuction may not exceed 1,000 cc of supernatant fat;
- When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cc of supernatant fat; and
- Major liposuction in excess of 1,000 cc supernatant fat may not be performed in a remote location from any other procedure.

A maximum of 4,000 cc supernatant fat may be removed by liposuction in the office setting.[53]

Standards of Practice for a Gluteal Fat Grafting Procedures in Office Surgery Setting

A physician performing a gluteal fat grafting procedure in an office setting must conduct an in-person examination of the patient while physically present in the same room as the patient, no later than the day before the procedure.[54]

If a surgeon desires to delegate any of his or her duties during a gluteal fat grafting procedure, he or she must obtain the patient's written, informed consent for the delegation. Any delegated duty must be performed under the direct supervision of the physician performing the procedure. The surgeon may not delegate the supernatant extraction or the gluteal fat injections. The supernatant fat may only be injected into the subcutaneous space of the patient's buttocks and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular supernatant fat injections are prohibited.[55]

When the physician performing a gluteal fat grafting procedure injects the supernatant fat into the subcutaneous space of the patient's buttocks, the physician must use ultrasound guidance, or another form of guidance or technology authorized under BOM or BOOM rule, as applicable, which is equal to, or exceeds, the quality of ultrasound, during the placement and navigation of the cannula, to ensure that the supernatant fat is injected into the subcutaneous space above the fascia overlying the gluteal muscle. Ultrasound guidance is not required for other portions of the procedure.[56]

[51] Hosie L, Wood JP, Thomas AN. Vasovagal syncope and anaesthetic practice. Eur. J. Anaesthesiology(Aug. 2001) available at https://journals.lww.com/ejanaesthesiology/fulltext/2001/08000/vasovagal_syncope_and_anaesthetic_practice.11.aspx (last visited Feb. 2, 2024).
[52] Fla. Admin. Code Rs. 64B8-9.009(2)(e) and 64B15-14.007(2)((e) (2023).
[53] Fla. Admin. Code Rs. 64B8-9.009(2)(d) and 64B15-14.007(2)((d) (2023).
[54] Sections 458.328(2)(c) and 459.0138 (2)(c), F.S.
[55] *Id.*
[56] *Id.*

Adverse Incident Reporting

A physician must report any adverse incident that occurs in an office setting to the DOH within 15 days after the occurrence.[57] An adverse incident in an office setting is defined as an event over which the physician or licensee could exercise control and which is associated with a medical intervention and results in one of the following patient injuries:[58]

- The death of a patient;
- Brain or spinal damage to a patient;
- The performance of a surgical procedure on the wrong patient;
- If the procedure results in death; brain or spinal damage; permanent disfigurement; the fracture or dislocation of bones or joints; a limitation of neurological, physical, or sensory functions; or any condition that required the transfer of a patient, the performance of:
  - A wrong-site surgical procedure;
  - A wrong surgical procedure; or
  - A surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed consent process;
- A procedure to remove unplanned foreign objects remaining from a surgical procedure; or
- Any condition that required the transfer of a patient to a hospital from an ambulatory surgical center or any facility or any office maintained by a physician for the practice of medicine which is not licensed under ch. 395, F.S.

The DOH must review each adverse incident report to determine if discipline against the practitioner's license is warranted.[59]

DOH Regulatory Authority of Office Surgeries

The DOH and the respective boards may deny or revoke an office surgery's registration if any of its physicians, owners, or operators do not comply with any office surgery laws or rules. The DOH may deny a person applying for a facility registration if he or she was named in the registration document of an office whose registration is revoked for five years after the revocation date. The DOH may impose penalties on the designated physician if the registered office is not in compliance with safety requirements, including:[60]

- Suspension or permanent revocation of a license;
- Restriction of license;
- Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board must impose a fine of $10,000 per count or offense;
- Issuance of a reprimand or letter of concern:
- Placement of the licensee on probation for a period of time and subject to such conditions as specified by the board;
- Corrective action;

[57] Sections 458.351 and 459.026, F.S.
[58] Sections 458.351(4) and 459.026(4), F.S.
[59] Sections 458.351(5) and 459.026(5), F.S.
[60] Section 456.072(2), F.S.

- Imposition of an administrative fine in accordance with s. 381.0261, F.S., for violations regarding patient rights;
- Refund of fees billed and collected from the patient or a third party on behalf of the patient; or
- Requirement that the licensee undergo remedial education.

The DOH, via the Surgeon General, can also issue an emergency order suspending or restricting the registration of a facility if there is probable cause that:

- The office or its physicians are not in compliance with board rule on the standards of practice or The licensee or registrant is practicing or offering to practice beyond the scope allowed by law or beyond his or her competence to perform; and
- Such noncompliance constitutes an immediate danger to the public.

The boards must adopt rules establishing the standards of practice for physicians who perform office surgery. The boards must fine physicians who perform office surgeries in an unregistered facility $5,000 per day. Performing office surgery in a facility that is not registered with the DOH is grounds for disciplinary action against a physician's license.

Section 469 of the Florida Building Code: Office Surgery Suites

Section 469 of the Florida Building Code defines an "office surgery suite" as that portion of a physician's office where surgery is performed according to Florida Administrative Code Rule 64B-8-9009 (2023). Office surgery suites that provide services or treatment on an outpatient basis to four or more patients at the same time that either renders the patients incapable of taking action for self-preservation under emergency conditions without the assistance from others or that provide surgical treatment requiring general anesthesia to four or more patients at the same time, shall meet the requirements of Ambulatory Health Care.[61] Florida Building Code requirements for office surgery suites include requirements for:

- Administrative and public areas including waiting room or lobby;
- Preoperative areas;
- Patient areas;
- Operating rooms;
- Post-operative areas;
- Anesthesia equipment and supplies;
- Medical gas storage;
- General storage rooms;
- Staff clothing change areas;
- Patient change area;
- Stretcher/wheelchair storage area;
- Lounge and toilet facilities;
- Nourishment room or area;
- Housekeeping room;
- Crash/anesthesia carts area; and
- Sterilizing facilities.

[61] 469.3 Office Surgery Suite Occupancy Classification, Florida Building Code (2023).

Ambulatory Surgical Centers

An ASC is a facility that is not a part of a hospital, the primary purpose of which is to provide elective surgical care, in which the patient is admitted and discharged within 24 hours.[62] If a provider anticipates or knows that he or she will be discharging patients beyond 24 hours, he or she must self-designate as an ASC by applying for ASC licensure with the AHCA. An ASC is licensed and regulated by the AHCA under the same regulatory framework as hospitals.[63] Currently, there are 520 licensed ASCs in Florida.[64]

III. Effect of Proposed Changes:

CS/CS/SB 1188 provides office surgery practice standards for Level I, Level II, Level IIA, and Level III surgeries and additional enforcement authority to the DOH over physician offices in which physicians perform certain liposuction procedures or gluteal fat grafting procedures, also known as Brazilian Butt Lifts (BBLs)requires physicians to register their offices with the DOH if they perform liposuction procedures in their offices in which more than 1,000 cc of supernatant fat is temporarily or permanently removed. Current law does not specify temporarily or permanently.

The bill requires physicians to register their offices with the DOH if they perform gluteal fat grafting procedures or if they perform liposuction procedures during which the patient is rotated between the supine, lateral, and prone positions. Current law does not expressly require registration for the performance of such procedures by name.

The bill modifies the penalty for performing surgery in an unregistered office, if the surgery requires office registration, from a fine of $5,000 per day to $5,000 per incident, to allow the DOH to fine a physician for multiple offenses committed during the same day.

The bill requires that if the DOH determines that an applicant for registration, or at registration update, may perform, or intends to perform, liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions, or gluteal fat grafting procedures, the applicant must provide proof that he or she has met the applicable requirements of s. 469 of the Florida Building Code for office surgery suites. If the applicant cannot provide proof of compliance with the applicable requirements of s. 469 of the Florida Building Code, then the DOH must refer the office to the Agency for Health Care Administration (AHCA) and request the AHCA inspect the office and consult with the office about the process of becoming an ambulatory surgery center.

The bill creates specific standards of practice for liposuction procedures where the patient is being rotated between the supine, lateral, and prone positions during the procedure and gluteal fat grafting procedures in amendments to ss. 458.328, and 459.0138, F.S., including:

[62] Section 395.002(3), F.S.
[63] Sections 395.001-.1065, F.S., and Part II, Chapter 408, F.S.
[64] Florida Agency for Health Care Administration, House Bill 1561, 2024 Agency Legislative Bill Analysis (Jan. 18, 2024) (on file with the Senate Committee on Health Policy).

- Equipment and a procedure for measuring and logging the amount of supernatant fat removed, and tissue disposal procedures;
- Procedures for measuring and documenting the amount of lidocaine injected for tumescent liposuction, if used;
- Working ultrasound guidance equipment or other guidance technology authorized under board rule which equals or exceeds the quality of ultrasound guidance;
- Procedure for obtaining blood products;
- Documentation on file at the office that any physician performing these procedures has privileges to perform such procedures in a hospital no more than 30 minutes away or a transport agreement;
- Procedures for emergency resuscitation and transport to a hospital; and
- Procedures for anesthesia and surgical recordkeeping.

The bill requires that physicians who have registered their offices prior to July 1, 2024, to update their registration at the time of their next annual inspection, if a physician performs gluteal fat grafting procedures or liposuction procedures in which the patient is rotated between the supine, lateral, and prone positions in that office surgery. The bill provides additional time for compliance with additional requirements and procedures for an extension of time for inspection upon request.

The bill requires that if, during the registration update process, the DOH determines that the procedures being performed in the office include liposuction procedures where the patient is being rotated between the supine, lateral, and prone positions during the procedure and gluteal fat grafting procedures then the heightened inspection procedure (described above for offices seeking initial registration) is applied at the registration update inspection.

The bill creates two new sections of Florida statute, ss. 458.3281 and 459.0139, F.S., which create additional restrictions on liposuction procedures when performed in combination with another separate surgical procedure during a single Level II or Level III operation, in the following circumstances:

- When combined with an abdominoplasty, liposuction may not exceed 1,000 cubic centimeters of supernatant fat;
- When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cubic centimeters of supernatant fat; and
- Major liposuction in excess of 1,000 cubic centimeters of supernatant fat may not be performed on a patient's body in a location that is remote from the site of another procedure being performed on that patient.

The bill's two new sections of Florida law also create standards for office surgery for all levels of office surgeries which includes standards for equipment, personnel, medication, policies and anesthesia and codifies the Standards of the American Society of Anesthesiologists for Basic Anesthetic Monitoring.

The bill exempts a physician who is dually-licensed as a dentist while performing dental procedures under the practice of dentistry. Under those conditions, a licensed dentist may continue performing dental surgery under the dental practice ac, and is not required to comply with bill's standards for physician office surgeries.

The bill authorizes the boards to make rules for additional standards of practice for office procedures and surgeries as warranted for patient safety and the evolution of technology and practice; and to administer the registration and registration update process, inspections and safety of office procedures and surgeries.

The bill takes effect 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may make office surgeries safer for those that chose to have certain plastic surgery procedures performed in an office setting.

C. Government Sector Impact:

According to the DOH, 11 full-time equivalent (FTE) positions will be required to implement the provisions of this bill. Salary is computed at mid-level range of the positions plus 43 percent for benefits, as follows:

Based on the complex and comprehensive requirements for inspections of office surgery centers based on the provisions of this legislation, there will be a significant increase in

workload due to additional time required at registration, prior to registration, and annual registration requirements. It is estimated that this will result in time to process applications and inspect to double. This requires the existing OPS (other personnel services) Nursing Consultant staff that are completing these inspections to have a wider breadth of knowledge and skills in order to complete the inspections.

DOH/MQA is requesting to convert these 6 OPS positions currently at a hourly rate of pay of $45.00 to 6 Senior Management Analyst II (PG 426), with travel. This will result in an offset of $640,742 in OPS rate of pay and fringe benefits (6 x $45/hr x 1,854 hours x 1.28).

In addition, each inspection will require an additional 8 hours per inspection for each office surgery. There are currently 731 office surgeries. The increase in time is estimated to be 5,848 hours per fiscal year (8 hours x 731). One FTE position can manage 1,854 hours of work. Therefore, 4 positions are justified. 4 Senior Management Analyst II (PG 426), with travel are requested. Based on the LBR standards, the total FTE cost is $1,417,555 ($1,248,208/Salary + $165,750/Expense + $3,597/HR) and 876,230 units of rate.

In addition, the provisions of this legislation are expecting to result in an increase in emergency suspension orders. The increase in emergency suspension orders will increase workload in the prosecution office. Therefore, 1 Senior Attorney (PG 230), no travel is requested. The total FTE cost is $169,488 ($153,594/Salary + $15,534/Expense + $360/HR) and 107,821 units of rate.

Due to the amount of time required for travel for these positions, an additional 4 motor vehicles are requested in addition to the existing fleet for the Bureau of Enforcement. The average cost for a new vehicle on state contract 25100000-22 is $27,722. Therefore $110,888 is requested.

The total estimated annual cost is $1,697,931 in the following categories:

FY 2024-25 Estimated Cost
Salary - $1,401,802/Recurring
Salary Rate – 984,051 Units of Rate
Expense - $108,035/Recurring + $73,249/Non-Recurring
Other personal service $(640,742)/Recurring
Human Resources - $3,957/Recurring
Motor Vehicles - $110,888/Non-Recurring

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.074, 458.328, and 459.0138.

The bill creates the following sections of the Florida Statutes: 458.3281 and 459.0139.

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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Provides detailed directions to DOH regarding requirements for physician office surgery inspections;
- Deletes bill's language for a re-registration process for offices where certain surgeries are performed, and instead creates a "Registration Update" process;
- Authorizes the updated registration inspection at next annual inspection and provides additional time for compliance with additional requirements and procedures upon request;
- Modifies language regarding a patient being "rotated 180 degrees" to "the patient being rotated between the supine, lateral, and prone positions" to better reflect the actual rotations possible of a liposuction patient in surgery;
- Requires office surgery applicants to document that the applicant has met the applicable requirements of s. 469 of the Florida Building Code for office surgery suites;
- Creates new sections of statute for all levels of office surgeries to codify existing rules of the Boards of Medicine and Osteopathic Medicine;
- Creates additional restrictions on liposuction procedures when performed in combination with another separate surgical procedure during a single Level II or Level III operation;
- Creates standards for office surgery anesthesia by adopting Standards of the American Society of Anesthesiologists for Basic Anesthetic Monitoring;
- Authorizes the boards to make rules for additional standards of practice for office procedures and surgeries as warranted for patient safety and the evolution of technology and practice, to administer registration and registration update processes, and inspections and safety of office procedures and surgeries;
- Clarifies that a physician has to have privileges at a hospital or a transfer agreement with a hospital, not both; and
- Provides an exemption for physicians who are dually licensed as dentists while such practitioner is performing dental procedures that are regulated under the practice of dentistry.

CS by Health Policy on February 6, 2024:
The committee substitute applies the bill's heightened inspection procedure (that the bill requires for offices seeking re-registration) to applicants for initial office surgery registration, if the DOH determines that a physician will perform, or is likely to perform, liposuction procedures during which the patient is rotated 180 degrees or more or gluteal fat grafting procedures in the office.

B. Amendments:

None.

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: WD	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 458.328, Florida Statutes, is amended to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)~~1.~~ An office in which a physician performs or intends to perform a liposuction procedure in which more than 1,000 cubic

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centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure during which the patient is rotated between the supine, lateral, and prone positions, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

(b)~~2.~~ The department must complete an inspection of any office seeking registration under this section before the office may be registered.

1. The inspection of the office seeking registration under this section must include inspection for compliance with the standards of practice set out in this section and s. 458.3281 and any applicable board rules for the levels of office surgery and procedures listed on the application which any physician practicing at the office performs or intends to perform. The application must be updated within 10 calendar days before any additional surgical procedures or levels of office surgery are to be performed at the office. Failure to timely update the application for any such additional surgical procedures or levels of office surgery is a violation of this section and subject to discipline under ss. 456.072 and 458.331.

2. The department must immediately suspend the registration process of an office that refuses an inspection under subparagraph 1., and the applicant must be required to reapply for registration.

3. If the department determines that an office seeking registration under this section is one in which a physician may perform, or intends to perform, liposuction procedures that

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include a patient being rotated between the supine, lateral, and prone positions during the procedure, or in which a physician may perform, or intends to perform, gluteal fat grafting procedures, the office must provide proof to the department that it has met the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, and s. 458.3281 and the applicable rules adopted thereunder, and the department must inspect the office to ensure that all of the following are present or in place:

a. Equipment and a procedure for measuring and documenting in a log the amount of supernatant fat removed, both temporarily and permanently, from a particular patient, including tissue disposal procedures.

b. A procedure for measuring and documenting the amount of lidocaine injected for tumescent liposuction, if used.

c. Working ultrasound guidance equipment or other guidance technology authorized under board rule which equals or exceeds the quality of ultrasound guidance.

d. The office procedure for obtaining blood products.

e. Documentation on file at the office demonstrating that any physician performing these procedures has privileges to perform such procedures in a hospital no more than 20 minutes away.

f. Procedures for emergency resuscitation and transport to a hospital.

g. Procedures for anesthesia and surgical recordkeeping.

h. Any additional inspection requirements, as set by board rule.

4. If an applicant is unable to provide proof to the

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department that the office seeking registration is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 458.3281 or the applicable rules adopted thereunder, in accordance with subparagraph 3., the department must notify the Agency for Health Care Administration and request the agency to inspect the office and consult with the office about the process to apply for ambulatory surgical center licensure under chapter 395 and how the office may seek qualification for such licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

(c) ~~(b)~~ To be ~~By January 1, 2020, each office~~ registered under this section or s. 459.0138, an office must, at the time of application, list a designated ~~designate a~~ physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 459 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may not register an office if the office fails to comply with this requirement at the time of application and must seek an emergency suspension of ~~suspend~~ the registration of an office pursuant to s. 456.074(6) if the office fails to timely notify the department of its new

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designated physician within 10 calendar days after the termination of the previous designated physician relationship ~~comply with the requirements of this paragraph~~.

(d) As a condition of registration, each office must, at the time of application, list all medical personnel who will be practicing at the office, including all of the following:

1. Physicians who intend to practice surgery or assist in surgery at the office seeking registration, including their respective license numbers and practice addresses.

2. Anesthesia providers, including their license numbers.

3. Nursing personnel licensed under chapter 464, including their license numbers unless already provided under subparagraph 2.

4. Physician assistants, including their respective license numbers and supervising physicians.

The office must notify the department of the addition or termination of any of the types of medical personnel specified under this paragraph within 10 calendar days before such addition or after such termination. Failure to timely notify the department of such addition or termination is a violation of this section and subject to discipline under ss. 456.072 and 458.331.

(e) ~~(c)~~ As a condition of registration, each office must establish financial responsibility by demonstrating that it has met and continues to maintain, at a minimum, the same requirements applicable to physicians in ss. 458.320 and 459.0085. Each physician practicing at an office registered under this section or s. 459.0138 must meet the financial

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responsibility requirements under s. 458.320 or s. 459.0085, as applicable.

(f) ~~(d)~~ Each physician practicing or intending to practice at an office registered under this section or s. 459.0138 must ~~shall~~ advise the board, in writing, within 10 calendar days before ~~after~~ beginning or after ending his or her practice at a registered office, as applicable.

(g) ~~(e)1.~~ The department shall inspect a registered office at least annually, including a review of patient records, anesthesia logs, surgery logs, and liposuction logs to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited in office-based surgery by the Joint Commission or other ~~a~~ nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of an office that meets the description of a clinic specified in s. 458.3265(1)(a)3.h., and those wholly owned and operated physician offices described in s. 458.3265(1)(a)3.g. which perform procedures referenced in s. 458.3265(1)(a)3.h., which must be announced.

(h) ~~2.~~ The department must immediately suspend the registration of a registered office that refuses an inspection under paragraph (g) ~~subparagraph 1~~. The office must close during such suspension. The suspension must remain in effect for at least 14 consecutive days and may not terminate until the department issues a written declaration that the office may reopen following the department's completion of an inspection of the office.

(i) ~~(f)~~ The department may suspend or revoke the

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registration of an office in which a procedure or surgery identified in paragraph (a) is performed for failure of any of its physicians, owners, or operators to comply with this section and rules adopted hereunder or s. 459.0138 and rules adopted thereunder. If an office's registration is revoked for any reason, the department may deny any person named in the registration documents of the office, including the persons who own or operate the office, individually or as part of a group, from registering an office to perform procedures or office surgeries pursuant to this section or s. 459.0138 for 5 years after the revocation date.

(j) ~~(g)~~ The department may impose any penalty set forth in s. 456.072(2) against the designated physician for failure of the office to operate in compliance with the office health and safety requirements of this section and rules adopted hereunder or s. 459.0138 and rules adopted thereunder.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(k) ~~(i)~~ The actual costs of registration and inspection or accreditation must ~~shall~~ be paid by the person seeking to register and operate the office in which a procedure or surgery identified in paragraph (a) will be performed.

(2) REGISTRATION UPDATE.—

(a) An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated between the

supine, lateral, and prone positions during the procedure or in which a physician performs gluteal fat grafting procedures must provide a registration update to the department consistent with the requirements of the initial registration under subsection (1) no later than 30 days before the office surgery's next annual inspection.

(b) Registration update inspections required under subsection (1) must be performed by the department on the date of the office surgery's next annual inspection.

(c) During the registration update process, the office surgery may continue to operate under the original registration.

(d) In order to provide an office surgery time to update to the requirements of subsection (1) and s. 458.3281, effective July 1, 2024, and the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, any office surgery registered under this section before July 1, 2024, whose annual inspection is due in July or August 2024, may request from the department, in writing, a 60-day postponement of the required annual inspection, which postponement must be granted.

(e) All other requests to the department for a postponement of the registration update inspection required under this registration update process must be in writing and be approved by the chair of the Board of Medicine for good cause shown, and such postponement may not exceed 30 days.

(3) STANDARDS OF PRACTICE.—

(a) A physician performing a procedure or surgery in an office registered under this section must comply with the applicable provisions of s. 469 of the Florida Building Code,

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relating to office surgery suites, and the standards of practice for office surgery set forth in this section and s. 458.3281, as applicable, and any applicable rules adopted thereunder.

(b) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(c) ~~(b)~~ Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(d) ~~(c)~~ A physician performing a gluteal fat grafting procedure in an office surgery setting must comply with the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice under this subsection and s. 458.3281, and applicable rules adopted thereunder, including, but not limited to, all of the following standards of practice:

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1. The ~~A~~ physician performing the ~~a~~ gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures shall at all times maintain a ratio of one physician to one patient during all phases of the procedure,

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beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(e) ~~(d)~~ If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) ~~(3)~~ RULEMAKING.—

(a) The board may ~~shall~~ adopt by rule additional standards of practice for physicians who perform office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section, as warranted for patient safety and by the evolution of technology and medical practice.

(b) The board may adopt rules to administer the registration, registration update, inspection, and safety of offices in which a physician performs office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section.

Section 2. Section 458.3281, Florida Statutes, is created

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to read:

458.3281 Standard of practice for office surgery.—

(1) CONSTRUCTION.—This section does not relieve a physician performing a procedure or surgery from the responsibility of making the medical determination of whether an office is an appropriate setting in which to perform that particular procedure or surgery, taking into consideration the particular patient on which the procedure or surgery is to be performed.

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

(a) "Certified in advanced cardiac life support" means a person holds a current certification in an advanced cardiac life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the Advanced Cardiovascular Life Support (ACLS) Certification Institute.

(b) "Certified in basic life support" means a person holds a current certification in a basic life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the ACLS Certification Institute.

(c) "Certified in pediatric advanced life support" means a person holds a current certification in a pediatric advanced life support course with didactic and skills components approved by the American Heart Association, the American Safety and Health Institute, or Pacific Medical Training.

(d) "Continual monitoring" means monitoring that is repeated regularly and frequently in steady, rapid succession.

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(e) "Continuous monitoring" means monitoring that is prolonged without any interruption at any time.

(f) "Equipment" means a medical device, instrument, or tool used to perform specific actions or take certain measurements during, or while a patient is recovering from, a procedure or surgery which must meet current performance standards according to its manufacturer's guidelines for the specific device, instrument, or tool, as applicable.

(g) "Major blood vessels" means a group of critical arteries and veins, including the aorta, coronary arteries, pulmonary arteries, superior and inferior vena cava, pulmonary veins, and any intra-cerebral artery or vein.

(h) "Office surgery" means a physician's office in which surgical procedures are performed by a physician for the practice of medicine as authorized by this section and board rule. The office must be an office at which a physician regularly performs consultations with surgical patients, preoperative examinations, and postoperative care, as necessitated by the standard of care related to the surgeries performed at the physician's office, and at which patient records are readily maintained and available. The types of procedures or surgeries performed in an office surgery are those which need not be performed in a facility licensed under chapter 390 or chapter 395, and are not of the type that:

1. Generally result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin count;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for

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laparoscopic procedures;

3. Involve major blood vessels and are performed with direct visualization by open exposure of the major vessel, except for percutaneous endovascular intervention; or

4. Are generally emergent or life threatening in nature.

(i) "Pediatric patient" means a patient who is 13 years of age or younger.

(j) "Percutaneous endovascular intervention" means a procedure performed without open direct visualization of the target vessel, and requires only needle puncture of an artery or vein followed by insertion of catheters, wires, or similar devices that are then advanced through the blood vessels using imaging guidance. Once the catheter reaches the intended location, various maneuvers to address the diseased area may be performed, including, but not limited to, injection of contrast medium for imaging; treatment of vessels with angioplasty; atherectomy; covered or uncovered stenting; embolization or intentionally occluding vessels or organs; and delivering medications or radiation or other energy, such as laser, radiofrequency, or cryo.

(k) "Reasonable proximity" means a distance that does not exceed 30 minutes of transport time to the hospital.

(l) "Surgery" means any manual or operative procedure performed upon the body of a living human being, including, but not limited to, those performed with the use of lasers, for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting a deformity or defect, prolonging life, relieving suffering, or any elective procedure for aesthetic, reconstructive, or cosmetic purposes. The term

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includes, but is not limited to, incision or curettage of tissue or an organ; suture or other repair of tissue or an organ, including a closed as well as an open reduction of a fracture; extraction of tissue, including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic.

(3) GENERAL REQUIREMENTS FOR OFFICE SURGERY.—

(a) The physician performing the surgery must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The physician performing the surgery may delegate the preoperative heart and lung evaluation to a qualified anesthesia provider within the scope of the provider's practice and, if applicable, protocol.

(b) The physician performing the surgery shall maintain complete patient records of each surgical procedure performed, which must include all of the following:

1. The patient's name, patient number, preoperative diagnosis, postoperative diagnosis, surgical procedure, anesthetic, anesthesia records, recovery records, and complications, if any.

2. The name of each member of the surgical team, including the surgeon, first assistant, anesthesiologist, nurse anesthetist, anesthesiologist assistant, circulating nurse, and operating room technician, as applicable.

(c) Each office surgery's designated physician shall ensure that the office surgery has procedures in place to verify that all of the following have occurred before any surgery is

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performed:

1. The patient has signed the informed consent form for the procedure reflecting the patient's knowledge of identified risks of the procedure, consent to the procedure, the type of anesthesia and anesthesia provider to be used during the procedure, and the fact that the patient may choose the type of anesthesia provider for the procedure, such as an anesthesiologist, a certified registered nurse anesthetist, a physician assistant, an anesthesiologist assistant, or another appropriately trained physician as provided by board rule.

2. The patient's identity has been verified.

3. The operative site has been verified.

4. The operative procedure to be performed has been verified with the patient.

5. All of the information and actions required to be verified under this paragraph are documented in the patient's medical record.

(d) With respect to the requirements set forth in paragraph (c), written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

(e) The physician performing the surgery shall maintain a log of all liposuction procedures performed at the office surgery where more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed and where Level II and Level III surgical procedures are performed. The log must, at a minimum, include all of the following:

1. A confidential patient identifier.

2. Time of arrival in the operating suite.

3. The name of the physician performing the procedure.

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4. The patient's diagnosis, CPT codes used for the procedure, the patient's classification for risk with anesthesia according to the American Society of Anesthesiologists' physical status classification system, and the type of procedure and level of surgery performed.

5. Documentation of completion of the medical clearance performed by the anesthesiologist or the physician performing the surgery.

6. The name and provider type of the anesthesia provider and the type of anesthesia used.

7. The duration of the procedure.

8. Any adverse incidents as identified in s. 458.351.

9. The type of postoperative care, duration of recovery, disposition of the patient upon discharge, including the address of where the patient is being discharged, discharge instructions, and list of medications used during surgery and recovery.

All surgical and anesthesia logs must be kept at the office surgery and maintained for 6 years after the date of last patient contact and must be provided to department investigators upon request.

(f) For any liposuction procedure, the physician performing the surgery is responsible for determining the appropriate amount of supernatant fat to be removed from a particular patient. A maximum of 4,000 cubic centimeters of supernatant fat may be removed by liposuction in the office surgery setting. A maximum of 50mg/kg of lidocaine may be injected for tumescent liposuction in the office surgery setting.

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(g)1. Liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III operation, only in the following circumstances:

a. When combined with an abdominoplasty, liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

b. When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

2. Major liposuction in excess of 1,000 cubic centimeters of supernatant fat may not be performed on a patient's body in a location that is remote from the site of another procedure being performed on that patient.

(h) For elective cosmetic and plastic surgery procedures performed in a physician's office, the maximum planned duration of all surgical procedures combined may not exceed 8 hours. Except for elective cosmetic and plastic surgery, the physician performing the surgery may not keep patients past midnight in a physician's office. For elective cosmetic and plastic surgical procedures, the patient must be discharged within 24 hours after presenting to the office for surgery. However, an overnight stay is allowed in the office if the total time the patient is at the office does not exceed 23 hours and 59 minutes, including the surgery time. An overnight stay in a physician's office for elective cosmetic and plastic surgery must be strictly limited to the physician's office. If the patient has not recovered sufficiently to be safely discharged within the timeframes set forth, the patient must be transferred to a hospital for continued postoperative care.

(i) The Standards of the American Society of

Anesthesiologists for Basic Anesthetic Monitoring are hereby adopted and incorporated by reference as the standards for anesthetic monitoring by any qualified anesthesia provider under this section.

1. These standards apply to general anesthetics, regional anesthetics, and monitored Level II and III anesthesia care. However, in emergency circumstances, appropriate life support measures take priority. These standards may be exceeded at any time based on the judgment of the responsible supervising physician or anesthesiologist. While these standards are intended to encourage quality patient care, observing them does not guarantee any specific patient outcome. This set of standards addresses only the issue of basic anesthesia monitoring, which is only one component of anesthesia care.

2. In certain rare or unusual circumstances, some of these methods of monitoring may be clinically impractical, and appropriate use of the described monitoring methods may fail to detect adverse clinical developments. In such cases, a brief interruption of continual monitoring may be unavoidable and does not by itself constitute a violation of the standards of practice of this section.

3. Under extenuating circumstances, the physician performing the surgery or the anesthesiologist may waive the following requirements:

a. The use of an oxygen analyzer with a low oxygen concentration limit alarm, or other technology authorized under board rule which equals or exceeds the quality of the oxygen analyzer, during the administration of general anesthesia with an anesthesia machine.

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b. The use of pulse oximetry with a variable pitch pulse tone and an audible low threshold alarm, or other technology authorized under board rule which equals or exceeds the quality of a pulse oximeter, and the use of adequate illumination and exposure of the patient to assess color.

c. The use of capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy as a quantitative method of analyzing the end-tidal carbon dioxide for continual monitoring for the presence of expired carbon dioxide during ventilation, from the time of the endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location.

d. The use of continuous electrocardiogram display, or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram display, from the beginning of anesthesia until preparing to leave the anesthetizing location.

e. The measuring of arterial blood pressure and heart rate evaluated at least every 5 minutes during anesthesia.

When any of the monitoring is waived for extenuating circumstances under this subparagraph, it must be documented in a note in the patient’s medical record, including the reasons for the need to waive the requirement. These standards are not intended for the application to the care of an obstetrical patient in labor or in the conduct of pain management.

(j)1. Because of the rapid changes in patient status during

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anesthesia, qualified anesthesia personnel must be continuously present in the room to provide anesthesia care for the entire duration of all general anesthetics, regional anesthetics, and monitored anesthesia care conducted on the patient. In the event that there is a direct known hazard, such as radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthesia, the best judgment of the supervising physician or anesthesiologist shall be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthesia during the temporary absence.

2. During all anesthesia, the patient's oxygenation, ventilation, circulation, and temperature must be continually evaluated to ensure adequate oxygen concentration in the inspired gas and the blood.

a. During all general anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system must be measured by an oxygen analyzer with a low oxygen concentration limit alarm used to measure blood oxygenation.

b. During all anesthesia, a quantitative method of assessing oxygenation, such as pulse oximetry, must be employed. When a pulse oximeter is used, the variable pitch pulse tone and the low threshold alarm must be audible to the qualified anesthesia provider. Adequate illumination and exposure of the patient are necessary to assess color.

c. During all anesthesia, every patient must have the

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adequacy of his or her ventilation continually evaluated, including, but not limited to, the evaluation of qualitative clinical signs, such as chest excursion, observation of the reservoir breathing bag, and auscultation of breath sounds. Continual monitoring for the presence of expired carbon dioxide must be performed unless invalidated by the nature of the patient's condition, the procedure, or the equipment. Quantitative monitoring of the volume of expired gas must also be performed.

d. When an endotracheal tube or supraglottic airway is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location, must be performed using a quantitative method, such as capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy. When capnography or capnometry is used, the end-tidal carbon dioxide alarm must be audible to the qualified anesthesia provider.

e. When ventilation is controlled by a mechanical ventilator, there must be in continuous use a device capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

f. During regional anesthesia without sedation or local anesthesia with no sedation, the adequacy of ventilation must be

evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. Monitoring for the presence of exhaled carbon dioxide is recommended.

g. Every patient receiving anesthesia must have the electrocardiogram or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.

h. Every patient receiving anesthesia must have arterial blood pressure and heart rate determined and evaluated at least every 5 minutes.

i. Every patient receiving general anesthesia must have circulatory function continually evaluated by at least one of the following methods:

(I) Palpation of a pulse.

(II) Auscultation of heart sounds.

(III) Monitoring of a tracing of intra-arterial pressure.

(IV) Ultrasound peripheral pulse monitoring.

(V) Pulse plethysmography or oximetry.

(VI) Other technology authorized under board rule which equals or exceeds the quality of any of the methods listed in sub-sub-subparagraphs (I)-(V).

j. Every patient receiving anesthesia must have his or her temperature monitored when clinically significant changes in body temperature are intended, anticipated, or suspected.

(k)1. The physician performing the surgery shall ensure that the postoperative care arrangements made for the patient

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are adequate for the procedure being performed, as required by board rule.

2. Management of postoperative care is the responsibility of the physician performing the surgery and may be delegated as determined by board rule. If the physician performing the surgery is unavailable to provide postoperative care, the physician performing the surgery must notify the patient of his or her unavailability for postoperative care before the procedure.

3. If there is an overnight stay at the office in relation to any surgical procedure:

a. The office must provide at least two persons to act as monitors, one of whom must be certified in advanced cardiac life support, and maintain a monitor-to-patient ratio of at least one monitor to two patients.

b. Once the physician performing the surgery has signed a timed and dated discharge order, the office may provide only one monitor to monitor the patient. The monitor must be qualified by licensure and training to administer all of the medications required on the crash cart and must be certified in advanced cardiac life support.

c. A complete and current crash cart must be present in the office surgery and immediately accessible for the monitors.

4. The physician performing the surgery must be reachable by telephone and readily available to return to the office if needed.

5. A policy and procedures manual must be maintained in the office at which Level II and Level III procedures are performed. The manual must be updated and implemented annually. The policy

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and procedures manual must provide for all of the following:

a. Duties and responsibilities of all personnel.

b. A quality assessment and improvement system designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and opportunities to improve performance.

c. Cleaning procedures and protocols.

d. Sterilization procedures.

e. Infection control procedures and personnel responsibilities.

f. Emergency procedures.

6. The designated physician shall establish a risk management program that includes all of the following components:

a. The identification, investigation, and analysis of the frequency and causes of adverse incidents.

b. The identification of trends or patterns of adverse incidents.

c. The development of appropriate measures to correct, reduce, minimize, or eliminate the risk of adverse incidents.

d. The documentation of such functions and periodic review of such information at least quarterly by the designated physician.

7. The designated physician shall report to the department any adverse incidents that occur within the scope of office surgeries. This report must be made within 15 days after the occurrence of an incident as required by s. 458.351.

8. The designated physician is responsible for prominently posting a sign in the office which states that the office is a

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doctor's office regulated under this section and ss. 458.328, 458.3281, and 459.0138 and the applicable rules of the Board of Medicine and the Board of Osteopathic Medicine as set forth in rules 64B8 and 64B15, Florida Administrative Code. This notice must also appear prominently within the required patient informed consent form.

9. All physicians performing surgery at the office surgery must be qualified by education, training, and experience to perform any procedure the physician performs in the office surgery.

10. When Level II, Level II-A, or Level III procedures are performed in an office surgery setting, the physician performing the surgery is responsible for providing the patient, in writing, before the procedure, with the name and location of the hospital where the physician performing the surgery has privileges to perform the same procedure as the one being performed in the office surgery setting, and the name and location of the hospital with which the physician performing the surgery has a transfer agreement in the event of an emergency.

(4) LEVEL I OFFICE SURGERY.—

(a) *Scope.*—Level I office surgery includes the following:

1. Minor procedures such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue which are performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient.

2. Liposuction involving the removal of less than 4,000 cubic centimeters of supernatant fat.

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3. Incision and drainage of superficial abscesses; limited endoscopies, such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of the urethra, cystoscopic procedures, and closed reduction of simple fractures; or small joint dislocations, such as in the finger or toe joints.

4. Procedures in which anesthesia is limited to minimal sedation. The patient's level of sedation must be that of minimal sedation and anxiolysis, and the chances of complications requiring hospitalization must be remote. As used in this sub-subparagraph, the term "minimal sedation and anxiolysis" means a drug-induced state during which patients respond normally to verbal commands, and although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions remain unaffected. Controlled substances, as defined in ss. 893.02 and 893.03, must be limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

5. Procedures for which chances of complications requiring hospitalization are remote as specified in board rule.

(b) *Standards of practice.*—Standards of practice for Level I office surgery include all of the following:

1. The medical education, training, and experience of the physician performing the surgery must include training on proper dosages and management of toxicity or hypersensitivity to regional anesthetic drugs, and the physician must be certified in advanced cardiac life support.

2. At least one operating assistant must be certified in

basic life support.

3. Intravenous access supplies, oxygen, oral airways, and a positive pressure ventilation device must be available in the office surgery, along with the following medications, stored per the manufacturer's recommendation:

a. Atropine, 3 mg.

b. Diphenhydramine, 50 mg.

c. Epinephrine, 1 mg in 10 ml.

d. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

e. Hydrocortisone, 100 mg.

f. If a benzodiazepine is administered, flumazenil, 0.5 mg in 5 ml vial, 2 vials total.

g. If an opiate is administered, naloxone, 0.4 mg in 1 ml vial, 2 vials total.

4. When performing minor procedures, such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia in an office surgery setting, physicians performing the procedure are exempt from subparagraphs 1.-3. Current certification in basic life support is recommended but not required.

5. A physician performing the surgery need not have an assistant during the procedure unless the specific procedure being performed requires an assistant.

(5) LEVEL II OFFICE SURGERY.—

(a) *Scope.*—Level II office surgery includes, but is not limited to, all of the following procedures:

1. Hemorrhoidectomy.

2. Hernia repair.

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3. Large joint dislocations.

4. Colonoscopy.

5. Liposuction involving the removal of up to 4,000 cubic centimeters of supernatant fat.

6. Any other procedure the board designates by rule as a Level II office surgery.

7. Surgeries in which the patient's level of sedation is that of moderate sedation and analgesia or conscious sedation. As used in this subparagraph, the term "moderate sedation and analgesia or conscious sedation" is a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation; interventions are not required to maintain a patent airway; spontaneous ventilation is adequate; and cardiovascular function is maintained. For purposes of this term, a patient reflexively withdrawing from a painful stimulus is not considered a purposeful response.

(b) *Standards of practice.*—Standards of practice for Level II office surgery include, but are not limited to, the following:

1. The physician performing the surgery, or the office where the procedure is being performed, must have a transfer agreement with a licensed hospital within reasonable proximity if the physician performing the procedure does not have staff privileges to perform the same procedure as that being performed in the office surgery setting at a licensed hospital within reasonable proximity. The transfer agreement required by this section must be current and have been entered into no more than 3 years before the date of the office's most recent annual

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inspection under s. 458.328. A transfer agreement must affirmatively disclose an effective date and a termination date.

2. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board eligibility by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine, or must be able to establish comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedures being performed by the physician in the office surgery facility.

3. One assistant must be currently certified in basic life support.

4. The physician performing the surgery must be currently certified in advanced cardiac life support.

5. A complete and current crash cart must be available at all times at the location where the anesthesia is being administered. The designated physician of an office surgery is responsible for ensuring that the crash cart is replenished after each use, the expiration dates for the crash cart’s medications are checked weekly, and crash cart events are documented in the cart’s logs. Medicines must be stored per the manufacturer’s recommendations, and multi-dose vials must be dated once opened and checked daily for expiration. The crash cart must, at a minimum, include the following intravenous or inhaled medications:

a. Adenosine, 18 mg.

b. Albuterol, 2.5 mg with a small volume nebulizer.

c. Amiodarone, 300 mg.

d. Atropine, 3 mg.

e. Calcium chloride, 1 gram.

f. Dextrose, 50 percent; 50 ml.

g. Diphenhydramine, 50 mg.

h. Dopamine, 200 mg, minimum.

i. Epinephrine, 1 mg, in 10 ml.

j. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

k. Flumazenil, 1 mg.

l. Furosemide, 40 mg.

m. Hydrocortisone, 100 mg.

n. Lidocaine appropriate for cardiac administration, 100 mg.

o. Magnesium sulfate, 2 grams.

p. Naloxone, 1.2 mg.

q. A beta blocker class drug.

r. Sodium bicarbonate, 50 mEq/50 ml.

s. Paralytic agent that is appropriate for use in rapid sequence intubation.

t. A calcium channel blocker class drug.

u. If nonneuraxial regional blocks are performed, Intralipid, 20 percent, 500 ml solution.

v. Any additional medication the board determines by rule is warranted for patient safety and by the evolution of technology and medical practice.

6. In the event of a drug shortage, the designated physician is authorized to substitute a therapeutically

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equivalent drug that meets the prevailing practice standards.

7. The designated physician is responsible for ensuring that the office maintains documentation of its unsuccessful efforts to obtain the required drug.

8. The designated physician is responsible for ensuring that the following are present in the office surgery:

a. A benzodiazepine.

b. A positive pressure ventilation device, such as Ambu, plus oxygen supply.

c. An end-tidal carbon dioxide detection device.

d. Monitors for blood pressure, electrocardiography, and oxygen saturation.

e. Emergency intubation equipment that must, at a minimum, include suction devices, endotracheal tubes, working laryngoscopes, oropharyngeal airways, nasopharyngeal airways, and bag valve mask apparatus that are sized appropriately for the specific patient.

f. A working defibrillator with defibrillator pads or defibrillator gel, or an automated external defibrillator unit.

g. Sufficient backup power to allow the physician performing the surgery to safely terminate the procedure and to allow the patient to emerge from the anesthetic, all without compromising the sterility of the procedure or the environment of care.

h. Working sterilization equipment cultured weekly.

i. Sufficient intravenous solutions and equipment for a minimum of a week’s worth of surgical cases.

j. Any other equipment required by board rule, as warranted by the evolution of technology and medical practice.

9. The physician performing the surgery must be assisted by a qualified anesthesia provider, which may include any of the following types of providers:

a. An anesthesiologist.

b. A certified registered nurse anesthetist.

c. A registered nurse, if the physician performing the surgery is certified in advanced cardiac life support and the registered nurse assists only with local anesthesia or conscious sedation.

An anesthesiologist assistant may assist the anesthesiologist as provided by board rule. An assisting anesthesia provider may not function in any other capacity during the procedure.

10. If additional anesthesia assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician.

11. The designated physician is responsible for ensuring that each patient is monitored in the recovery room until the patient is fully recovered from anesthesia. Such monitoring must be provided by a licensed physician, physician assistant, registered nurse with postanesthesia care unit experience, or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(6) LEVEL II-A OFFICE SURGERY.—

(a) *Scope*.—Level II-A office surgeries are those Level II office surgeries that have a maximum planned duration of 5

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minutes or less and in which the chances of complications requiring hospitalization are remote.

(b) *Standards of practice.*—

1. All practice standards for Level II office surgery set forth in paragraph (5)(b) must be met for Level II-A office surgery except for the requirements set forth in subparagraph (5)(b)9. regarding assistance by a qualified anesthesia provider.

2. During the surgical procedure, the physician performing the surgery must be assisted by a licensed physician, physician assistant, registered nurse, or licensed practical nurse.

3. Additional assistance may be required by specific procedure or patient circumstances.

4. Following the procedure, a licensed physician, physician assistant, or registered nurse must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia. The monitoring provider must be currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(7) LEVEL III OFFICE SURGERY.—

(a) *Scope.*—

1. Level III office surgery includes those types of surgery during which the patient's level of sedation is that of deep sedation and analgesia or general anesthesia. As used in this subparagraph, the term:

a. "Deep sedation and analgesia" means a drug-induced depression of consciousness during which:

(I) Patients cannot be easily aroused but respond

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purposefully following repeated or painful stimulation;

(II) The ability to independently maintain ventilatory function may be impaired;

(III) Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate; and

(IV) Cardiovascular function is usually maintained.

For purposes of this sub-subparagraph, a reflexive withdrawal from a painful stimulus by a patient is not considered a purposeful response.

b. "General anesthesia" means a drug-induced loss of consciousness during which:

(I) Patients are not arousable, even by painful stimulation;

(II) The ability to independently maintain ventilatory function is often impaired;

(III) Patients often require assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(IV) Cardiovascular function may be impaired.

2. The use of spinal or epidural anesthesia for a procedure requires that the procedure be considered a Level III office surgery.

3. Only patients classified under the American Society of Anesthesiologists' (ASA) risk classification criteria as Class I or Class II are appropriate candidates for a Level III office surgery.

a. All Level III office surgeries on patients classified as

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ASA III or higher must be performed only in a hospital or ambulatory surgical center.

b. For all ASA II patients above the age of 50, the physician performing the surgery must obtain a complete workup performed before the performance of a Level III office surgery in the office surgery setting.

c. If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative electrocardiogram and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.

(b) *Standards of practice.*—Practice standards for Level III office surgery include all Level II office surgery standards and all of the following requirements:

1. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board qualification by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine, or must be able to demonstrate to the accrediting organization or to the department comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedure being performed by the physician performing the surgery in the office surgery setting. In addition, the physician performing the surgery must have knowledge of the

principles of general anesthesia.

2. The physician performing the surgery must be currently certified in advanced cardiac life support.

3. At least one operating assistant must be currently certified in basic life support.

4. An emergency policy and procedures manual related to serious anesthesia complications must be available in the office surgery and reviewed biannually by the designated physician, practiced with staff, updated, and posted in a conspicuous location in the office. Topics to be covered in the manual must include all of the following:

a. Airway blockage and foreign body obstruction.

b. Allergic reactions.

c. Bradycardia.

d. Bronchospasm.

e. Cardiac arrest.

f. Chest pain.

g. Hypoglycemia.

h. Hypotension.

i. Hypoventilation.

j. Laryngospasm.

k. Local anesthetic toxicity reaction.

l. Malignant hyperthermia.

m. Any other topics the board determines by rule are warranted for patient safety and by the evolution of technology and medical practice.

5. An office surgery performing Level III office surgeries must maintain all of the equipment and medications required for Level II office surgeries and comply with all of the following

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additional requirements:

a. Maintain at least 720 mg of dantrolene on site if halogenated anesthetics or succinylcholine are used.

b. Equipment and medication for monitored postanesthesia recovery must be available in the office.

6. Anesthetic safety regulations must be developed, posted in a conspicuous location in the office, and enforced by the designated physician. Such regulations must include all of the following requirements:

a. All operating room electrical and anesthesia equipment must be inspected at least semiannually, and a written record of the results and corrective actions must be maintained.

b. Flammable anesthetic agents may not be employed in office surgery facilities.

c. Electrical equipment in anesthetizing areas must be on an audiovisual line isolation monitor, with the exception of radiologic equipment and fixed lighting more than 5 feet above the floor.

d. Each anesthesia gas machine must have a pin-index system or equivalent safety system and a minimum oxygen flow safety device.

e. All reusable anesthesia equipment in direct contact with a patient must be cleaned or sterilized as appropriate after each use.

f. The following monitors must be applied to all patients receiving conduction or general anesthesia:

(I) Blood pressure cuff.

(II) A continuous temperature device, readily available to measure the patient’s temperature.

(III) Pulse oximeter.

(IV) Electrocardiogram.

(V) An inspired oxygen concentration monitor and a capnograph, for patients receiving general anesthesia.

g. Emergency intubation equipment must be available in all office surgery suites.

h. Surgical tables must be capable of Trendelenburg and other positions necessary to facilitate surgical procedures.

i. An anesthesiologist, a certified registered nurse anesthetist, an anesthesiologist assistant, or a physician assistant qualified as set forth in board rule must administer the general or regional anesthesia.

j. A physician, a registered nurse, a licensed practical nurse, a physician assistant, or an operating room technician must assist with the surgery. The anesthesia provider may not function in any other capacity during the procedure.

k. The patient must be monitored in the recovery room until he or she has fully recovered from anesthesia. The monitoring must be provided by a physician, a physician assistant, a certified registered nurse anesthetist, an anesthesiologist assistant, or a registered nurse with postanesthesia care unit experience or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(8) RULEMAKING.—The board may adopt by rule additional standards of practice for physicians who perform office surgeries or procedures under this section as warranted for patient safety and by the evolution of technology and medical

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practice.

Section 3. Section 459.0138, Florida Statutes, is amended to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(a)~~1.~~ An office in which a physician performs or intends to perform a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure during which the patient is rotated between the supine, lateral, and prone positions, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

(b)~~2.~~ The department must complete an inspection of any office seeking registration under this section before the office may be registered.

1. The inspection of the office seeking registration under this section must include inspection for compliance with the standards of practice set out in this section and s. 458.3281 and any applicable board rules for the levels of office surgery and procedures listed on the application which any physician practicing at the office performs or intends to perform. The application must be updated within 10 calendar days before any additional surgical procedures or levels of office surgery are to be performed at the office. Failure to timely update the application for any such additional surgical procedures or levels of office surgery is a violation of this section and subject to discipline under ss. 456.072 and 459.015.

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2. The department must immediately suspend the registration process of an office that refuses an inspection under subparagraph 1., and the applicant must be required to reapply for registration.

3. If the department determines that an office seeking registration under this section is one in which a physician may perform, or intends to perform, liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure, or in which a physician may perform, or intends to perform, gluteal fat grafting procedures, the office must provide proof to the department that it has met the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, and s. 458.3281 and the applicable rules adopted thereunder, and the department must inspect the office to ensure that all of the following are present or in place:

a. Equipment and a procedure for measuring and documenting in a log the amount of supernatant fat removed, both temporarily and permanently, from a particular patient, including tissue disposal procedures.

b. A procedure for measuring and documenting the amount of lidocaine injected for tumescent liposuction, if used.

c. Working ultrasound guidance equipment or other guidance technology authorized under board rule which equals or exceeds the quality of ultrasound guidance.

d. The office procedure for obtaining blood products.

e. Documentation on file at the office demonstrating that any physician performing these procedures has privileges to perform such procedures in a hospital no more than 20 minutes

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away.

f. Procedures for emergency resuscitation and transport to a hospital.

g. Procedures for anesthesia and surgical recordkeeping.

h. Any additional inspection requirements, as set by board rule.

4. If an applicant is unable to provide proof to the department that the office seeking registration is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 459.0139 or the applicable rules adopted thereunder, in accordance with subparagraph 3., the department must notify the Agency for Health Care Administration and request the agency to inspect the office and consult with the office about the process to apply for ambulatory surgical center licensure under chapter 395 and how the office may seek qualification for such licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

(c)~~(b)~~ To be ~~By January 1, 2020, each office~~ registered under this section or s. 458.328, an office must, at the time of application, list a designated ~~designate a~~ physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 458 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of

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a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may not register an office if the office fails to comply with this requirement at the time of application and must seek an emergency suspension of the ~~suspend a~~ registration of ~~for~~ an office pursuant to s. 456.074(6) if the office fails to timely notify the department of its new designated physician within 10 calendar days after the termination of the previous designated physician relationship ~~comply with the requirements of this paragraph~~.

(d) As a condition of registration, each office must, at the time of application, list all medical personnel who will be practicing at the office, including all of the following:

1. Physicians who intend to practice surgery or assist in surgery at the office seeking registration, including their respective license numbers and practice addresses.

2. Anesthesia providers, including their license numbers.

3. Nursing personnel licensed under chapter 464, including their license numbers unless already provided under subparagraph 2.

4. Physician assistants, including their respective license numbers and supervising physicians.

The office must notify the department of the addition or termination of any of the types of medical personnel specified under this paragraph within 10 calendar days before such addition or after such termination. Failure to timely notify the department of such addition or termination is a violation of this section and subject to discipline under ss. 456.072 and

459.015.

(e) ~~(c)~~ As a condition of registration, each office must establish financial responsibility by demonstrating that it has met and continues to maintain, at a minimum, the same requirements applicable to physicians in ss. 458.320 and 459.0085. Each physician practicing at an office registered under this section or s. 458.328 must meet the financial responsibility requirements under s. 458.320 or s. 459.0085, as applicable.

(f) ~~(d)~~ Each physician practicing or intending to practice at an office registered under this section or s. 458.328 must ~~shall~~ advise the board, in writing, within 10 calendar days before ~~after~~ beginning or after ending his or her practice at a ~~the~~ registered office, as applicable.

(g) ~~(e)1.~~ The department shall inspect a registered office at least annually, including a review of patient records, to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited in office-based surgery by the Joint Commission or other ~~a~~ nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of an office that meets the description of a clinic specified in s. 459.0137(1)(a)3.h., and those wholly owned and operated physician offices described in s. 459.0137(1)(a)3.g. which perform procedures referenced in s. 459.0137(1)(a)3.h., which must be announced.

(h) ~~2.~~ The department must immediately suspend the registration of a registered office that refuses an inspection under paragraph (g) ~~subparagraph 1~~. The office must close during

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such suspension. The suspension must remain in effect for at least 14 consecutive days and may not terminate until the department issues a written declaration that the office may reopen following the department's completion of an inspection of the office.

(i) ~~(f)~~ The department may suspend or revoke the registration of an office in which a procedure or surgery identified in paragraph (a) is performed for failure of any of its physicians, owners, or operators to comply with this section and rules adopted hereunder or s. 458.328 and rules adopted thereunder. If an office's registration is revoked for any reason, the department may deny any person named in the registration documents of the office, including the persons who own or operate the office, individually or as part of a group, from registering an office to perform procedures or office surgeries pursuant to this section or s. 458.328 for 5 years after the revocation date.

(j) ~~(g)~~ The department may impose any penalty set forth in s. 456.072(2) against the designated physician for failure of the office to operate in compliance with the office health and safety requirements of this section and rules adopted hereunder or s. 458.328 and rules adopted thereunder.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(k) ~~(i)~~ The actual costs of registration and inspection or accreditation must ~~shall~~ be paid by the person seeking to

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register and operate the office in which a procedure or surgery identified in paragraph (a) will be performed.

(2) REGISTRATION UPDATE.—

(a) An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure or in which a physician performs gluteal fat grafting procedures must provide a registration update to the department consistent with the requirements of the initial registration under subsection (1) no later than 30 days before the office surgery's next annual inspection.

(b) Registration update inspections required under subsection (1) must be performed by the department on the date of the office surgery's next annual inspection.

(c) During the registration update process, the office surgery may continue to operate under the original registration.

(d) In order to provide an office surgery time to update to the requirements of subsection (1) and s. 459.0139, effective July 1, 2024, and the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, any office surgery registered under this section before July 1, 2024, whose annual inspection is due in July or August 2024, may request from the department, in writing, a 60-day postponement of the required annual inspection, which must be granted.

(e) All other requests to the department for a postponement of the required registration update inspection under this registration update process must be in writing and be approved by the chair of the Board of Medicine for good cause shown, and

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such postponement may not exceed 30 days.

(3) STANDARDS OF PRACTICE.—

(a) A physician performing a procedure or surgery in an office registered under this section must comply with the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice for office surgery set forth in this section and s. 459.0139.

(b) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(c) ~~(b)~~ Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(d) ~~(c)~~ A physician performing a gluteal fat grafting procedure in an office surgery setting must comply with the applicable provisions of s. 469 of the Florida Building Code,

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relating to office surgery suites, and the standards of practice under this subsection and s. 459.0139 and applicable rules adopted thereunder, including, but not limited to, all of the following standards of practice:

1. The ~~A~~ physician performing the ~~a~~ gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other

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portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures shall at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(e) ~~(d)~~ If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) ~~(3)~~ RULEMAKING.—

(a) The board may ~~shall~~ adopt by rule additional standards of practice for physicians who perform office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section, as warranted for patient safety and by the evolution of technology and medical practice.

(b) The board may adopt rules to administer the

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registration, registration update, inspection, and safety of offices in which a physician performs office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section.

Section 4. Section 459.0139, Florida Statutes, is created to read:

459.0139 Standard of practice for office surgery.—

(1) CONSTRUCTION.—This section does not relieve a physician performing a procedure or surgery from the responsibility of making the medical determination of whether an office is an appropriate setting in which to perform that particular procedure or surgery, taking into consideration the particular patient on which the procedure or surgery is to be performed.

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

(a) "Certified in advanced cardiac life support" means a person holds a current certification in an advanced cardiac life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the Advanced Cardiovascular Life Support (ACLS) Certification Institute.

(b) "Certified in basic life support" means a person holds a current certification in a basic life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the ACLS Certification Institute.

(c) "Certified in pediatric advanced life support" means a person holds a current certification in a pediatric advanced life support course with didactic and skills components approved

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by the American Heart Association, the American Safety and Health Institute, or Pacific Medical Training.

(d) "Continual monitoring" means monitoring that is repeated regularly and frequently in steady rapid succession.

(e) "Continuous monitoring" means monitoring that is prolonged without any interruption at any time.

(f) "Equipment" means a medical device, instrument, or tool used to perform specific actions, carry out desired effects, or take certain measurements during, or while recovering from, a procedure or surgery which must meet current performance standards according to its manufacturer's guidelines for the specific device, instrument, or tool, as applicable.

(g) "Major blood vessels" means a group of critical arteries and veins, including the aorta, coronary arteries, pulmonary arteries, superior and inferior vena cava, pulmonary veins, and any intra-cerebral artery or vein.

(h) "Office surgery" means a physician's office in which surgical procedures are performed by a physician for the practice of medicine as authorized by this section and board rule. The office must be an office at which a physician regularly performs consultations with surgical patients, preoperative examinations, and postoperative care, as necessitated by the standard of care, related to the procedures performed at the physician's office, and at which patient records are readily maintained and available. The types of procedures or surgeries performed in an office surgery are those which need not be performed in a facility licensed under chapter 390 or chapter 395, and are not of the type that:

1. Generally result in blood loss of more than 10 percent

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of estimated blood volume in a patient with a normal hemoglobin count;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and are performed with direct visualization by open exposure of the major vessel, except for percutaneous endovascular intervention; or

4. Are generally emergent or life threatening in nature.

(i) "Pediatric patient" means a patient who is 13 years of age or younger.

(j) "Percutaneous endovascular intervention" means a procedure performed without open direct visualization of the target vessel and requiring only needle puncture of an artery or vein followed by insertion of catheters, wires, or similar devices which are then advanced through the blood vessels using imaging guidance. Once the catheter reaches the intended location, various maneuvers to address the diseased area may be performed, which include, but are not limited to, injection of contrast medium for imaging; treatment of vessels with angioplasty; atherectomy; covered or uncovered stenting; embolization or intentionally occluding vessels or organs; and delivering medications, radiation, or other energy, such as laser, radiofrequency, or cryo.

(k) "Reasonable proximity" means a distance that does not exceed thirty 30 minutes of transport time to the hospital.

(l) "Surgery" means any manual or operative procedure performed upon the body of a living human being, including, but not limited to, those performed with the use of lasers, for the

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purposes of preserving health, diagnosing or curing disease, repairing injury, correcting a deformity or defect, prolonging life, relieving suffering, or any elective procedure for aesthetic, reconstructive, or cosmetic purposes. The term includes, but is not limited to, incision or curettage of tissue or an organ; suture or other repair of tissue or an organ, including a closed as well as an open reduction of a fracture; extraction of tissue, including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic.

(3) GENERAL REQUIREMENTS FOR OFFICE SURGERY.—

(a) The physician performing the operation must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The physician performing the surgery may delegate the preoperative heart-lung evaluation to a qualified anesthesia provider within the scope of the provider's practice and, if applicable, protocol.

(b) The physician performing the surgery shall maintain complete patient records of each surgical procedure performed, which must include all of the following:

1. The patient's name, patient number, preoperative diagnosis, postoperative diagnosis, surgical procedure, anesthetic, anesthesia records, recovery records, and complications, if any.

2. The name of each member of the surgical team, including the surgeon, first assistant, anesthesiologist, nurse anesthetist, anesthesiologist assistant, circulating nurse, and

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operating room technician.

(c) Each office surgery's designated physician shall ensure that the office surgery has procedures in place to verify that all of the following have occurred before any surgery is performed:

1. The patient has signed the informed consent form for the procedure reflecting the patient's knowledge of identified risks of the procedure, consent to the procedure, the type of anesthesia and anesthesia provider to be used during the procedure, and the fact that the patient may choose the type of anesthesia provider for the procedure, such as an anesthesiologist, a certified registered nurse anesthetist, a physician assistant, an anesthesiologist assistant, or another appropriately trained physician as provided by board rule.

2. The patient's identity has been verified.

3. The operative site has been verified.

4. The operative procedure to be performed has been verified with the patient.

5. All of the information and actions required to be verified under this paragraph are documented in the patient's medical record.

(d) With respect to the requirement set forth in paragraph (c), written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

(e) The physician performing the surgery shall maintain a log of all liposuction procedures performed at the office surgery where more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed and where Level II and Level III surgical procedures are performed. The log must, at a

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minimum, include all of the following:

1. A confidential patient identifier.

2. Time of arrival in the operating suite.

3. The name of the physician performing the procedure.

4. The patient's diagnosis, CPT codes used for the procedure, the patient's classification for risk with anesthesia according to the American Society of Anesthesiologists' physical status classification system, and the type of procedure and level of surgery performed.

5. Documentation of completion of the medical clearance performed by the anesthesiologist or the physician performing the surgery.

6. The name and provider type of the anesthesia provider and the type of anesthesia used.

7. The duration of the procedure.

8. Any adverse incidents as identified in s. 458.351.

9. The type of postoperative care, duration of recovery, disposition of the patient upon discharge, including the address of where the patient is being discharged, discharge instructions, and list of medications used during surgery and recovery.

All surgical and anesthesia logs must be kept at the office surgery and maintained for 6 years after the date of last patient contact and must be provided to department investigators upon request.

(f) For any liposuction procedure, the physician performing the surgery is responsible for determining the appropriate amount of supernatant fat to be removed from a particular

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patient. A maximum of 4,000 cubic centimeters of supernatant fat may be removed by liposuction in the office surgery setting. A maximum of 50mg/kg of lidocaine can be injected for tumescent liposuction in the office surgery setting.

(g)1. Liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III operation only in the following circumstances:

a. When combined with an abdominoplasty, liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

b. When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

2. Major liposuction in excess of 1,000 cubic centimeters of supernatant fat may not be performed on a patient's body in a location that is remote from the site of another procedure being performed on that patient.

(h) For elective cosmetic and plastic surgery procedures performed in a physician's office, the maximum planned duration of all surgical procedures combined may not exceed 8 hours. Except for elective cosmetic and plastic surgery, the physician performing the surgery may not keep patients past midnight in a physician's office. For elective cosmetic and plastic surgical procedures, the patient must be discharged within 24 hours after presenting to the office for surgery. However, an overnight stay is allowed in the office if the total time the patient is at the office does not exceed 23 hours and 59 minutes, including the surgery time. An overnight stay in a physician's office for elective cosmetic and plastic surgery must be strictly limited to the physician's office. If the patient has not recovered

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sufficiently to be safely discharged within the timeframes set forth, the patient must be transferred to a hospital for continued postoperative care.

(i) The Standards of the American Society of Anesthesiologists for Basic Anesthetic Monitoring are hereby adopted and incorporated by reference as the standards for anesthetic monitoring by any qualified anesthesia provider under this section.

1. These standards apply to general anesthetics, regional anesthetics, and monitored Level II and III anesthesia care. However, in emergency circumstances, appropriate life support measures take priority. These standards may be exceeded at any time based on the judgment of the responsible supervising physician or anesthesiologist. While these standards are intended to encourage quality patient care, observing them does not guarantee any specific patient outcome. This set of standards addresses only the issue of basic anesthesia monitoring, which is only one component of anesthesia care.

2. In certain rare or unusual circumstances, some of these methods of monitoring may be clinically impractical, and appropriate use of the described monitoring methods may fail to detect adverse clinical developments. In such cases, a brief interruption of continual monitoring may be unavoidable and does not by itself constitute a violation of the standards of practice of this section.

3. Under extenuating circumstances, the responsible supervising physician or anesthesiologist may waive the following requirements:

a. The use of an oxygen analyzer with a low oxygen

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concentration limit alarm, or other technology authorized under board rule which equals or exceeds the quality of the oxygen analyzer, during the administration of general anesthesia with an anesthesia machine.

b. The use of pulse oximetry with a variable pitch pulse tone and an audible low threshold alarm, or other technology authorized under board rule which equals or exceeds the quality of a pulse oximeter, and the use of adequate illumination and exposure of the patient to assess color.

c. The use of capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy, as a quantitative method of analyzing the end-tidal carbon dioxide for continual monitoring for the presence of expired carbon dioxide during ventilation from the time of the endotracheal tube or supraglottic airway placement, until extubation or removal or initiating transfer of the patient to a postoperative care location.

d. The use of continuous electrocardiogram display, or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram display, from the beginning of anesthesia until preparing to leave the anesthetizing location.

e. The measuring of arterial blood pressure and heart rate evaluated at least every 5 minutes during anesthesia.

When any of the monitoring is waived for extenuating circumstances under this subparagraph, it must be documented in a note in the patient’s medical record, including the reasons

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for the need to waive the requirement. These standards are not intended for the application to the care of an obstetrical patient in labor or in the conduct of pain management.

(j)1. Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel must be continuously present in the room to monitor the patient and provide anesthesia care for the entire duration of all general anesthetics, regional anesthetics, and monitored anesthesia care conducted on the patient. In the event that there is a direct known hazard, such as radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthetic, the best judgment of the supervising physician or anesthesiologist shall be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthetic during the temporary absence.

2. During all anesthetics, the patient's oxygenation, ventilation, circulation, and temperature must be continually evaluated to ensure adequate oxygen concentration in the inspired gas and the blood during all anesthetics.

a. During all general anesthesia using an anesthesia machine, the concentration of oxygen in the patient breathing system must be measured by an oxygen analyzer with a low oxygen concentration limit alarm used to measure blood oxygenation.

b. During all anesthetics, a quantitative method of assessing oxygenation, such as pulse oximetry, must be employed. When a pulse oximeter is used, the variable pitch pulse tone and

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the low threshold alarm must be audible to the qualified anesthesia provider. Adequate illumination and exposure of the patient are necessary to assess color.

c. During all anesthetics, every patient must have the adequacy of his or her ventilation continually evaluated, including, but not limited to, the evaluation of qualitative clinical signs, such as chest excursion, observation of the reservoir breathing bag, and auscultation of breath sounds. Continual monitoring for the presence of expired carbon dioxide must be performed unless invalidated by the nature of the patient's condition, the procedure, or the equipment. Quantitative monitoring of the volume of expired gas is strongly encouraged.

d. When an endotracheal tube or supraglottic airway is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location, must be performed using a quantitative method, such as capnography, capnometry, or mass spectroscopy or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy. When capnography or capnometry is used, the end-tidal carbon dioxide alarm must be audible to the qualified anesthesia provider.

e. When ventilation is controlled by a mechanical ventilator, there must be in continuous use a device that is capable of detecting disconnection of components of the

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breathing system. The device must give an audible signal when its alarm threshold is exceeded.

f. During regional anesthesia without sedation or local anesthesia with no sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. Monitoring for the presence of exhaled carbon dioxide is recommended.

g. Every patient receiving anesthesia must have the electrocardiogram or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.

h. Every patient receiving anesthesia must have arterial blood pressure and heart rate determined and evaluated at least every 5 minutes.

i. Every patient receiving general anesthesia must have circulatory function continually evaluated by at least one of the following methods:

(I) Palpation of a pulse.

(II) Auscultation of heart sounds.

(III) Monitoring of a tracing of intra-arterial pressure.

(IV) Ultrasound peripheral pulse monitoring.

(V) Pulse plethysmography or oximetry.

(VI) Other technology authorized under board rule which equals or exceeds the quality of any of the methods listed in sub-sub-subparagraphs (I)-(V).

j. Every patient receiving anesthesia must have his or her

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temperature monitored when clinically significant changes in body temperature are intended, anticipated, or suspected.

(k)1. The physician performing the surgery shall ensure that the postoperative care arrangements made for the patient are adequate for the procedure being performed, as required by board rule.

2. Management of postoperative care is the responsibility of the physician performing the surgery and may be delegated as determined by board rule. If the physician performing the surgery is unavailable to provide postoperative care, the physician performing the surgery must notify the patient of his or her unavailability for postoperative care before the procedure.

3. If there is an overnight stay at the office in relation to any surgical procedure:

a. The office must provide at least two persons to act as monitors, one of whom must be certified in advanced cardiac life support, and maintain a monitor-to-patient ratio of at least one monitor to two patients.

b. Once the physician performing the surgery has signed a timed and dated discharge order, the office may provide only one monitor to monitor the patient. The monitor must be qualified by licensure and training to administer all of the medications required on the crash cart and must be certified in advanced cardiac life support.

c. A complete and current crash cart must be present in the office surgery and immediately accessible for the monitors.

4. The physician performing the surgery must be reachable by telephone and readily available to return to the office if

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needed.

5. A policy and procedures manual must be maintained in the office at which Level II and Level III procedures are performed. The manual must be updated and implemented annually. The policy and procedures manual must provide for all of the following:

a. Duties and responsibilities of all personnel.

b. A quality assessment and improvement system designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and opportunities to improve performance.

c. Cleaning procedures and protocols.

d. Sterilization procedures.

e. Infection control procedures and personnel responsibilities.

f. Emergency procedures.

6. The designated physician shall establish a risk management program that includes all of the following components:

a. The identification, investigation, and analysis of the frequency and causes of adverse incidents.

b. The identification of trends or patterns of adverse incidents.

c. The development of appropriate measures to correct, reduce, minimize, or eliminate the risk of adverse incidents.

d. The documentation of such functions and periodic review of such information at least quarterly by the designated physician.

7. The designated physician shall report to the department any adverse incidents that occur within the scope of office

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surgeries. This report must be made within 15 days after the occurrence of an incident as required by s. 458.351.

8. The designated physician is responsible for prominently posting a sign in the office which states that the office is a doctor's office regulated under this section and ss. 458.328, 458.3281, 459.0138 and the applicable rules of the Board of Medicine and Osteopathic Medicine as set forth in rules 64B8 and 64B15, Florida Administrative Code. This notice must also appear prominently within the required patient informed consent.

9. All physicians performing surgery at the office surgery must be qualified by education, training, and experience to perform any procedure the physician performs in the office surgery.

10. When Level II, Level II-A, or Level III procedures are performed in an office surgery, the physician performing the surgery is responsible for providing the patient, in writing, before the procedure, the name and location of the hospital where the physician performing the surgery has privileges to perform the same procedure as the one being performed in the outpatient setting, or the name and location of the hospital where the physician performing the surgery or the facility has a transfer agreement.

(4) LEVEL I OFFICE SURGERY.—

(a) *Scope.*—Level I office surgery includes all of the following:

1. Minor procedures such as excision of skin lesions, moles, warts, cysts, or lipomas, and repair of lacerations or surgery limited to the skin and subcutaneous tissue which are performed under topical or local anesthesia not involving drug-

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induced alteration of consciousness other than minimal pre-operative tranquilization of the patient.

2. Liposuction involving the removal of less than 4,000 cubic centimeters of supernatant fat.

3. Incision and drainage of superficial abscesses; limited endoscopies, such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of urethra, cystoscopic procedures, and closed reduction of simple fractures; or small joint dislocations, such as in the finger or toe joints.

4. Procedures in which anesthesia is limited to minimal sedation. The patient's level of sedation must be that of minimal sedation and anxiolysis and the chances of complications requiring hospitalization must be remote. As used in this sub-subparagraph, the term "minimal sedation and anxiolysis" means a drug-induced state during which patients respond normally to verbal commands, and although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions remain unaffected. Controlled substances, as defined in ss. 893.02 and 893.03, must be limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

5. Procedures for which chances of complications requiring hospitalization are remote as specified in board rule.

(b) *Standards of practice.*—Standards of practice for Level I office surgery include all of the following:

1. The medical education, training, and experience of the physician performing the surgery must include training on proper dosages and management of toxicity or hypersensitivity to

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regional anesthetic drugs, and the physician must be certified in advanced cardiac life support.

2. At least one operating assistant must be certified in basic life support.

3. Intravenous access supplies, oxygen, oral airways, and a positive pressure ventilation device must be available in the office surgery, along with the following medications, stored per the manufacturer's recommendation:

a. Atropine, 3 mg.

b. Diphenhydramine, 50 mg.

c. Epinephrine, 1 mg in 10 ml.

d. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

e. Hydrocortisone, 100 mg.

f. If a benzodiazepine is administered, flumazenil, 0.5 mg in 5 ml vial, 2 vials total.

g. If an opiate is administered, naloxone, 0.4 mg in 1 ml vial, 2 vials total.

4. When performing minor procedures, such as excision of skin lesions, moles, warts, cysts, or lipomas, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia, physicians are exempt from subparagraphs 1.-3. Current certification in basic life support is recommended but not required.

5. A physician performing the surgery need not have an assistant during the procedure unless the specific procedure being performed requires an assistant.

(5) LEVEL II OFFICE SURGERY.—

(a) *Scope.*—Level II office surgery includes, but is not limited to, all of the following procedures:

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1. Hemorrhoidectomy.

2. Hernia repair.

3. Large joint dislocations.

4. Colonoscopy.

5. Liposuction involving the removal of up to 4,000 cubic centimeters of supernatant fat.

6. Any other procedure the board designates by rule as a Level II office surgery.

7. Surgeries in which the patient's level of sedation is that of moderate sedation and analgesia or conscious sedation. As used in this subparagraph, the term "moderate sedation and analgesia or conscious sedation" is a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation; interventions are not required to maintain a patent airway; spontaneous ventilation is adequate; and cardiovascular function is maintained. For purposes of the term, a patient reflexively withdrawing from a painful stimulus is not considered a purposeful response.

(b) *Standards of practice.*—Standards of practice for Level II office surgery include, but are not limited to, the following:

1. The physician performing the surgery, or the office where the procedure is being performed, must have a transfer agreement with a licensed hospital within reasonable proximity if the physician performing the procedure does not have staff privileges to perform the same procedure as that being performed in the office surgery setting at a licensed hospital within reasonable proximity. The transfer agreement required by this

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section must be current and have been entered into no more than 3 years before the date of the office's most recent annual inspection under s. 459.0138. A transfer agreement must affirmatively disclose an effective date and a termination date.

2. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board eligibility by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine, or must be able to establish comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedures being performed by the physician in the office surgery facility.

3. One assistant must be currently certified in basic life support.

4. The physician performing the surgery must be currently certified in advanced cardiac life support.

5. A complete and current crash cart must be available at all times at the location where the anesthesia is being administered. The designated physician of an office surgery is responsible for ensuring that the crash cart is replenished after each use, the expiration dates for the crash cart's medications are checked weekly, and crash cart events are documented in the cart's logs. Medicines must be stored per the manufacturer's recommendations, and multi-dose vials must be dated once opened and checked daily for expiration. The crash

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cart must, at a minimum, include the following intravenous or inhaled medications:

a. Adenosine, 18 mg.

b. Albuterol, 2.5 mg with a small volume nebulizer.

c. Amiodarone, 300 mg.

d. Atropine, 3 mg.

e. Calcium chloride, 1 gram.

f. Dextrose, 50 percent; 50 ml.

g. Diphenhydramine, 50 mg.

h. Dopamine, 200 mg, minimum.

i. Epinephrine, 1 mg, in 10 ml.

j. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

k. Flumazenil, 1 mg.

l. Furosemide, 40 mg.

m. Hydrocortisone, 100 mg.

n. Lidocaine appropriate for cardiac administration, 100 mg.

o. Magnesium sulfate, 2 grams.

p. Naloxone, 1.2 mg.

q. A beta blocker class drug.

r. Sodium bicarbonate, 50 mEq/50 ml.

s. Paralytic agent that is appropriate for use in rapid sequence intubation.

t. A calcium channel blocker class drug.

u. If nonneuraxial regional blocks are performed, Intralipid, 20 percent, 500 ml solution.

v. Any additional medication the board determines by rule is warranted for patient safety and by the evolution of technology and medical practice.

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6. In the event of a drug shortage, the designated physician is authorized to substitute a therapeutically equivalent drug that meets the prevailing practice standards.

7. The designated physician is responsible for ensuring that the office maintains documentation of its unsuccessful efforts to obtain the required drug.

8. The designated physician is responsible for ensuring that the following are present in the office surgery:

a. A benzodiazepine.

b. A positive pressure ventilation device, such as Ambu, plus oxygen supply.

c. An end-tidal carbon dioxide detection device.

d. Monitors for blood pressure, electrocardiography, and oxygen saturation.

e. Emergency intubation equipment that must, at a minimum, include suction devices, endotracheal tubes, working laryngoscopes, oropharyngeal airways, nasopharyngeal airways, and bag valve mask apparatus that are sized appropriately for the specific patient.

f. A working defibrillator with defibrillator pads or defibrillator gel, or an automated external defibrillator unit.

g. Sufficient backup power to allow the physician performing the surgery to safely terminate the procedure and to allow the patient to emerge from the anesthetic, all without compromising the sterility of the procedure or the environment of care.

h. Working sterilization equipment cultured weekly.

i. Sufficient intravenous solutions and equipment for a minimum of a week’s worth of surgical cases.

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j. Any other equipment required by board rule, as warranted by the evolution of technology and medical practice.

9. The physician performing the surgery must be assisted by a qualified anesthesia provider, which may include any of the following types of providers:

a. An anesthesiologist.

b. A certified registered nurse anesthetist.

c. A registered nurse, if the physician performing the surgery is certified in advanced cardiac life support and the registered nurse assists only with local anesthesia or conscious sedation.

An anesthesiologist assistant may assist the anesthesiologist as provided by board rule. An assisting anesthesia provider may not function in any other capacity during the procedure.

10. If additional anesthesia assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician.

11. The designated physician is responsible for ensuring that each patient is monitored in the recovery room until fully recovered from anesthesia. Such monitoring must be provided by a licensed physician, physician assistant, registered nurse with postanesthesia care unit experience, or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(6) LEVEL II-A OFFICE SURGERY.—

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(a) *Scope.*—Level II-A office surgeries are those Level II office surgeries that have a maximum planned duration of 5 minutes or less and in which the chances of complications requiring hospitalization are remote.

(b) *Standards of practice.*—

1. All practice standards for Level II office surgery set forth in paragraph (5)(b) must be met for Level II-A office surgery except for the requirements set forth in subparagraph (5)(b)9. regarding assistance by a qualified anesthesia provider.

2. During the surgical procedure, the physician performing the surgery must be assisted by a licensed physician, physician assistant, registered nurse, or licensed practical nurse.

3. Additional assistance may be required by specific procedure or patient circumstances.

4. Following the procedure, a licensed physician, physician assistant, or registered nurse must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia. The monitoring provider must be currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(7) LEVEL III OFFICE SURGERY.—

(a) *Scope.*—

1. Level III office surgery includes those types of surgery during which the patient’s level of sedation is that of deep sedation and analgesia or general anesthesia. As used in this subparagraph, the term:

a. “Deep sedation and analgesia” means a drug-induced

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depression of consciousness during which:

(I) Patients cannot be easily aroused but respond purposefully following repeated or painful stimulation;

(II) The ability to independently maintain ventilatory function may be impaired;

(III) Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate; and

(IV) Cardiovascular function is usually maintained.

For purposes of this sub-subparagraph, a reflexive withdrawal from a painful stimulus by a patient is not considered a purposeful response.

b. "General anesthesia" means a drug-induced loss of consciousness during which:

(I) Patients are not arousable, even by painful stimulation;

(II) The ability to independently maintain ventilatory function is often impaired;

(III) Patients often require assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(IV) Cardiovascular function may be impaired.

2. The use of spinal or epidural anesthesia for a procedure requires that procedure to be considered a Level III office surgery.

3. Only patients classified under the American Society of Anesthesiologists' (ASA) risk classification criteria as Class I or Class II are appropriate candidates for a Level III office

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surgery.

a. All Level III office surgeries on patients classified as ASA III or higher are to be performed only in a hospital or ambulatory surgical center.

b. For all ASA II patients above the age of 50, the physician performing the surgery must obtain a complete workup performed before the performance of a Level III office surgery in the office surgery setting.

c. If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative electrocardiogram and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.

(b) *Standards of practice.*—Practice standards for Level III office surgery include all Level II office surgery standards and all of the following requirements:

1. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board qualification by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine, or must be able to demonstrate to the accrediting organization or to the department comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedure being performed by the physician performing the

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surgery in the office surgery setting. In addition, the physician performing the surgery must have knowledge of the principles of general anesthesia.

2. The physician performing the surgery must be currently certified in advanced cardiac life support.

3. At least one operating assistant must be currently certified in basic life support.

4. An emergency policy and procedures manual related to serious anesthesia complications must be available in the office surgery and reviewed biannually by the designated physician, practiced with staff, updated, and posted in a conspicuous location in the office. Topics to be covered in the manual must include all of the following:

a. Airway blockage and foreign body obstruction.

b. Allergic reactions.

c. Bradycardia.

d. Bronchospasm.

e. Cardiac arrest.

f. Chest pain.

g. Hypoglycemia.

h. Hypotension.

i. Hypoventilation.

j. Laryngospasm.

k. Local anesthetic toxicity reaction.

l. Malignant hyperthermia.

m. Any other topics the board determines by rule are warranted for patient safety and by the evolution of technology and medical practice.

5. An office surgery performing Level III office surgeries

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must maintain all of the equipment and medications required for Level II office surgeries and comply with all of the following additional requirements:

a. Maintain at least 720 mg of dantrolene on site if halogenated anesthetics or succinylcholine are used.

b. Equipment and medication for monitored postanesthesia recovery must be available in the office.

6. Anesthetic safety regulations must be developed, posted in a conspicuous location in the office, and enforced by the designated physician. Such regulations must include all of the following requirements:

a. All operating room electrical and anesthesia equipment must be inspected at least semiannually, and a written record of the results and corrective actions must be maintained.

b. Flammable anesthetic agents may not be employed in office surgery facilities.

c. Electrical equipment in anesthetizing areas must be on an audiovisual line isolation monitor, with the exception of radiologic equipment and fixed lighting more than 5 feet above the floor.

d. Each anesthesia gas machine must have a pin-index system or equivalent safety system and a minimum oxygen flow safety device.

e. All reusable anesthesia equipment in direct contact with a patient must be cleaned or sterilized as appropriate after each use.

f. The following monitors must be applied to all patients receiving conduction or general anesthesia:

(I) Blood pressure cuff.

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(II) A continuous temperature device, readily available to measure the patient's temperature.

(III) Pulse oximeter.

(IV) Electrocardiogram.

(V) An inspired oxygen concentration monitor and a capnograph, for patients receiving general anesthesia.

g. Emergency intubation equipment must be available in all office surgery suites.

h. Surgical tables must be capable of Trendelenburg and other positions necessary to facilitate surgical procedures.

i. An anesthesiologist, a certified registered nurse anesthetist, an anesthesiologist assistant, or a physician assistant qualified as set forth in board rule must administer the general or regional anesthesia.

j. A physician, a registered nurse, a licensed practical nurse, a physician assistant, or an operating room technician must assist with the surgery. The anesthesia provider may not function in any other capacity during the procedure.

k. The patient must be monitored in the recovery room until he or she has fully recovered from anesthesia. The monitoring must be provided by a physician, a physician assistant, a certified registered nurse anesthetist, an anesthesiologist assistant, or a registered nurse with postanesthesia care unit experience or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(8) RULEMAKING.—The board may adopt by rule additional standards of practice for physicians who perform office

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surgeries or procedures under this section as warranted for patient safety and by the evolution of technology and medical practice.

Section 5. 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:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to office surgeries; amending ss. 458.328 and 459.0138, F.S.; revising the types of procedures for which a medical office must register with the Department of Health to perform office surgeries; specifying inspection procedures for such offices seeking registration with the department; requiring that certain offices seeking registration provide proof to the department that they have met specified requirements and rules; requiring the department to inspect such offices to ensure that certain equipment and procedures are present or in place; requiring the department to notify the Agency for Health Care Administration if an applicant is unable to provide certain proof to the department and to request that the agency inspect and consult with the office; deleting obsolete language; providing that the department may not register and must seek an emergency suspension of an office under specified circumstances; requiring that each office, as a

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condition of registration, list certain medical personnel and thereafter notify the department of the addition or termination of such personnel within a specified timeframe; providing for disciplinary action for failure to comply; revising the materials that the department must review when inspecting a registered office; requiring offices already registered with the department as of a specified date to provide a registration update within a specified timeframe; specifying requirements for such registration update process; revising requirements for the standards of practice for office surgeries; providing an administrative penalty; revising rulemaking requirements; creating ss. 458.3281 and 459.0139, F.S.; providing construction; defining terms; specifying general requirements for office surgeries; specifying standards of practice for office surgeries, delineated by the level of surgery being performed; authorizing the Board of Medicine and the Board of Osteopathic Medicine, as applicable, to adopt additional standards of practice by rule; providing an effective date.

958154

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment to Amendment (148378)

Delete line 723

and insert:

performed in the office surgery setting, or the name and

107010

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment to Amendment (148378) (with title amendment)

Between lines 1108 and 1109
insert:

(8) EXEMPTION.—This section does not apply to a physician who is dually licensed as a dentist under chapter 466 when such practitioner is performing dental procedures that fall within the scope of practice of dentistry and are regulated under chapter 466.

107010

Between lines 2212 and 2213
insert:
(8) EXEMPTION.—This section does not apply to a physician who is dually licensed as a dentist under chapter 466 when such practitioner is performing dental procedures that fall within the scope of practice of dentistry and are regulated under chapter 466.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Between lines 2261 and 2262
insert:
providing an exemption;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 458.328, Florida Statutes, is amended to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)~~1.~~ An office in which a physician performs or intends to

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perform a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure during which the patient is rotated between the supine, lateral, and prone positions, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

(b) ~~2.~~ The department must complete an inspection of any office seeking registration under this section before the office may be registered.

1. The inspection of the office seeking registration under this section must include inspection for compliance with the standards of practice set out in this section and s. 458.3281 and any applicable board rules for the levels of office surgery and procedures listed on the application which any physician practicing at the office performs or intends to perform. The application must be updated within 10 calendar days before any additional surgical procedures or levels of office surgery are to be performed at the office. Failure to timely update the application for any such additional surgical procedures or levels of office surgery is a violation of this section and subject to discipline under ss. 456.072 and 458.331.

2. The department must immediately suspend the registration process of an office that refuses an inspection under subparagraph 1., and the applicant must be required to reapply for registration.

3. If the department determines that an office seeking registration under this section is one in which a physician may

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perform, or intends to perform, liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure, or in which a physician may perform, or intends to perform, gluteal fat grafting procedures, the office must provide proof to the department that it has met the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, and s. 458.3281 and the applicable rules adopted thereunder, and the department must inspect the office to ensure that all of the following are present or in place:

a. Equipment and a procedure for measuring and documenting in a log the amount of supernatant fat removed, both temporarily and permanently, from a particular patient, including tissue disposal procedures.

b. A procedure for measuring and documenting the amount of lidocaine injected for tumescent liposuction, if used.

c. Working ultrasound guidance equipment or other guidance technology authorized under board rule which equals or exceeds the quality of ultrasound guidance.

d. The office procedure for obtaining blood products.

e. Documentation on file at the office demonstrating that any physician performing these procedures has privileges to perform such procedures in a hospital no more than 20 minutes away.

f. Procedures for emergency resuscitation and transport to a hospital.

g. Procedures for anesthesia and surgical recordkeeping.

h. Any additional inspection requirements, as set by board rule.

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4. If an applicant is unable to provide proof to the department that the office seeking registration is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 458.3281 or the applicable rules adopted thereunder, in accordance with subparagraph 3., the department must notify the Agency for Health Care Administration and request the agency to inspect the office and consult with the office about the process to apply for ambulatory surgical center licensure under chapter 395 and how the office may seek qualification for such licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

(c) ~~(b)~~ To be ~~By January 1, 2020, each office~~ registered under this section or s. 459.0138, an office must, at the time of application, list a designated ~~designate a~~ physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 459 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may not register an office if the office fails to comply with this requirement at the time of application and must seek an emergency suspension of ~~suspend~~ the registration of an office pursuant to s. 456.074(6)

if the office fails to timely notify the department of its new designated physician within 10 calendar days after the termination of the previous designated physician relationship ~~comply with the requirements of this paragraph~~.

(d) As a condition of registration, each office must, at the time of application, list all medical personnel who will be practicing at the office, including all of the following:

1. Physicians who intend to practice surgery or assist in surgery at the office seeking registration, including their respective license numbers and practice addresses.

2. Anesthesia providers, including their license numbers.

3. Nursing personnel licensed under chapter 464, including their license numbers unless already provided under subparagraph 2.

4. Physician assistants, including their respective license numbers and supervising physicians.

The office must notify the department of the addition or termination of any of the types of medical personnel specified under this paragraph within 10 calendar days before such addition or after such termination. Failure to timely notify the department of such addition or termination is a violation of this section and subject to discipline under ss. 456.072 and 458.331.

(e) ~~(c)~~ As a condition of registration, each office must establish financial responsibility by demonstrating that it has met and continues to maintain, at a minimum, the same requirements applicable to physicians in ss. 458.320 and 459.0085. Each physician practicing at an office registered

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under this section or s. 459.0138 must meet the financial responsibility requirements under s. 458.320 or s. 459.0085, as applicable.

(f) ~~(d)~~ Each physician practicing or intending to practice at an office registered under this section or s. 459.0138 must ~~shall~~ advise the board, in writing, within 10 calendar days before ~~after~~ beginning or after ending his or her practice at a registered office, as applicable.

(g) ~~(e)1.~~ The department shall inspect a registered office at least annually, including a review of patient records, anesthesia logs, surgery logs, and liposuction logs, to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited in office-based surgery by the Joint Commission or other ~~a~~ nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of an office that meets the description of a clinic specified in s. 458.3265(1)(a)3.h., and those wholly owned and operated physician offices described in s. 458.3265(1)(a)3.g. which perform procedures referenced in s. 458.3265(1)(a)3.h., which must be announced.

(h) ~~2.~~ The department must immediately suspend the registration of a registered office that refuses an inspection under paragraph (g) ~~subparagraph 1~~. The office must close during such suspension. The suspension must remain in effect for at least 14 consecutive days and may not terminate until the department issues a written declaration that the office may reopen following the department's completion of an inspection of the office.

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(i) ~~(f)~~ The department may suspend or revoke the registration of an office in which a procedure or surgery identified in paragraph (a) is performed for failure of any of its physicians, owners, or operators to comply with this section and rules adopted hereunder or s. 459.0138 and rules adopted thereunder. If an office's registration is revoked for any reason, the department may deny any person named in the registration documents of the office, including the persons who own or operate the office, individually or as part of a group, from registering an office to perform procedures or office surgeries pursuant to this section or s. 459.0138 for 5 years after the revocation date.

(j) ~~(g)~~ The department may impose any penalty set forth in s. 456.072(2) against the designated physician for failure of the office to operate in compliance with the office health and safety requirements of this section and rules adopted hereunder or s. 459.0138 and rules adopted thereunder.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(k) ~~(i)~~ The actual costs of registration and inspection or accreditation must ~~shall~~ be paid by the person seeking to register and operate the office in which a procedure or surgery identified in paragraph (a) will be performed.

(2) REGISTRATION UPDATE.—

(a) An office that registered under this section before July 1, 2024, in which a physician performs liposuction

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procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure or in which a physician performs gluteal fat grafting procedures must provide a registration update to the department consistent with the requirements of the initial registration under subsection (1) no later than 30 days before the office surgery's next annual inspection.

(b) Registration update inspections required under subsection (1) must be performed by the department on the date of the office surgery's next annual inspection.

(c) During the registration update process, the office surgery may continue to operate under the original registration.

(d) In order to provide an office surgery time to update to the requirements of subsection (1) and s. 458.3281, effective July 1, 2024, and the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, any office surgery registered under this section before July 1, 2024, whose annual inspection is due in July or August 2024, may request from the department, in writing, a 60-day postponement of the required annual inspection, which postponement must be granted.

(e) All other requests to the department for a postponement of the registration update inspection required under this registration update process must be in writing and be approved by the chair of the Board of Medicine for good cause shown, and such postponement may not exceed 30 days.

(3) STANDARDS OF PRACTICE.—

(a) A physician performing a procedure or surgery in an office registered under this section must comply with the

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applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice for office surgery set forth in this section and s. 458.3281 and any applicable rules adopted thereunder.

(b) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(c) ~~(b)~~ Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(d) ~~(c)~~ A physician performing a gluteal fat grafting procedure in an office surgery setting must comply with the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice under this subsection and s. 458.3281, and applicable rules adopted thereunder, including, but not limited to, all of the

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following standards of practice:

1. The ~~A~~ physician performing the ~~a~~ gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures shall at all times maintain a ratio of one

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physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(e) ~~(d)~~ If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) ~~(3)~~ RULEMAKING.—

(a) The board may ~~shall~~ adopt by rule additional standards of practice for physicians who perform office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section, as warranted for patient safety and by the evolution of technology and medical practice.

(b) The board may adopt rules to administer the registration, registration update, inspection, and safety of offices in which a physician performs office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section.

Section 2. Section 458.3281, Florida Statutes, is created to read:

458.3281 Standard of practice for office surgery.—

(1) CONSTRUCTION.—This section does not relieve a physician performing a procedure or surgery from the responsibility of making the medical determination of whether an office is an appropriate setting in which to perform that particular procedure or surgery, taking into consideration the particular patient on which the procedure or surgery is to be performed.

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

(a) "Certified in advanced cardiac life support" means a person holds a current certification in an advanced cardiac life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the Advanced Cardiovascular Life Support (ACLS) Certification Institute.

(b) "Certified in basic life support" means a person holds a current certification in a basic life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the ACLS Certification Institute.

(c) "Certified in pediatric advanced life support" means a person holds a current certification in a pediatric advanced life support course with didactic and skills components approved by the American Heart Association, the American Safety and Health Institute, or Pacific Medical Training.

(d) "Continual monitoring" means monitoring that is

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repeated regularly and frequently in steady, rapid succession.

(e) "Continuous" means monitoring that is prolonged without any interruption at any time.

(f) "Equipment" means a medical device, instrument, or tool used to perform specific actions or take certain measurements during, or while a patient is recovering from, a procedure or surgery which must meet current performance standards according to its manufacturer's guidelines for the specific device, instrument, or tool, as applicable.

(g) "Major blood vessels" means a group of critical arteries and veins, including the aorta, coronary arteries, pulmonary arteries, superior and inferior vena cava, pulmonary veins, and any intra-cerebral artery or vein.

(h) "Office surgery" means a physician's office in which surgical procedures are performed by a physician for the practice of medicine as authorized by this section and board rule. The office must be an office at which a physician regularly performs consultations with surgical patients, preoperative examinations, and postoperative care, as necessitated by the standard of care related to the surgeries performed at the physician's office, and at which patient records are readily maintained and available. The types of procedures or surgeries performed in an office surgery are those which need not be performed in a facility licensed under chapter 390 or chapter 395, and are not of the type that:

1. Generally result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin count;

2. Require major or prolonged intracranial, intrathoracic,

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abdominal, or major joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and are performed with direct visualization by open exposure of the major vessel, except for percutaneous endovascular intervention; or

4. Are generally emergent or life threatening in nature.

(i) "Pediatric patient" means a patient who is 13 years of age or younger.

(j) "Percutaneous endovascular intervention" means a procedure performed without open direct visualization of the target vessel and which requires only needle puncture of an artery or vein followed by insertion of catheters, wires, or similar devices that are then advanced through the blood vessels using imaging guidance. Once the catheter reaches the intended location, various maneuvers to address the diseased area may be performed, including, but not limited to, injection of contrast medium for imaging; treatment of vessels with angioplasty; atherectomy; covered or uncovered stenting; embolization or intentionally occluding vessels or organs; and delivering medications or radiation or other energy, such as laser, radiofrequency, or cryo.

(k) "Reasonable proximity" means a distance that does not exceed 20 minutes of transport time to the hospital.

(l) "Surgery" means any manual or operative procedure performed upon the body of a living human being, including, but not limited to, those performed with the use of lasers, for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting a deformity or defect, prolonging life, or relieving suffering, or any elective procedure for

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aesthetic, reconstructive, or cosmetic purposes. The term includes, but is not limited to, incision or curettage of tissue or an organ; suture or other repair of tissue or an organ, including a closed as well as an open reduction of a fracture; extraction of tissue, including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic.

(3) GENERAL REQUIREMENTS FOR OFFICE SURGERY.—

(a) The physician performing the surgery must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The physician performing the surgery may delegate the preoperative heart and lung evaluation to a qualified anesthesia provider within the scope of the provider's practice and, if applicable, protocol.

(b) The physician performing the surgery shall maintain complete patient records of each surgical procedure performed, which must include all of the following:

1. The patient's name, patient number, preoperative diagnosis, postoperative diagnosis, surgical procedure, anesthetic, anesthesia records, recovery records, and complications, if any.

2. The name of each member of the surgical team, including the surgeon, first assistant, anesthesiologist, nurse anesthetist, anesthesiologist assistant, circulating nurse, and operating room technician, as applicable.

(c) Each office surgery's designated physician shall ensure that the office surgery has procedures in place to verify that

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all of the following have occurred before any surgery is performed:

1. The patient has signed the informed consent form for the procedure reflecting the patient's knowledge of identified risks of the procedure, consent to the procedure, the type of anesthesia and anesthesia provider to be used during the procedure, and the fact that the patient may choose the type of anesthesia provider for the procedure, such as an anesthesiologist, a certified registered nurse anesthetist, a physician assistant, an anesthesiologist assistant, or another appropriately trained physician as provided by board rule.

2. The patient's identity has been verified.

3. The operative site has been verified.

4. The operative procedure to be performed has been verified with the patient.

5. All of the information and actions required to be verified under this paragraph are documented in the patient's medical record.

(d) With respect to the requirements set forth in paragraph (c), written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

(e) The physician performing the surgery shall maintain a log of all liposuction procedures performed at the office surgery where more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed and where Level II and Level III surgical procedures are performed. The log must, at a minimum, include all of the following:

1. A confidential patient identifier.

2. Time of arrival in the operating suite.

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3. The name of the physician performing the procedure.

4. The patient's diagnosis, CPT codes used for the procedure, the patient's classification for risk with anesthesia according to the American Society of Anesthesiologists' physical status classification system, and the type of procedure and level of surgery performed.

5. Documentation of completion of the medical clearance performed by the anesthesiologist or the physician performing the surgery.

6. The name and provider type of the anesthesia provider and the type of anesthesia used.

7. The duration of the procedure.

8. Any adverse incidents as identified in s. 458.351.

9. The type of postoperative care, duration of recovery, disposition of the patient upon discharge, including the address of where the patient is being discharged, discharge instructions, and list of medications used during surgery and recovery.

All surgical and anesthesia logs must be kept at the office surgery and maintained for 6 years after the date of last patient contact and must be provided to department investigators upon request.

(f) For any liposuction procedure, the physician performing the surgery is responsible for determining the appropriate amount of supernatant fat to be removed from a particular patient. A maximum of 4,000 cubic centimeters of supernatant fat may be removed by liposuction in the office surgery setting. A maximum of 50mg/kg of lidocaine may be injected for tumescent

liposuction in the office surgery setting.

(g)1. Liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III surgical procedure only in the following circumstances:

a. When combined with an abdominoplasty, liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

b. When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

2. Major liposuction in excess of 1,000 cubic centimeters of supernatant fat may not be performed on a patient's body in a location that is remote from the site of another procedure being performed on that patient.

(h) For elective cosmetic and plastic surgery procedures performed in a physician's office, the maximum planned duration of all surgical procedures combined may not exceed 8 hours. Except for elective cosmetic and plastic surgery, the physician performing the surgery may not keep patients past midnight in a physician's office. For elective cosmetic and plastic surgical procedures, the patient must be discharged within 24 hours after presenting to the office for surgery. However, an overnight stay is allowed in the office if the total time the patient is at the office does not exceed 23 hours and 59 minutes, including the surgery time. An overnight stay in a physician's office for elective cosmetic and plastic surgery must be strictly limited to the physician's office. If the patient has not recovered sufficiently to be safely discharged within the timeframes set forth, the patient must be transferred to a hospital for

continued postoperative care.

(i) The American Society of Anesthesiologists Standards for Basic Anesthetic Monitoring are hereby adopted and incorporated by reference as the standards for anesthetic monitoring by any qualified anesthesia provider under this section.

1. These standards apply to general anesthetics, regional anesthetics, and monitored Level II and III anesthesia care. However, in emergency circumstances, appropriate life support measures take priority. These standards may be exceeded at any time based on the judgment of the responsible supervising physician or anesthesiologist. While these standards are intended to encourage quality patient care, observing them does not guarantee any specific patient outcome. This set of standards addresses only the issue of basic anesthesia monitoring, which is only one component of anesthesia care.

2. In certain rare or unusual circumstances, some of these methods of monitoring may be clinically impractical, and appropriate use of the described monitoring methods may fail to detect adverse clinical developments. In such cases, a brief interruption of continual monitoring may be unavoidable and does not by itself constitute a violation of the standards of practice of this section.

3. Under extenuating circumstances, the physician performing the surgery or the anesthesiologist may waive the following requirements:

a. The use of an oxygen analyzer with a low oxygen concentration limit alarm, or other technology authorized under board rule which equals or exceeds the quality of the oxygen analyzer, during the administration of general anesthesia with

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an anesthesia machine.

b. The use of pulse oximetry with a variable pitch pulse tone and an audible low threshold alarm, or other technology authorized under board rule which equals or exceeds the quality of a pulse oximeter, and the use of adequate illumination and exposure of the patient to assess color.

c. The use of capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy, as a quantitative method of analyzing the end-tidal carbon dioxide for continual monitoring for the presence of expired carbon dioxide during ventilation, from the time of the endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location.

d. The use of continuous electrocardiogram display, or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram display, from the beginning of anesthesia until preparing to leave the anesthetizing location.

e. The measuring of arterial blood pressure and heart rate evaluated at least every 5 minutes during anesthesia.

When any of the monitoring is waived for extenuating circumstances under this subparagraph, it must be documented in a note in the patient’s medical record, including the reasons for the need to waive the requirement. These standards are not intended for the application to the care of an obstetrical patient in labor or in the conduct of pain management.

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(j)1. Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel must be continuously present in the room to provide anesthesia care for the entire duration of all general anesthetics, regional anesthetics, and monitored anesthesia care conducted on the patient. In the event that there is a direct known hazard, such as radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthesia, the best judgment of the supervising physician or anesthesiologist shall be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthesia during the temporary absence.

2. During all anesthesia, the patient's oxygenation, ventilation, circulation, and temperature must be continually evaluated to ensure adequate oxygen concentration in the inspired gas and the blood.

a. During all general anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system must be measured by an oxygen analyzer with a low oxygen concentration limit alarm used to measure blood oxygenation.

b. During all anesthesia, a quantitative method of assessing oxygenation, such as pulse oximetry, must be employed. When a pulse oximeter is used, the variable pitch pulse tone and the low threshold alarm must be audible to the qualified anesthesia provider. Adequate illumination and exposure of the patient are necessary to assess color.

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c. During all anesthesia, every patient must have the adequacy of his or her ventilation continually evaluated, including, but not limited to, the evaluation of qualitative clinical signs, such as chest excursion, observation of the reservoir breathing bag, and auscultation of breath sounds. Continual monitoring for the presence of expired carbon dioxide must be performed unless invalidated by the nature of the patient's condition, the procedure, or the equipment. Quantitative monitoring of the volume of expired gas must also be performed.

d. When an endotracheal tube or supraglottic airway is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location, must be performed using a quantitative method, such as capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy. When capnography or capnometry is used, the end-tidal carbon dioxide alarm must be audible to the qualified anesthesia provider.

e. When ventilation is controlled by a mechanical ventilator, there must be in continuous use a device capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

f. During regional anesthesia without sedation or local

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anesthesia with no sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. Monitoring for the presence of exhaled carbon dioxide is recommended.

g. Every patient receiving anesthesia must have the electrocardiogram or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.

h. Every patient receiving anesthesia must have arterial blood pressure and heart rate determined and evaluated at least every 5 minutes.

i. Every patient receiving general anesthesia must have circulatory function continually evaluated by at least one of the following methods:

(I) Palpation of a pulse.

(II) Auscultation of heart sounds.

(III) Monitoring of a tracing of intra-arterial pressure.

(IV) Ultrasound peripheral pulse monitoring.

(V) Pulse plethysmography or oximetry.

(VI) Other technology authorized under board rule which equals or exceeds the quality of any of the methods listed in sub-sub-subparagraphs (I)-(V).

j. Every patient receiving anesthesia must have his or her temperature monitored when clinically significant changes in body temperature are intended, anticipated, or suspected.

(k)1. The physician performing the surgery shall ensure

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that the postoperative care arrangements made for the patient are adequate for the procedure being performed, as required by board rule.

2. Management of postoperative care is the responsibility of the physician performing the surgery and may be delegated as determined by board rule. If the physician performing the surgery is unavailable to provide postoperative care, the physician performing the surgery must notify the patient of his or her unavailability for postoperative care before the procedure.

3. If there is an overnight stay at the office in relation to any surgical procedure:

a. The office must provide at least two persons to act as monitors, one of whom must be certified in advanced cardiac life support, and maintain a monitor-to-patient ratio of at least one monitor to two patients.

b. Once the physician performing the surgery has signed a timed and dated discharge order, the office may provide only one monitor to monitor the patient. The monitor must be qualified by licensure and training to administer all of the medications required on the crash cart and must be certified in advanced cardiac life support.

c. A complete and current crash cart must be present in the office surgery and immediately accessible for the monitors.

4. The physician performing the surgery must be reachable by telephone and readily available to return to the office if needed.

5. A policy and procedures manual must be maintained in the office at which Level II and Level III procedures are performed.

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The manual must be updated and implemented annually. The policy and procedures manual must provide for all of the following:

a. Duties and responsibilities of all personnel.

b. A quality assessment and improvement system designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and opportunities to improve performance.

c. Cleaning procedures and protocols.

d. Sterilization procedures.

e. Infection control procedures and personnel responsibilities.

f. Emergency procedures.

6. The designated physician shall establish a risk management program that includes all of the following components:

a. The identification, investigation, and analysis of the frequency and causes of adverse incidents.

b. The identification of trends or patterns of adverse incidents.

c. The development of appropriate measures to correct, reduce, minimize, or eliminate the risk of adverse incidents.

d. The documentation of such functions and periodic review of such information at least quarterly by the designated physician.

7. The designated physician shall report to the department any adverse incidents that occur within the scope of office surgeries. This report must be made within 15 days after the occurrence of an incident as required by s. 458.351.

8. The designated physician is responsible for prominently

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posting a sign in the office which states that the office is a doctor's office regulated under this section and ss. 458.328, 458.3281, and 459.0138 and the applicable rules of the Board of Medicine and the Board of Osteopathic Medicine as set forth in rules 64B8 and 64B15, Florida Administrative Code. This notice must also appear prominently within the required patient informed consent form.

9. All physicians performing surgery at the office surgery must be qualified by education, training, and experience to perform any procedure the physician performs in the office surgery.

10. When Level II, Level II-A, or Level III procedures are performed in an office surgery setting, the physician performing the surgery is responsible for providing the patient, in writing, before the procedure, with the name and location of the hospital where the physician performing the surgery has privileges to perform the same procedure as the one being performed in the office surgery setting or the name and location of the hospital with which the physician performing the surgery has a transfer agreement in the event of an emergency.

(4) LEVEL I OFFICE SURGERY.—

(a) *Scope.*—Level I office surgery includes the following:

1. Minor procedures such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue which are performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient.

2. Liposuction involving the removal of less than 4,000

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cubic centimeters of supernatant fat.

3. Incision and drainage of superficial abscesses; limited endoscopies, such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of the urethra, cystoscopic procedures, and closed reduction of simple fractures; or small joint dislocations, such as in the finger or toe joints.

4. Procedures in which anesthesia is limited to minimal sedation. The patient's level of sedation must be that of minimal sedation and anxiolysis, and the chances of complications requiring hospitalization must be remote. As used in this sub-subparagraph, the term "minimal sedation and anxiolysis" means a drug-induced state during which patients respond normally to verbal commands, and although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions remain unaffected. Controlled substances, as defined in ss. 893.02 and 893.03, must be limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

5. Procedures for which chances of complications requiring hospitalization are remote as specified in board rule.

(b) *Standards of practice.*—Standards of practice for Level I office surgery include all of the following:

1. The medical education, training, and experience of the physician performing the surgery must include training on proper dosages and management of toxicity or hypersensitivity to regional anesthetic drugs, and the physician must be certified in advanced cardiac life support.

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2. At least one operating assistant must be certified in basic life support.

3. Intravenous access supplies, oxygen, oral airways, and a positive pressure ventilation device must be available in the office surgery, along with the following medications, stored per the manufacturer's recommendation:

a. Atropine, 3 mg.

b. Diphenhydramine, 50 mg.

c. Epinephrine, 1 mg in 10 ml.

d. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

e. Hydrocortisone, 100 mg.

f. If a benzodiazepine is administered, flumazenil, 0.5 mg in 5 ml vial, 2 vials total.

g. If an opiate is administered, naloxone, 0.4 mg in 1 ml vial, 2 vials total.

4. When performing minor procedures, such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia in an office surgery setting, physicians performing the procedure are exempt from subparagraphs 1.-3. Current certification in basic life support is recommended but not required.

5. A physician performing the surgery need not have an assistant during the procedure unless the specific procedure being performed requires an assistant.

(5) LEVEL II OFFICE SURGERY.—

(a) *Scope.*—Level II office surgery includes, but is not limited to, all of the following procedures:

1. Hemorrhoidectomy.

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2. Hernia repair.

3. Large joint dislocations.

4. Colonoscopy.

5. Liposuction involving the removal of up to 4,000 cubic centimeters of supernatant fat.

6. Any other procedure the board designates by rule as a Level II office surgery.

7. Surgeries in which the patient's level of sedation is that of moderate sedation and analgesia or conscious sedation. As used in this subparagraph, the term "moderate sedation and analgesia or conscious sedation" is a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation; interventions are not required to maintain a patent airway; spontaneous ventilation is adequate; and cardiovascular function is maintained. For purposes of this term, reflex withdrawal from a painful stimulus is not considered a purposeful response.

(b) *Standards of practice.*—Standards of practice for Level II office surgery include, but are not limited to, the following:

1. The physician performing the surgery, or the office where the procedure is being performed, must have a transfer agreement with a licensed hospital within reasonable proximity if the physician performing the procedure does not have staff privileges to perform the same procedure as that being performed in the office surgery setting at a licensed hospital within reasonable proximity. The transfer agreement required by this section must be current and have been entered into no more than

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3 years before the date of the office's most recent annual inspection under s. 458.328. A transfer agreement must affirmatively disclose an effective date and a termination date.

2. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board eligibility by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or Board of Osteopathic Medicine, as applicable, or must be able to establish comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedures being performed by the physician in the office surgery facility.

3. One assistant must be currently certified in basic life support.

4. The physician performing the surgery must be currently certified in advanced cardiac life support.

5. A complete and current crash cart must be available at all times at the location where the anesthesia is being administered. The designated physician of an office surgery is responsible for ensuring that the crash cart is replenished after each use, the expiration dates for the crash cart's medications are checked weekly, and crash cart events are documented in the cart's logs. Medicines must be stored per the manufacturer's recommendations, and multidose vials must be dated once opened and checked daily for expiration. The crash

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cart must, at a minimum, include the following intravenous or inhaled medications:

a. Adenosine, 18 mg.

b. Albuterol, 2.5 mg with a small volume nebulizer.

c. Amiodarone, 300 mg.

d. Atropine, 3 mg.

e. Calcium chloride, 1 gram.

f. Dextrose, 50 percent; 50 ml.

g. Diphenhydramine, 50 mg.

h. Dopamine, 200 mg, minimum.

i. Epinephrine, 1 mg, in 10 ml.

j. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

k. Flumazenil, 1 mg.

l. Furosemide, 40 mg.

m. Hydrocortisone, 100 mg.

n. Lidocaine appropriate for cardiac administration, 100 mg.

o. Magnesium sulfate, 2 grams.

p. Naloxone, 1.2 mg.

q. A beta blocker class drug.

r. Sodium bicarbonate, 50 mEq/50 ml.

s. Paralytic agent that is appropriate for use in rapid sequence intubation.

t. A calcium channel blocker class drug.

u. If nonneuraxial regional blocks are performed, Intralipid, 20 percent, 500 ml solution.

v. Any additional medication the board determines by rule is warranted for patient safety and by the evolution of technology and medical practice.

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6. In the event of a drug shortage, the designated physician is authorized to substitute a therapeutically equivalent drug that meets the prevailing practice standards.

7. The designated physician is responsible for ensuring that the office maintains documentation of its unsuccessful efforts to obtain the required drug.

8. The designated physician is responsible for ensuring that the following are present in the office surgery:

a. A benzodiazepine.

b. A positive pressure ventilation device, such as Ambu, plus oxygen supply.

c. An end-tidal carbon dioxide detection device.

d. Monitors for blood pressure, electrocardiography, and oxygen saturation.

e. Emergency intubation equipment that must, at a minimum, include suction devices, endotracheal tubes, working laryngoscopes, oropharyngeal airways, nasopharyngeal airways, and bag valve mask apparatus that are sized appropriately for the specific patient.

f. A working defibrillator with defibrillator pads or defibrillator gel, or an automated external defibrillator unit.

g. Sufficient backup power to allow the physician performing the surgery to safely terminate the procedure and to allow the patient to emerge from the anesthetic, all without compromising the sterility of the procedure or the environment of care.

h. Working sterilization equipment cultured weekly.

i. Sufficient intravenous solutions and equipment for a minimum of a week’s worth of surgical cases.

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j. Any other equipment required by board rule, as warranted by the evolution of technology and medical practice.

9. The physician performing the surgery must be assisted by a qualified anesthesia provider, which may include any of the following types of providers:

a. An anesthesiologist.

b. A certified registered nurse anesthetist.

c. A registered nurse, if the physician performing the surgery is certified in advanced cardiac life support and the registered nurse assists only with local anesthesia or conscious sedation.

An anesthesiologist assistant may assist the anesthesiologist as provided by board rule. An assisting anesthesia provider may not function in any other capacity during the procedure.

10. If additional anesthesia assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician.

11. The designated physician is responsible for ensuring that each patient is monitored in the recovery room until the patient is fully recovered from anesthesia. Such monitoring must be provided by a licensed physician, physician assistant, registered nurse with postanesthesia care unit experience, or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(6) LEVEL II-A OFFICE SURGERY.—

(a) *Scope.*—Level II-A office surgeries are those Level II office surgeries that have a maximum planned duration of 5 minutes or less and in which the chances of complications requiring hospitalization are remote.

(b) *Standards of practice.*—

1. All practice standards for Level II office surgery set forth in paragraph (5)(b) must be met for Level II-A office surgery except for the requirements set forth in subparagraph (5)(b)9. regarding assistance by a qualified anesthesia provider.

2. During the surgical procedure, the physician performing the surgery must be assisted by a licensed physician, physician assistant, registered nurse, or licensed practical nurse.

3. Additional assistance may be required by specific procedure or patient circumstances.

4. Following the procedure, a licensed physician, physician assistant, or registered nurse must be available to monitor the patient in the recovery room until the patient is recovered from anesthesia. The monitoring provider must be currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(7) LEVEL III OFFICE SURGERY.—

(a) *Scope.*—

1. Level III office surgery includes those types of surgery during which the patient’s level of sedation is that of deep sedation and analgesia or general anesthesia. As used in this subparagraph, the term:

a. “Deep sedation and analgesia” means a drug-induced

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depression of consciousness during which:

(I) Patients cannot be easily aroused but respond purposefully following repeated or painful stimulation;

(II) The ability to independently maintain ventilatory function may be impaired;

(III) Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate; and

(IV) Cardiovascular function is usually maintained.

For purposes of this sub-subparagraph, reflex withdrawal from a painful stimulus is not considered a purposeful response.

b. "General anesthesia" means a drug-induced loss of consciousness during which:

(I) Patients are not arousable, even by painful stimulation;

(II) The ability to independently maintain ventilatory function is often impaired;

(III) Patients often require assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(IV) Cardiovascular function may be impaired.

2. The use of spinal or epidural anesthesia for a procedure requires that the procedure be considered a Level III office surgery.

3. Only patients classified under the American Society of Anesthesiologists' (ASA) risk classification criteria as Class I or Class II are appropriate candidates for a Level III office surgery.

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a. All Level III office surgeries on patients classified as ASA III or higher must be performed only in a hospital or ambulatory surgical center.

b. For all ASA II patients above the age of 50, the physician performing the surgery must obtain a complete workup performed before the performance of a Level III office surgery in the office surgery setting.

c. If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative electrocardiogram and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.

(b) *Standards of practice.*—Practice standards for Level III office surgery include all Level II office surgery standards and all of the following requirements:

1. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board qualification by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or Board of Osteopathic Medicine, as applicable, or must be able to demonstrate to the accrediting organization or to the department comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedure being performed by the physician performing the surgery in the office

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surgery setting. In addition, the physician performing the surgery must have knowledge of the principles of general anesthesia.

2. The physician performing the surgery must be currently certified in advanced cardiac life support.

3. At least one operating assistant must be currently certified in basic life support.

4. An emergency policy and procedures manual related to serious anesthesia complications must be available in the office surgery and reviewed biannually by the designated physician, practiced with staff, updated, and posted in a conspicuous location in the office. Topics to be covered in the manual must include all of the following:

a. Airway blockage and foreign body obstruction.

b. Allergic reactions.

c. Bradycardia.

d. Bronchospasm.

e. Cardiac arrest.

f. Chest pain.

g. Hypoglycemia.

h. Hypotension.

i. Hypoventilation.

j. Laryngospasm.

k. Local anesthetic toxicity reaction.

l. Malignant hyperthermia.

m. Any other topics the board determines by rule are warranted for patient safety and by the evolution of technology and medical practice.

5. An office surgery performing Level III office surgeries

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must maintain all of the equipment and medications required for Level II office surgeries and comply with all of the following additional requirements:

a. Maintain at least 720 mg of dantrolene on site if halogenated anesthetics or succinylcholine are used.

b. Equipment and medication for monitored postanesthesia recovery must be available in the office.

6. Anesthetic safety regulations must be developed, posted in a conspicuous location in the office, and enforced by the designated physician. Such regulations must include all of the following requirements:

a. All operating room electrical and anesthesia equipment must be inspected at least semiannually, and a written record of the results and corrective actions must be maintained.

b. Flammable anesthetic agents may not be employed in office surgery facilities.

c. Electrical equipment in anesthetizing areas must be on an audiovisual line isolation monitor, with the exception of radiologic equipment and fixed lighting more than 5 feet above the floor.

d. Each anesthesia gas machine must have a pin index safety system or equivalent safety system and a minimum oxygen flow safety device.

e. All reusable anesthesia equipment in direct contact with a patient must be cleaned or sterilized as appropriate after each use.

f. The following monitors must be applied to all patients receiving conduction or general anesthesia:

(I) Blood pressure cuff.

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(II) A continuous temperature device, readily available to measure the patient's temperature.

(III) Pulse oximeter.

(IV) Electrocardiogram.

(V) An inspired oxygen concentration monitor and a capnograph, for patients receiving general anesthesia.

g. Emergency intubation equipment must be available in all office surgery suites.

h. Surgical tables must be capable of Trendelenburg and other positions necessary to facilitate surgical procedures.

i. An anesthesiologist, a certified registered nurse anesthetist, an anesthesiologist assistant, or a physician assistant qualified as set forth in board rule must administer the general or regional anesthesia.

j. A physician, a registered nurse, a licensed practical nurse, a physician assistant, or an operating room technician must assist with the surgery. The anesthesia provider may not function in any other capacity during the procedure.

k. The patient must be monitored in the recovery room until he or she has fully recovered from anesthesia. The monitoring must be provided by a physician, a physician assistant, a certified registered nurse anesthetist, an anesthesiologist assistant, or a registered nurse with postanesthesia care unit experience or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(8) EXEMPTION.—This section does not apply to a physician who is dually licensed as a dentist under chapter 466 when he or

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she is performing dental procedures that fall within the scope of practice of dentistry and are regulated under chapter 466.

(9) RULEMAKING.—The board may adopt by rule additional standards of practice for physicians who perform office surgeries or procedures under this section as warranted for patient safety and by the evolution of technology and medical practice.

Section 3. Section 459.0138, Florida Statutes, is amended to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(a)~~1.~~ An office in which a physician performs or intends to perform a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure during which the patient is rotated between the supine, lateral, and prone positions, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

(b)~~2.~~ The department must complete an inspection of any office seeking registration under this section before the office may be registered.

1. The inspection of the office seeking registration under this section must include inspection for compliance with the standards of practice set out in this section and s. 458.3281 and any applicable board rules for the levels of office surgery and procedures listed on the application which any physician practicing at the office performs or intends to perform. The

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application must be updated within 10 calendar days before any additional surgical procedures or levels of office surgery are to be performed at the office. Failure to timely update the application for any such additional surgical procedures or levels of office surgery is a violation of this section and subject to discipline under ss. 456.072 and 459.015.

2. The department must immediately suspend the registration process of an office that refuses an inspection under subparagraph 1., and the applicant must be required to reapply for registration.

3. If the department determines that an office seeking registration under this section is one in which a physician may perform, or intends to perform, liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure, or in which a physician may perform, or intends to perform, gluteal fat grafting procedures, the office must provide proof to the department that it has met the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, and s. 458.3281 and the applicable rules adopted thereunder, and the department must inspect the office to ensure that all of the following are present or in place:

a. Equipment and a procedure for measuring and documenting in a log the amount of supernatant fat removed, both temporarily and permanently, from a particular patient, including tissue disposal procedures.

b. A procedure for measuring and documenting the amount of lidocaine injected for tumescent liposuction, if used.

c. Working ultrasound guidance equipment or other guidance

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technology authorized under board rule which equals or exceeds the quality of ultrasound guidance.

d. The office procedure for obtaining blood products.

e. Documentation on file at the office demonstrating that any physician performing these procedures has privileges to perform such procedures in a hospital no more than 20 minutes away.

f. Procedures for emergency resuscitation and transport to a hospital.

g. Procedures for anesthesia and surgical recordkeeping.

h. Any additional inspection requirements, as set by board rule.

4. If an applicant is unable to provide proof to the department that the office seeking registration is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 459.0139 or the applicable rules adopted thereunder, in accordance with subparagraph 3., the department must notify the Agency for Health Care Administration and request the agency to inspect the office and consult with the office about the process to apply for ambulatory surgical center licensure under chapter 395 and how the office may seek qualification for such licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

(c) ~~(b)~~ To be ~~By January 1, 2020, each office~~ registered under this section or s. 458.328, an office must, at the time of application, list a designated ~~designate a~~ physician who is

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responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 458 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may not register an office if the office fails to comply with this requirement at the time of application and must seek an emergency suspension of the ~~suspend a~~ registration of ~~for~~ an office pursuant to s. 456.074(6) if the office fails to timely notify the department of its new designated physician within 10 calendar days after the termination of the previous designated physician relationship ~~comply with the requirements of this paragraph~~.

(d) As a condition of registration, each office must, at the time of application, list all medical personnel who will be practicing at the office, including all of the following:

1. Physicians who intend to practice surgery or assist in surgery at the office seeking registration, including their respective license numbers and practice addresses.

2. Anesthesia providers, including their license numbers.

3. Nursing personnel licensed under chapter 464, including their license numbers unless already provided under subparagraph 2.

4. Physician assistants, including their respective license numbers and supervising physicians.

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The office must notify the department of the addition or termination of any of the types of medical personnel specified under this paragraph within 10 calendar days before such addition or after such termination. Failure to timely notify the department of such addition or termination is a violation of this section and subject to discipline under ss. 456.072 and 459.015.

(e) ~~(c)~~ As a condition of registration, each office must establish financial responsibility by demonstrating that it has met and continues to maintain, at a minimum, the same requirements applicable to physicians in ss. 458.320 and 459.0085. Each physician practicing at an office registered under this section or s. 458.328 must meet the financial responsibility requirements under s. 458.320 or s. 459.0085, as applicable.

(f) ~~(d)~~ Each physician practicing or intending to practice at an office registered under this section or s. 458.328 must ~~shall~~ advise the board, in writing, within 10 calendar days before ~~after~~ beginning or after ending his or her practice at a ~~the~~ registered office, as applicable.

(g) ~~(e)1.~~ The department shall inspect a registered office at least annually, including a review of patient records, anesthesia logs, surgery logs, and liposuction logs, to ensure that the office is in compliance with this section and rules adopted hereunder unless the office is accredited in office-based surgery by the Joint Commission or other ~~a~~ nationally recognized accrediting agency approved by the board. The inspection may be unannounced, except for the inspection of an office that meets the description of a clinic specified in s.

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459.0137(1)(a)3.h., and those wholly owned and operated physician offices described in s. 459.0137(1)(a)3.g. which perform procedures referenced in s. 459.0137(1)(a)3.h., which must be announced.

(h) ~~2.~~ The department must immediately suspend the registration of a registered office that refuses an inspection under paragraph (g) ~~subparagraph 1~~. The office must close during such suspension. The suspension must remain in effect for at least 14 consecutive days and may not terminate until the department issues a written declaration that the office may reopen following the department's completion of an inspection of the office.

(i) ~~(f)~~ The department may suspend or revoke the registration of an office in which a procedure or surgery identified in paragraph (a) is performed for failure of any of its physicians, owners, or operators to comply with this section and rules adopted hereunder or s. 458.328 and rules adopted thereunder. If an office's registration is revoked for any reason, the department may deny any person named in the registration documents of the office, including the persons who own or operate the office, individually or as part of a group, from registering an office to perform procedures or office surgeries pursuant to this section or s. 458.328 for 5 years after the revocation date.

(j) ~~(g)~~ The department may impose any penalty set forth in s. 456.072(2) against the designated physician for failure of the office to operate in compliance with the office health and safety requirements of this section and rules adopted hereunder or s. 458.328 and rules adopted thereunder.

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~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(k) ~~(i)~~ The actual costs of registration and inspection or accreditation must ~~shall~~ be paid by the person seeking to register and operate the office in which a procedure or surgery identified in paragraph (a) will be performed.

(2) REGISTRATION UPDATE.—

(a) An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated between the supine, lateral, and prone positions during the procedure or in which a physician performs gluteal fat grafting procedures must provide a registration update to the department consistent with the requirements of the initial registration under subsection (1) no later than 30 days before the office surgery's next annual inspection.

(b) Registration update inspections required under subsection (1) must be performed by the department on the date of the office surgery's next annual inspection.

(c) During the registration update process, the office surgery may continue to operate under the original registration.

(d) In order to provide an office surgery time to update to the requirements of subsection (1) and s. 459.0139, effective July 1, 2024, and the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, any office surgery registered under this section before July 1,

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2024, whose annual inspection is due in July or August 2024, may request from the department, in writing, a 60-day postponement of the required annual inspection, which postponement must be granted.

(e) All other requests to the department for a postponement of the registration update inspection required under this registration update process must be in writing and be approved by the chair of the Board of Medicine for good cause shown, and such postponement may not exceed 30 days.

(3) STANDARDS OF PRACTICE.—

(a) A physician performing a procedure or surgery in an office registered under this section must comply with the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice for office surgery set forth in this section and s. 459.0139 and any applicable rules adopted thereunder.

(b) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(c) ~~(b)~~ Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic,

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abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(d) ~~(c)~~ A physician performing a gluteal fat grafting procedure in an office surgery setting must comply with the applicable provisions of s. 469 of the Florida Building Code, relating to office surgery suites, and the standards of practice under this subsection and s. 459.0139 and applicable rules adopted thereunder, including, but not limited to, all of the following standards of practice:

1. The ~~A~~ physician performing the ~~a~~ gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

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4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures shall at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(e) ~~(d)~~ If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence~~

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~~or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4)~~(3)~~ RULEMAKING.—

(a) The board may ~~shall~~ adopt by rule additional standards of practice for physicians who perform office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section, as warranted for patient safety and by the evolution of technology and medical practice.

(b) The board may adopt rules to administer the registration, registration update, inspection, and safety of offices in which a physician performs office procedures or ~~office~~ surgeries under ~~pursuant to~~ this section.

Section 4. Section 459.0139, Florida Statutes, is created to read:

459.0139 Standard of practice for office surgery.—

(1) CONSTRUCTION.—This section does not relieve a physician performing a procedure or surgery from the responsibility of making the medical determination of whether an office is an appropriate setting in which to perform that particular procedure or surgery, taking into consideration the particular patient on which the procedure or surgery is to be performed.

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

(a) "Certified in advanced cardiac life support" means a person holds a current certification in an advanced cardiac life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the Advanced Cardiovascular Life Support (ACLS) Certification Institute.

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(b) "Certified in basic life support" means a person holds a current certification in a basic life support course with didactic and skills components, approved by the American Heart Association, the American Safety and Health Institute, the American Red Cross, Pacific Medical Training, or the ACLS Certification Institute.

(c) "Certified in pediatric advanced life support" means a person holds a current certification in a pediatric advanced life support course with didactic and skills components approved by the American Heart Association, the American Safety and Health Institute, or Pacific Medical Training.

(d) "Continual monitoring" means monitoring that is repeated regularly and frequently in steady, rapid succession.

(e) "Continuous" means monitoring that is prolonged without any interruption at any time.

(f) "Equipment" means a medical device, instrument, or tool used to perform specific actions or take certain measurements during, or while a patient is recovering from, a procedure or surgery which must meet current performance standards according to its manufacturer's guidelines for the specific device, instrument, or tool, as applicable.

(g) "Major blood vessels" means a group of critical arteries and veins, including the aorta, coronary arteries, pulmonary arteries, superior and inferior vena cava, pulmonary veins, and any intra-cerebral artery or vein.

(h) "Office surgery" means a physician's office in which surgical procedures are performed by a physician for the practice of medicine as authorized by this section and board rule. The office must be an office at which a physician

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regularly performs consultations with surgical patients, preoperative examinations, and postoperative care, as necessitated by the standard of care related to the surgeries performed at the physician's office, and at which patient records are readily maintained and available. The types of procedures or surgeries performed in an office surgery are those which need not be performed in a facility licensed under chapter 390 or chapter 395, and are not of the type that:

1. Generally result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin count;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and are performed with direct visualization by open exposure of the major vessel, except for percutaneous endovascular intervention; or

4. Are generally emergent or life threatening in nature.

(i) "Pediatric patient" means a patient who is 13 years of age or younger.

(j) "Percutaneous endovascular intervention" means a procedure performed without open direct visualization of the target vessel and which requires only needle puncture of an artery or vein followed by insertion of catheters, wires, or similar devices that are then advanced through the blood vessels using imaging guidance. Once the catheter reaches the intended location, various maneuvers to address the diseased area may be performed, including, but not limited to, injection of contrast medium for imaging; treatment of vessels with angioplasty;

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atherectomy; covered or uncovered stenting; embolization or intentionally occluding vessels or organs; and delivering medications or radiation or other energy, such as laser, radiofrequency, or cryo.

(k) "Reasonable proximity" means a distance that does not exceed 20 minutes of transport time to the hospital.

(l) "Surgery" means any manual or operative procedure performed upon the body of a living human being, including, but not limited to, those performed with the use of lasers, for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting a deformity or defect, prolonging life, or relieving suffering, or any elective procedure for aesthetic, reconstructive, or cosmetic purposes. The term includes, but is not limited to, incision or curettage of tissue or an organ; suture or other repair of tissue or an organ, including a closed as well as an open reduction of a fracture; extraction of tissue, including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure with use of local or general anesthetic.

(3) GENERAL REQUIREMENTS FOR OFFICE SURGERY.—

(a) The physician performing the surgery must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The physician performing the surgery may delegate the preoperative heart and lung evaluation to a qualified anesthesia provider within the scope of the provider's practice and, if applicable, protocol.

(b) The physician performing the surgery shall maintain

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complete patient records of each surgical procedure performed, which must include all of the following:

1. The patient's name, patient number, preoperative diagnosis, postoperative diagnosis, surgical procedure, anesthetic, anesthesia records, recovery records, and complications, if any.

2. The name of each member of the surgical team, including the surgeon, first assistant, anesthesiologist, nurse anesthetist, anesthesiologist assistant, circulating nurse, and operating room technician, as applicable.

(c) Each office surgery's designated physician shall ensure that the office surgery has procedures in place to verify that all of the following have occurred before any surgery is performed:

1. The patient has signed the informed consent form for the procedure reflecting the patient's knowledge of identified risks of the procedure, consent to the procedure, the type of anesthesia and anesthesia provider to be used during the procedure, and the fact that the patient may choose the type of anesthesia provider for the procedure, such as an anesthesiologist, a certified registered nurse anesthetist, a physician assistant, an anesthesiologist assistant, or another appropriately trained physician as provided by board rule.

2. The patient's identity has been verified.

3. The operative site has been verified.

4. The operative procedure to be performed has been verified with the patient.

5. All of the information and actions required to be verified under this paragraph are documented in the patient's

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medical record.

(d) With respect to the requirements set forth in paragraph (c), written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

(e) The physician performing the surgery shall maintain a log of all liposuction procedures performed at the office surgery where more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed and where Level II and Level III surgical procedures are performed. The log must, at a minimum, include all of the following:

1. A confidential patient identifier.

2. Time of arrival in the operating suite.

3. The name of the physician performing the procedure.

4. The patient's diagnosis, CPT codes used for the procedure, the patient's classification for risk with anesthesia according to the American Society of Anesthesiologists' physical status classification system, and the type of procedure and level of surgery performed.

5. Documentation of completion of the medical clearance performed by the anesthesiologist or the physician performing the surgery.

6. The name and provider type of the anesthesia provider and the type of anesthesia used.

7. The duration of the procedure.

8. Any adverse incidents as identified in s. 458.351.

9. The type of postoperative care, duration of recovery, disposition of the patient upon discharge, including the address of where the patient is being discharged, discharge instructions, and list of medications used during surgery and

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recovery.

All surgical and anesthesia logs must be kept at the office surgery and maintained for 6 years after the date of last patient contact and must be provided to department investigators upon request.

(f) For any liposuction procedure, the physician performing the surgery is responsible for determining the appropriate amount of supernatant fat to be removed from a particular patient. A maximum of 4,000 cubic centimeters of supernatant fat may be removed by liposuction in the office surgery setting. A maximum of 50mg/kg of lidocaine may be injected for tumescent liposuction in the office surgery setting.

(g)1. Liposuction may be performed in combination with another separate surgical procedure during a single Level II or Level III surgical procedure only in the following circumstances:

a. When combined with an abdominoplasty, liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

b. When liposuction is associated and directly related to another procedure, the liposuction may not exceed 1,000 cubic centimeters of supernatant fat.

2. Major liposuction in excess of 1,000 cubic centimeters of supernatant fat may not be performed on a patient’s body in a location that is remote from the site of another procedure being performed on that patient.

(h) For elective cosmetic and plastic surgery procedures performed in a physician’s office, the maximum planned duration of all surgical procedures combined may not exceed 8 hours.

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Except for elective cosmetic and plastic surgery, the physician performing the surgery may not keep patients past midnight in a physician's office. For elective cosmetic and plastic surgical procedures, the patient must be discharged within 24 hours after presenting to the office for surgery. However, an overnight stay is allowed in the office if the total time the patient is at the office does not exceed 23 hours and 59 minutes, including the surgery time. An overnight stay in a physician's office for elective cosmetic and plastic surgery must be strictly limited to the physician's office. If the patient has not recovered sufficiently to be safely discharged within the timeframes set forth, the patient must be transferred to a hospital for continued postoperative care.

(i) The American Society of Anesthesiologists Standards for Basic Anesthetic Monitoring are hereby adopted and incorporated by reference as the standards for anesthetic monitoring by any qualified anesthesia provider under this section.

1. These standards apply to general anesthetics, regional anesthetics, and monitored Level II and III anesthesia care. However, in emergency circumstances, appropriate life support measures take priority. These standards may be exceeded at any time based on the judgment of the responsible supervising physician or anesthesiologist. While these standards are intended to encourage quality patient care, observing them does not guarantee any specific patient outcome. This set of standards addresses only the issue of basic anesthesia monitoring, which is only one component of anesthesia care.

2. In certain rare or unusual circumstances, some of these methods of monitoring may be clinically impractical, and

appropriate use of the described monitoring methods may fail to detect adverse clinical developments. In such cases, a brief interruption of continual monitoring may be unavoidable and does not by itself constitute a violation of the standards of practice of this section.

3. Under extenuating circumstances, the physician performing the surgery or the anesthesiologist may waive the following requirements:

a. The use of an oxygen analyzer with a low oxygen concentration limit alarm, or other technology authorized under board rule which equals or exceeds the quality of the oxygen analyzer, during the administration of general anesthesia with an anesthesia machine.

b. The use of pulse oximetry with a variable pitch pulse tone and an audible low threshold alarm, or other technology authorized under board rule which equals or exceeds the quality of a pulse oximeter, and the use of adequate illumination and exposure of the patient to assess color.

c. The use of capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy, as a quantitative method of analyzing the end-tidal carbon dioxide for continual monitoring for the presence of expired carbon dioxide during ventilation, from the time of the endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location.

d. The use of continuous electrocardiogram display, or other technology authorized under board rule which equals or

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exceeds the quality of electrocardiogram display, from the beginning of anesthesia until preparing to leave the anesthetizing location.

e. The measuring of arterial blood pressure and heart rate evaluated at least every 5 minutes during anesthesia.

When any of the monitoring is waived for extenuating circumstances under this subparagraph, it must be documented in a note in the patient's medical record, including the reasons for the need to waive the requirement. These standards are not intended for the application to the care of an obstetrical patient in labor or in the conduct of pain management.

(j)1. Because of the rapid changes in patient status during anesthesia, qualified anesthesia personnel must be continuously present in the room to provide anesthesia care for the entire duration of all general anesthetics, regional anesthetics, and monitored anesthesia care conducted on the patient. In the event that there is a direct known hazard, such as radiation, to the anesthesia personnel which might require intermittent remote observation of the patient, some provision for monitoring the patient must be made. In the event that an emergency requires the temporary absence of the person primarily responsible for the anesthesia, the best judgment of the supervising physician or anesthesiologist shall be exercised in comparing the emergency with the anesthetized patient's condition and in the selection of the person left responsible for the anesthesia during the temporary absence.

2. During all anesthesia, the patient's oxygenation, ventilation, circulation, and temperature must be continually

evaluated to ensure adequate oxygen concentration in the inspired gas and the blood.

a. During all general anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system must be measured by an oxygen analyzer with a low oxygen concentration limit alarm used to measure blood oxygenation.

b. During all anesthesia, a quantitative method of assessing oxygenation, such as pulse oximetry, must be employed. When a pulse oximeter is used, the variable pitch pulse tone and the low threshold alarm must be audible to the qualified anesthesia provider. Adequate illumination and exposure of the patient are necessary to assess color.

c. During all anesthesia, every patient must have the adequacy of his or her ventilation continually evaluated, including, but not limited to, the evaluation of qualitative clinical signs, such as chest excursion, observation of the reservoir breathing bag, and auscultation of breath sounds. Continual monitoring for the presence of expired carbon dioxide must be performed unless invalidated by the nature of the patient's condition, the procedure, or the equipment. Quantitative monitoring of the volume of expired gas must also be performed.

d. When an endotracheal tube or supraglottic airway is inserted, its correct positioning must be verified by clinical assessment and by identification of carbon dioxide in the expired gas. Continual end-tidal carbon dioxide analysis, in use from the time of endotracheal tube or supraglottic airway placement until extubation or removal or initiating transfer of the patient to a postoperative care location, must be performed

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using a quantitative method, such as capnography, capnometry, or mass spectroscopy, or other technology authorized under board rule which equals or exceeds the quality of capnography, capnometry, or mass spectroscopy. When capnography or capnometry is used, the end-tidal carbon dioxide alarm must be audible to the qualified anesthesia provider.

e. When ventilation is controlled by a mechanical ventilator, there must be in continuous use a device capable of detecting disconnection of components of the breathing system. The device must give an audible signal when its alarm threshold is exceeded.

f. During regional anesthesia without sedation or local anesthesia with no sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. During moderate or deep sedation, the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs. Monitoring for the presence of exhaled carbon dioxide is recommended.

g. Every patient receiving anesthesia must have the electrocardiogram or other technology authorized under board rule which equals or exceeds the quality of electrocardiogram continuously displayed from the beginning of anesthesia until preparing to leave the anesthetizing location.

h. Every patient receiving anesthesia must have arterial blood pressure and heart rate determined and evaluated at least every 5 minutes.

i. Every patient receiving general anesthesia must have circulatory function continually evaluated by at least one of the following methods:

(I) Palpation of a pulse.

(II) Auscultation of heart sounds.

(III) Monitoring of a tracing of intra-arterial pressure.

(IV) Ultrasound peripheral pulse monitoring.

(V) Pulse plethysmography or oximetry.

(VI) Other technology authorized under board rule which equals or exceeds the quality of any of the methods listed in sub-sub-subparagraphs (I)-(V).

j. Every patient receiving anesthesia must have his or her temperature monitored when clinically significant changes in body temperature are intended, anticipated, or suspected.

(k)1. The physician performing the surgery shall ensure that the postoperative care arrangements made for the patient are adequate for the procedure being performed, as required by board rule.

2. Management of postoperative care is the responsibility of the physician performing the surgery and may be delegated as determined by board rule. If the physician performing the surgery is unavailable to provide postoperative care, the physician performing the surgery must notify the patient of his or her unavailability for postoperative care before the procedure.

3. If there is an overnight stay at the office in relation to any surgical procedure:

a. The office must provide at least two persons to act as monitors, one of whom must be certified in advanced cardiac life support, and maintain a monitor-to-patient ratio of at least one monitor to two patients.

b. Once the physician performing the surgery has signed a

timed and dated discharge order, the office may provide only one monitor to monitor the patient. The monitor must be qualified by licensure and training to administer all of the medications required on the crash cart and must be certified in advanced cardiac life support.

c. A complete and current crash cart must be present in the office surgery and immediately accessible for the monitors.

4. The physician performing the surgery must be reachable by telephone and readily available to return to the office if needed.

5. A policy and procedures manual must be maintained in the office at which Level II and Level III procedures are performed. The manual must be updated and implemented annually. The policy and procedures manual must provide for all of the following:

a. Duties and responsibilities of all personnel.

b. A quality assessment and improvement system designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care and opportunities to improve performance.

c. Cleaning procedures and protocols.

d. Sterilization procedures.

e. Infection control procedures and personnel responsibilities.

f. Emergency procedures.

6. The designated physician shall establish a risk management program that includes all of the following components:

a. The identification, investigation, and analysis of the frequency and causes of adverse incidents.

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b. The identification of trends or patterns of adverse incidents.

c. The development of appropriate measures to correct, reduce, minimize, or eliminate the risk of adverse incidents.

d. The documentation of such functions and periodic review of such information at least quarterly by the designated physician.

7. The designated physician shall report to the department any adverse incidents that occur within the scope of office surgeries. This report must be made within 15 days after the occurrence of an incident as required by s. 458.351.

8. The designated physician is responsible for prominently posting a sign in the office which states that the office is a doctor's office regulated under this section and ss. 458.328, 458.3281, and 459.0138 and the applicable rules of the Board of Medicine and the Board of Osteopathic Medicine as set forth in rules 64B8 and 64B15, Florida Administrative Code. This notice must also appear prominently within the required patient informed consent form.

9. All physicians performing surgery at the office surgery must be qualified by education, training, and experience to perform any procedure the physician performs in the office surgery.

10. When Level II, Level II-A, or Level III procedures are performed in an office surgery setting, the physician performing the surgery is responsible for providing the patient, in writing, before the procedure, with the name and location of the hospital where the physician performing the surgery has privileges to perform the same procedure as the one being

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performed in the office surgery setting or the name and location of the hospital with which the physician performing the surgery has a transfer agreement in the event of an emergency.

(4) LEVEL I OFFICE SURGERY.—

(a) *Scope.*—Level I office surgery includes the following:

1. Minor procedures such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue which are performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient.

2. Liposuction involving the removal of less than 4,000 cubic centimeters of supernatant fat.

3. Incision and drainage of superficial abscesses; limited endoscopies, such as proctoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of the urethra, cystoscopic procedures, and closed reduction of simple fractures; or small joint dislocations, such as in the finger or toe joints.

4. Procedures in which anesthesia is limited to minimal sedation. The patient’s level of sedation must be that of minimal sedation and anxiolysis, and the chances of complications requiring hospitalization must be remote. As used in this sub-subparagraph, the term “minimal sedation and anxiolysis” means a drug-induced state during which patients respond normally to verbal commands, and although cognitive function and physical coordination may be impaired, airway reflexes and ventilatory and cardiovascular functions remain unaffected. Controlled substances, as defined in ss. 893.02 and

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893.03, must be limited to oral administration in doses appropriate for the unsupervised treatment of insomnia, anxiety, or pain.

5. Procedures for which chances of complications requiring hospitalization are remote as specified in board rule.

(b) *Standards of practice.*—Standards of practice for Level I office surgery include all of the following:

1. The medical education, training, and experience of the physician performing the surgery must include training on proper dosages and management of toxicity or hypersensitivity to regional anesthetic drugs, and the physician must be certified in advanced cardiac life support.

2. At least one operating assistant must be certified in basic life support.

3. Intravenous access supplies, oxygen, oral airways, and a positive pressure ventilation device must be available in the office surgery, along with the following medications, stored per the manufacturer's recommendation:

a. Atropine, 3 mg.

b. Diphenhydramine, 50 mg.

c. Epinephrine, 1 mg in 10 ml.

d. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

e. Hydrocortisone, 100 mg.

f. If a benzodiazepine is administered, flumazenil, 0.5 mg in 5 ml vial, 2 vials total.

g. If an opiate is administered, naloxone, 0.4 mg in 1 ml vial, 2 vials total.

4. When performing minor procedures, such as excision of skin lesions, moles, warts, cysts, or lipomas and repair of

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lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia in an office surgery setting, physicians performing the procedure are exempt from subparagraphs 1.-3. Current certification in basic life support is recommended but not required.

5. A physician performing the surgery need not have an assistant during the procedure unless the specific procedure being performed requires an assistant.

(5) LEVEL II OFFICE SURGERY.—

(a) *Scope.*—Level II office surgery includes, but is not limited to, all of the following procedures:

1. Hemorrhoidectomy.

2. Hernia repair.

3. Large joint dislocations.

4. Colonoscopy.

5. Liposuction involving the removal of up to 4,000 cubic centimeters of supernatant fat.

6. Any other procedure the board designates by rule as a Level II office surgery.

7. Surgeries in which the patient’s level of sedation is that of moderate sedation and analgesia or conscious sedation. As used in this subparagraph, the term “moderate sedation and analgesia or conscious sedation” is a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation; interventions are not required to maintain a patent airway; spontaneous ventilation is adequate; and cardiovascular function is maintained. For purposes of this term, reflex withdrawal from a painful stimulus is not considered a

purposeful response.

(b) *Standards of practice.*—Standards of practice for Level II office surgery include, but are not limited to, the following:

1. The physician performing the surgery, or the office where the procedure is being performed, must have a transfer agreement with a licensed hospital within reasonable proximity if the physician performing the procedure does not have staff privileges to perform the same procedure as that being performed in the office surgery setting at a licensed hospital within reasonable proximity. The transfer agreement required by this section must be current and have been entered into no more than 3 years before the date of the office's most recent annual inspection under s. 459.0138. A transfer agreement must affirmatively disclose an effective date and a termination date.

2. The physician performing the surgery must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board eligibility by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or Board of Osteopathic Medicine, as applicable, or must be able to establish comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedures being performed by the physician in the office surgery facility.

3. One assistant must be currently certified in basic life

support.

4. The physician performing the surgery must be currently certified in advanced cardiac life support.

5. A complete and current crash cart must be available at all times at the location where the anesthesia is being administered. The designated physician of an office surgery is responsible for ensuring that the crash cart is replenished after each use, the expiration dates for the crash cart's medications are checked weekly, and crash cart events are documented in the cart's logs. Medicines must be stored per the manufacturer's recommendations, and multidose vials must be dated once opened and checked daily for expiration. The crash cart must, at a minimum, include the following intravenous or inhaled medications:

a. Adenosine, 18 mg.

b. Albuterol, 2.5 mg with a small volume nebulizer.

c. Amiodarone, 300 mg.

d. Atropine, 3 mg.

e. Calcium chloride, 1 gram.

f. Dextrose, 50 percent; 50 ml.

g. Diphenhydramine, 50 mg.

h. Dopamine, 200 mg, minimum.

i. Epinephrine, 1 mg, in 10 ml.

j. Epinephrine, 1 mg in 1 ml vial, 3 vials total.

k. Flumazenil, 1 mg.

l. Furosemide, 40 mg.

m. Hydrocortisone, 100 mg.

n. Lidocaine appropriate for cardiac administration, 100 mg.

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o. Magnesium sulfate, 2 grams.

p. Naloxone, 1.2 mg.

q. A beta blocker class drug.

r. Sodium bicarbonate, 50 mEq/50 ml.

s. Paralytic agent that is appropriate for use in rapid sequence intubation.

t. A calcium channel blocker class drug.

u. If nonneuraxial regional blocks are performed, Intralipid, 20 percent, 500 ml solution.

v. Any additional medication the board determines by rule is warranted for patient safety and by the evolution of technology and medical practice.

6. In the event of a drug shortage, the designated physician is authorized to substitute a therapeutically equivalent drug that meets the prevailing practice standards.

7. The designated physician is responsible for ensuring that the office maintains documentation of its unsuccessful efforts to obtain the required drug.

8. The designated physician is responsible for ensuring that the following are present in the office surgery:

a. A benzodiazepine.

b. A positive pressure ventilation device, such as Ambu, plus oxygen supply.

c. An end-tidal carbon dioxide detection device.

d. Monitors for blood pressure, electrocardiography, and oxygen saturation.

e. Emergency intubation equipment that must, at a minimum, include suction devices, endotracheal tubes, working laryngoscopes, oropharyngeal airways, nasopharyngeal airways,

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and bag valve mask apparatus that are sized appropriately for the specific patient.

f. A working defibrillator with defibrillator pads or defibrillator gel, or an automated external defibrillator unit.

g. Sufficient backup power to allow the physician performing the surgery to safely terminate the procedure and to allow the patient to emerge from the anesthetic, all without compromising the sterility of the procedure or the environment of care.

h. Working sterilization equipment cultured weekly.

i. Sufficient intravenous solutions and equipment for a minimum of a week's worth of surgical cases.

j. Any other equipment required by board rule, as warranted by the evolution of technology and medical practice.

9. The physician performing the surgery must be assisted by a qualified anesthesia provider, which may include any of the following types of providers:

a. An anesthesiologist.

b. A certified registered nurse anesthetist.

c. A registered nurse, if the physician performing the surgery is certified in advanced cardiac life support and the registered nurse assists only with local anesthesia or conscious sedation.

An anesthesiologist assistant may assist the anesthesiologist as provided by board rule. An assisting anesthesia provider may not function in any other capacity during the procedure.

10. If additional anesthesia assistance is required by the specific procedure or patient circumstances, such assistance

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must be provided by a physician, osteopathic physician, registered nurse, licensed practical nurse, or operating room technician.

11. The designated physician is responsible for ensuring that each patient is monitored in the recovery room until the patient is fully recovered from anesthesia. Such monitoring must be provided by a licensed physician, physician assistant, registered nurse with postanesthesia care unit experience, or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(6) LEVEL II-A OFFICE SURGERY.—

(a) *Scope*.—Level II-A office surgeries are those Level II office surgeries that have a maximum planned duration of 5 minutes or less and in which the chances of complications requiring hospitalization are remote.

(b) *Standards of practice.*—

1. All practice standards for Level II office surgery set forth in paragraph (5)(b) must be met for Level II-A office surgery except for the requirements set forth in subparagraph (5)(b)9. regarding assistance by a qualified anesthesia provider.

2. During the surgical procedure, the physician performing the surgery must be assisted by a licensed physician, physician assistant, registered nurse, or licensed practical nurse.

3. Additional assistance may be required by specific procedure or patient circumstances.

4. Following the procedure, a licensed physician, physician assistant, or registered nurse must be available to monitor the

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patient in the recovery room until the patient is recovered from anesthesia. The monitoring provider must be currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(7) LEVEL III OFFICE SURGERY.—

(a) *Scope.*—

1. Level III office surgery includes those types of surgery during which the patient's level of sedation is that of deep sedation and analgesia or general anesthesia. As used in this subparagraph, the term:

a. "Deep sedation and analgesia" means a drug-induced depression of consciousness during which:

(I) Patients cannot be easily aroused but respond purposefully following repeated or painful stimulation;

(II) The ability to independently maintain ventilatory function may be impaired;

(III) Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate; and

(IV) Cardiovascular function is usually maintained.

For purposes of this sub-subparagraph, reflex withdrawal from a painful stimulus is not considered a purposeful response.

b. "General anesthesia" means a drug-induced loss of consciousness during which:

(I) Patients are not arousable, even by painful stimulation;

(II) The ability to independently maintain ventilatory function is often impaired;

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(III) Patients often require assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(IV) Cardiovascular function may be impaired.

2. The use of spinal or epidural anesthesia for a procedure requires that the procedure be considered a Level III office surgery.

3. Only patients classified under the American Society of Anesthesiologists' (ASA) risk classification criteria as Class I or Class II are appropriate candidates for a Level III office surgery.

a. All Level III office surgeries on patients classified as ASA III or higher must be performed only in a hospital or ambulatory surgical center.

b. For all ASA II patients above the age of 50, the physician performing the surgery must obtain a complete workup performed before the performance of a Level III office surgery in the office surgery setting.

c. If the patient has a cardiac history or is deemed to be a complicated medical patient, the patient must have a preoperative electrocardiogram and be referred to an appropriate consultant for medical optimization. The referral to a consultant may be waived after evaluation by the patient's anesthesiologist.

(b) *Standards of practice.*—Practice standards for Level III office surgery include all Level II office surgery standards and all of the following requirements:

1. The physician performing the surgery must have staff

privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office surgery setting or must be able to document satisfactory completion of training, such as board certification or board qualification by a board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or Board of Osteopathic Medicine, as applicable, or must be able to demonstrate to the accrediting organization or to the department comparable background, training, and experience. Such board certification or comparable background, training, and experience must also be directly related to and include the procedure being performed by the physician performing the surgery in the office surgery setting. In addition, the physician performing the surgery must have knowledge of the principles of general anesthesia.

2. The physician performing the surgery must be currently certified in advanced cardiac life support.

3. At least one operating assistant must be currently certified in basic life support.

4. An emergency policy and procedures manual related to serious anesthesia complications must be available in the office surgery and reviewed biannually by the designated physician, practiced with staff, updated, and posted in a conspicuous location in the office. Topics to be covered in the manual must include all of the following:

a. Airway blockage and foreign body obstruction.

b. Allergic reactions.

c. Bradycardia.

d. Bronchospasm.

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e. Cardiac arrest.
f. Chest pain.
g. Hypoglycemia.
h. Hypotension.
i. Hypoventilation.
j. Laryngospasm.
k. Local anesthetic toxicity reaction.
l. Malignant hyperthermia.
m. Any other topics the board determines by rule are warranted for patient safety and by the evolution of technology and medical practice.

5. An office surgery performing Level III office surgeries must maintain all of the equipment and medications required for Level II office surgeries and comply with all of the following additional requirements:

a. Maintain at least 720 mg of dantrolene on site if halogenated anesthetics or succinylcholine are used.

b. Equipment and medication for monitored postanesthesia recovery must be available in the office.

6. Anesthetic safety regulations must be developed, posted in a conspicuous location in the office, and enforced by the designated physician. Such regulations must include all of the following requirements:

a. All operating room electrical and anesthesia equipment must be inspected at least semiannually, and a written record of the results and corrective actions must be maintained.

b. Flammable anesthetic agents may not be employed in office surgery facilities.

c. Electrical equipment in anesthetizing areas must be on

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an audiovisual line isolation monitor, with the exception of radiologic equipment and fixed lighting more than 5 feet above the floor.

d. Each anesthesia gas machine must have a pin index safety system or equivalent safety system and a minimum oxygen flow safety device.

e. All reusable anesthesia equipment in direct contact with a patient must be cleaned or sterilized as appropriate after each use.

f. The following monitors must be applied to all patients receiving conduction or general anesthesia:

(I) Blood pressure cuff.

(II) A continuous temperature device, readily available to measure the patient's temperature.

(III) Pulse oximeter.

(IV) Electrocardiogram.

(V) An inspired oxygen concentration monitor and a capnograph, for patients receiving general anesthesia.

g. Emergency intubation equipment must be available in all office surgery suites.

h. Surgical tables must be capable of Trendelenburg and other positions necessary to facilitate surgical procedures.

i. An anesthesiologist, a certified registered nurse anesthetist, an anesthesiologist assistant, or a physician assistant qualified as set forth in board rule must administer the general or regional anesthesia.

j. A physician, a registered nurse, a licensed practical nurse, a physician assistant, or an operating room technician must assist with the surgery. The anesthesia provider may not

function in any other capacity during the procedure.

k. The patient must be monitored in the recovery room until he or she has fully recovered from anesthesia. The monitoring must be provided by a physician, a physician assistant, a certified registered nurse anesthetist, an anesthesiologist assistant, or a registered nurse with postanesthesia care unit experience or the equivalent who is currently certified in advanced cardiac life support, or, in the case of pediatric patients, currently certified in pediatric advanced life support.

(8) EXEMPTION.—This section does not apply to a physician who is dually licensed as a dentist under chapter 466 when he or she is performing dental procedures that fall within the scope of practice of dentistry and are regulated under chapter 466.

(9) RULEMAKING.—The board may adopt by rule additional standards of practice for physicians who perform office surgeries or procedures under this section as warranted for patient safety and by the evolution of technology and medical practice.

Section 5. Subsection (6) of section 456.074, Florida Statutes, is amended to read

456.074 Certain health care practitioners; immediate suspension of license.—

(6) The department must issue an emergency order suspending or restricting the registration of an office registered under s. 458.328 or s. 459.0138 ~~s. 459.0139~~ upon a finding of probable cause that the office or a physician practicing in the office is not in compliance with the standards of practice for office surgery adopted by the boards pursuant to s. 458.328 or s.

589844

459.0138, as applicable, or is in violation of s. 458.331(1)(v) or s. 459.015(1)(z), and that such noncompliance or violation constitutes an immediate danger to the public.

Section 6. 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:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to office surgeries; amending ss. 458.328 and 459.0138, F.S.; revising the types of procedures for which a medical office must register with the Department of Health to perform office surgeries; specifying inspection procedures for such offices seeking registration with the department; requiring that certain offices seeking registration provide proof to the department that they have met specified requirements and rules; requiring the department to inspect such offices to ensure that certain equipment and procedures are present or in place; requiring the department to notify the Agency for Health Care Administration if an applicant is unable to provide certain proof to the department and to request that the agency inspect and consult with the office; deleting obsolete language; providing that the department may not register and must seek an emergency suspension of an office under specified circumstances; requiring that each office, as a

589844

condition of registration, list certain medical personnel and thereafter notify the department of the addition or termination of such personnel within a specified timeframe; providing for disciplinary action for failure to comply; revising the materials that the department must review when inspecting a registered office; requiring offices already registered with the department as of a specified date to provide a registration update within a specified timeframe; specifying requirements for such registration update process; revising requirements for the standards of practice for office surgeries; providing an administrative penalty; revising rulemaking requirements; creating ss. 458.3281 and 459.0139, F.S.; providing construction; defining terms; specifying general requirements for office surgeries; specifying standards of practice for office surgeries, delineated by the level of surgery being performed; providing an exemption; authorizing the Board of Medicine and the Board of Osteopathic Medicine, as applicable, to adopt additional standards of practice by rule; amending s. 456.074, F.S.; correcting a cross-reference; providing an effective date.

224966

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment to Amendment (589844)

Delete line 61
and insert:
perform such procedures in a hospital no more than 30 minutes

Delete line 380
and insert:
exceed 30 minutes of transport time to the hospital.

Delete line 1175
and insert:

224966

perform such procedures in a hospital no more than 30 minutes

Delete line 1494

and insert:

exceed 30 minutes of transport time to the hospital.

299274

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment to Amendment (589844)

Delete lines 68 - 73
and insert:
4. If an applicant is required under subparagraph 3. to provide proof to the department that the office is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 458.3281 and the applicable rules adopted thereunder, but is unable to provide such proof, the department must notify the Agency for

299274

Delete lines 1182 - 1187

and insert:

4. If an applicant is required under subparagraph 3. to provide proof to the department that the office is in compliance with the applicable requirements of s. 469 of the Florida Building Code, relating to office surgery suites, or s. 459.0139 and the applicable rules adopted thereunder, but is unable to provide such proof, the department must notify the Agency for

241934

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment to Amendment (589844)

Delete line 822

and insert:

5 years before the date of the office's most recent annual

Delete line 1936

and insert:

5 years before the date of the office's most recent annual

By the Committee on Health Policy; and Senator Garcia

588-02981-24 20241188c1

A bill to be entitled

An act relating to office surgeries; amending ss. 458.328 and 459.0138, F.S.; revising the types of procedures for which a medical office must register with the Department of Health to perform office surgeries; specifying notification and inspection procedures for the department and the Agency for Health Care Administration if, during the registration process, the department determines that the performance of specified procedures in the office would create a risk to patient safety such that the office should instead be regulated as an ambulatory surgical center; deleting obsolete language; making technical and clarifying changes; revising standards of practice for office surgeries; requiring medical offices already registered with the department to perform certain office surgeries as of a specified date to reregister if such offices perform specified procedures; specifying notification and inspection procedures for the department and the agency in the event that, during the reregistration process, the department determines that the performance of specified procedures in an office creates a risk of patient safety such that the office should instead be regulated as an ambulatory surgical center; requiring an office to cease performing the specified procedures and relinquish its office surgery registration and instead seek licensure as an ambulatory surgical center under such circumstances; requiring the

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

588-02981-24 20241188c1

department to develop a schedule for reregistration of medical offices affected by this act, to be completed by a specified date; providing an effective date.

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

Section 1. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 458.328, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

458.328 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure in which the patient is rotated 180 degrees or more during the procedure, a gluteal fat grafting procedure, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

3. If the department determines that an office seeking registration under this section is one in which a physician is likely to perform, or intends to perform, liposuction procedures that include a patient being rotated 180 degrees or more during the procedure or in which a physician is likely to perform, or intends to perform, gluteal fat grafting procedures, and the

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

department determines that the performance of such procedures in the office would create a significant risk to patient safety and the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

a. The department must notify the Agency for Health Care Administration of its determination.

b. The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

c. If the agency determines that an office is a candidate for ambulatory surgical center licensure under sub-subparagraph b., the agency must notify the office and the department, and the office may not register under this section and must instead attain ambulatory surgical center licensure under chapter 395 before such surgeries may be conducted in the office.

d. If the agency determines that an office is not a candidate for ambulatory surgical center licensure under sub-subparagraph b., the agency must notify the office and the department, and the department shall resume the office's registration process.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 459.0138 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and

unencumbered license under this chapter or chapter 459 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend the registration of an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and

navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(c) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) REREGISTRATION.—An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated 180

degrees or more during the procedure or in which a physician performs gluteal fat grafting procedures must seek reregistration with the department consistent with the parameters of initial registration under subsection (1) according to a schedule developed by the department. During the reregistration process, if the department determines that the performance of such procedures in the office creates a significant risk to patient safety and that the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

(a) The department must notify the Agency for Health Care Administration of its determination; and

(b) The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

If the agency determines that an office is a candidate for ambulatory surgical center licensure under paragraph (b), the agency must notify the office and the department, and the office must cease performing procedures described in this subsection. The office may not recommence performing such procedures without first relinquishing its registration under this section and attaining ambulatory surgical center licensure under chapter 395.

Section 2. Paragraphs (a), (b), and (h) of subsection (1) and subsection (2) of section 459.0138, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

459.0138 Office surgeries.—

(1) REGISTRATION.—

(a)1. An office in which a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is temporarily or permanently removed, a liposuction procedure in which the patient is rotated 180 degrees or more during the procedure, a gluteal fat grafting procedure, a Level II office surgery, or a Level III office surgery must register with the department. ~~unless the office is licensed as~~ A facility licensed under chapter 390 or chapter 395 may not be registered under this section.

2. The department must complete an inspection of any office seeking registration under this section before the office may be registered.

3. If the department determines that an office seeking registration under this section is one in which a physician is likely to perform, or intends to perform, liposuction procedures that include a patient being rotated 180 degrees or more during the procedure or in which a physician is likely to perform, or intends to perform, gluteal fat grafting procedures, and the department determines that the performance of such procedures in the office would create a significant risk to patient safety and the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

a. The department must notify the Agency for Health Care

Administration of its determination.

b. The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure, notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

c. If the agency determines that an office is a candidate for ambulatory surgical center licensure under sub-subparagraph b., the agency must notify the office and the department, and the office may not register under this section and must instead attain ambulatory surgical center licensure under chapter 395 before such surgeries may be conducted in the office.

d. If the agency determines that an office is not a candidate for ambulatory surgical center licensure under sub-subparagraph b., the agency must notify the office and the department, and the department shall resume the office's registration process.

(b) ~~By January 1, 2020,~~ Each office registered under this section or s. 458.328 must designate a physician who is responsible for the office's compliance with the office health and safety requirements of this section and rules adopted hereunder. A designated physician must have a full, active, and unencumbered license under this chapter or chapter 458 and shall practice at the office for which he or she has assumed responsibility. Within 10 calendar days after the termination of a designated physician relationship, the office must notify the department of the designation of another physician to serve as the designated physician. The department may suspend a

registration for an office if the office fails to comply with the requirements of this paragraph.

~~(h) A physician may only perform a procedure or surgery identified in paragraph (a) in an office that is registered with the department. The board shall impose a fine of $5,000 per day on a physician who performs a procedure or surgery in an office that is not registered with the department.~~

(2) STANDARDS OF PRACTICE.—

(a) A physician may not perform any surgery or procedure identified in paragraph (1)(a) in a setting other than an office registered under this section or a facility licensed under chapter 390 or chapter 395, as applicable. The board shall impose a fine of $5,000 per incident on a physician who violates this paragraph ~~performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of practice pursuant to this subsection and rules adopted by the board~~.

(b) Office surgeries may not:

1. Be a type of surgery that generally results in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level;

2. Require major or prolonged intracranial, intrathoracic, abdominal, or joint replacement procedures, except for laparoscopic procedures;

3. Involve major blood vessels and be performed with direct visualization by open exposure of the major blood vessel, except for percutaneous endovascular intervention; or

4. Be emergent or life threatening.

(c) A physician performing a gluteal fat grafting procedure in an office surgery setting shall adhere to standards of

practice under this subsection and rules adopted by the board, which include, but are not limited to, all of the following:

1. A physician performing a gluteal fat grafting procedure must conduct an in-person examination of the patient while physically present in the same room as the patient no later than the day before the procedure.

2. Before a physician may delegate any duties during a gluteal fat grafting procedure, the patient must provide written, informed consent for such delegation. Any duty delegated by a physician during a gluteal fat grafting procedure must be performed under the direct supervision of the physician performing such procedure. Fat extraction and gluteal fat injections must be performed by the physician and may not be delegated.

3. Fat may only be injected into the subcutaneous space of the patient and may not cross the fascia overlying the gluteal muscle. Intramuscular or submuscular fat injections are prohibited.

4. When the physician performing a gluteal fat grafting procedure injects fat into the subcutaneous space of the patient, the physician must use ultrasound guidance, or guidance with other technology authorized under board rule which equals or exceeds the quality of ultrasound, during the placement and navigation of the cannula to ensure that the fat is injected into the subcutaneous space of the patient above the fascia overlying the gluteal muscle. Such guidance with the use of ultrasound or other technology is not required for other portions of such procedure.

5. An office in which a physician performs gluteal fat

grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.

(d) If a procedure in an office surgery setting results in hospitalization, the incident must be reported as an adverse incident pursuant to s. 458.351.

~~(e) An office in which a physician performs gluteal fat grafting procedures must at all times maintain a ratio of one physician to one patient during all phases of the procedure, beginning with the administration of anesthesia to the patient and concluding with the extubation of the patient. After a physician has commenced, and while he or she is engaged in, a gluteal fat grafting procedure, the physician may not commence or engage in another gluteal fat grafting procedure or any other procedure with another patient at the same time.~~

(4) REREGISTRATION.—An office that registered under this section before July 1, 2024, in which a physician performs liposuction procedures that include a patient being rotated 180 degrees or more during the procedure or in which a physician performs gluteal fat grafting procedures must seek reregistration with the department consistent with the parameters of initial registration under subsection (1) according to a schedule developed by the department. During the reregistration process, if the department determines that the

performance of such procedures in the office creates a significant risk to patient safety and that the interests of patient safety would be better served if such procedures were instead regulated under the requirements of ambulatory surgical center licensure under chapter 395:

(a) The department must notify the Agency for Health Care Administration of its determination;

(b) The agency must inspect the office and determine, in the interest of patient safety, whether the office is a candidate for ambulatory surgical center licensure notwithstanding the office's failure to meet all requirements associated with such licensure at the time of inspection and notwithstanding any pertinent exceptions provided under s. 395.002(3).

If the agency determines that an office is a candidate for ambulatory surgical center licensure under paragraph (b), the agency must notify the office and the department, and the office must cease performing procedures described in this subsection. The office may not recommence performing such procedures without first relinquishing its registration under this section and attaining ambulatory surgery center licensure under chapter 395.

Section 3. The Department of Health shall develop a schedule for reregistration of offices affected by the amendments made to s. 458.328(1) or s. 459.0138(1), Florida Statutes, by this act. Registration of all such offices must be completed by December 1, 2024.

Section 4. This act shall take effect upon becoming a law.

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

The Florida Senate

APPEARANCE RECORD

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

February 22, 2024
Meeting Date

Fiscal Policy
Committee

SB 1188 - Office Surgeries
Bill Number or Topic

Barcode # 589844
Amendment Barcode (if applicable)

Name Jessica Love

Phone 850-577-9090

Address 301 S. Bronough St., St3. 600
Street

Email jlove@gray-robinson.com

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 Society of Oral & Maxillofacial Surgeons

☐ 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. 2020-2022JointRules.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

2/22/2024
Meeting Date

FISCAL POLICY
Committee

SB 1188
Bill Number or Topic

AMDT: 589844
Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA Cámara Phone (305) 608-4300

Address PO Box 122
Street
TALLAHASSEE, FL 32302
City State Zip

Email CHRISTIAN@CHAMBERCONSULTANTSFL.COM

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:
SCOTT MORADIAN, D.O.

☐ 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. 2020-2022JointRules.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

2/22/24
Meeting Date

Fiscal Policy
Committee

1188
Bill Number or Topic

589844
Amendment Barcode (if applicable)

Name Chris Noland

Phone 904-233-3051

Address 4427 Herschel St
Street

Email nulandlaw@aol.com

Jacksonville FL 32210
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 Society of Plastic Surgeons

☐ 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. 2020-2022JointRules.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

2/22/2024
Meeting Date

FISCAL POLICY
Committee

SB 1188
Bill Number or Topic

BILL AS AMENDED
Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Phone (305) 608-4300

Address PO BOX 122
Street

Email CHRISTIAN@CHAMBERCONSULTANTSFL.COM

TALLAHASSEE, FL 32302
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:
SCOTT MORADIAN D.O.

☐ 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. 2020-2022JointRules.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

2/22/2024
Meeting Date

FISCAL POLICY
Committee

SB 1188
Bill Number or Topic

ANDY 224966
Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Phone (305)608-4300

Address PO Box 122
Street

Email CHRISTIAN@CHAMBERCONSULTANTSFL.COM

TALLAHASSEE, FL 32302
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:
SCOTT MORADIAN D.O.

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 1222
INTRODUCER:	Criminal Justice Committee; Senator Trumbull and others
SUBJECT:	Theft
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Vaughan	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 1222 amends s. 812.04, F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from $100 or more, but less than $750, to $40 or more, but less than $750. This crime retains a level 2 in the offense severity ranking chart.

The bill creates new crimes relating to taking property from a person's home or porch. Specifically, if the property is taken from a dwelling or from the unenclosed curtilage of a dwelling, it is a:

- Third degree felony, if the property stolen is valued at $750 or more. This crime is ranked as a level 4 in the offense severity ranking chart.
- Second degree felony, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof. This crime is ranked as a level 5 in the offense severity ranking chart.
- First degree misdemeanor, if the property stolen is valued at less than $40.
  - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
  - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

The bill amends s. 812.015, F.S., to provide that it is a third degree felony for a person to commit retail theft if the person acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense. This crime is listed as a level 5 in the offense severity ranking chart.

Commission of the offense described above is a second degree felony if the person solicits the participation of another person in the offense through the use of a social media platform. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill has a positive significant prison bed impact. See Section V., Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024.

II. Present Situation:

Retail merchants have experienced an increase in property theft referred to as "smash-and grab" theft. In this form of organized retail crime, a large group of offenders enter a retail store and steal thousands of dollars of products in minutes, typically overpowering the merchant's employees and preventing the merchant from stopping the theft. Law enforcement has reported such offenders utilizing social media to coordinate illegal group activity.

At the Nordstrom store in California, for example, thieves raided the store of over $100,000 of merchandise in one minute and left the scene in 25 separate cars.[1] In December 2023, a smash and grab burglary at the Sawgrass Mills Mall in Sunrise, led to panic when suspects used an unknown device to break display glass generating a loud noise.[2]

[1] The San Francisco Chronical Business Insider, Jessica Chastain, *Smash-and-Grab Robberies Organized on Social Media, Police Say*, available at, https://www.businessinsider.com/smash-and-grab-robberies-organized-on-social-media-police-2021-12 (last visited on January 20, 2024).
[2] 7 News, Miami, Brandon Beyer, Ruben Rosario and Robbin Simmons, *Police: Shattered glass during "smash and grab" at Sawgrass Mills Mall leads to panic*, available at, https://wsvn.com/news/local/broward/police-shattered-glass-during-smash-and-grab-at-sawgrass-mills-mall-leads-to-panic/ (Last visited January 20, 2024).

Porch Pirating is a theft crime that has also increased in recent years. "Porch pirate"[3] is a term that refers to a thief who takes packages left outside doors by couriers. As online shopping continues to be on the rise, so do incidences of porch piracy. Nearly eight in ten Americans have reported falling victim to such package theft in 2022, totaling an estimated 260 million packages worth $19.5 billion.[4]

Theft

Section 812.014, F.S., provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.[5]

Generally, a person commits a third degree felony[6] crime of grand theft if the property stolen is valued at $750 or more, but less than $20,000.[7] If the property stolen is $20,000 or more, but less than $100,000, the offender commits a second degree felony,[8] and if the property stolen is $100,000 or more, the offender commits a first degree felony.[9] Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.[10]

Taking Property from a Dwelling or the Unenclosed Curtilage of a Dwelling

Section 812.014, F.S., defines theft offenses and categorizes the offense level based on the value of the property stolen and the offender's prior history of theft convictions, the circumstances under which the theft occurs, or the type of property stolen to determine the level of offense.

Specifically, s. 812.014(2)(d), F.S., prohibits a person from stealing property valued at $100 or more, but less than $750, when property is taken from a dwelling or the unenclosed curtilage of a dwelling. A violation of the prohibition is a third degree felony and ranked as a Level 2 offense on the offense severity ranking chart of the Criminal Punishment Code.

A dwelling is defined as a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has

[3] Dictionary.com definition of porch pirate.
[4] Forbes, Ana Durrani, *The Worst states for Porch Pirates 2024*, https://www.forbes.com/home-improvement/home-security/worst-states-for-porch-pirates/#:~:text=Nearly%20eight%20in%2010%20Americans%20have%20had%20packages,million%20packages%20estimated%20at%20%2419.5%20billion%20in%202022 (last visited January 20, 2024).
[5] Section 812.014(1), F.S.
[6] A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[7] Section 812.014(2)(c)1.-3., F.S.
[8] Section 812.014(2)(b), F.S.
[9] Section 812.014(2)(a)1., F.S.
[10] Section 812.014(2)(c), F.S.

a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.[11]

Unenclosed curtilage of a dwelling is defined as the unenclosed land or grounds, and any outbuildings that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.[12]

Retail Theft

Retail theft is the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.[13]

Under s. 812.015(8)(a)-(f), F.S., retail theft is a third degree felony, if a person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 30-day period to determine the value of the property stolen and such value is $750 or more.
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to determine the value of the stolen property and such value is $750 or more.
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is $750 or more.
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purposed to be contained in the package or box and such value is $750 or more.
- Individually, or in concert with 1 or more other persons, commits 5 or more retail thefts within a 30-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of the merchandise, and two or more of the thefts occur at different physical locations.

Under s. 812.015(9)(a)-(c), F.S., retail theft is a second degree felony if a person:

- Commits a second or subsequent felony retail theft offense.
- Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft, in which the amount of each individual theft within a 30-day period is aggregated to determine the value of the stolen property and such value is in excess of $3,000.

[11] Section s. 810.011(2), F.S.
[12] Section 810.09, F.S.
[13] Section 812.015(1)(d), F.S.

- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to have a value in excess of $3,000.

Under s. 812.015(9)(d), F.S., retail theft is a second degree felony, regardless of the value of property stolen, if a person individually, or in concert with one or more other persons, commits five or more retail thefts within a 30-day period and in committing such thefts obtains or uses 20 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at a different physical retail merchant location.

Criminal Punishment Code

The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:
- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.[14]

The Criminal Punishment Code[15] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[16] Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any non-state prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.[17] Absent mitigation,[18] the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.[19]

[14] Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.083, F.S., provides the following maximum fines; $500 for a second degree misdemeanor; $1,000 for a first degree misdemeanor; $5,000 for a third degree felony; and $10,000 for a second degree felony and a first degree felony.
[15] Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.
[16] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.
[17] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.
[18] The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.
[19] If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

Offense Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

III. Effect of Proposed Changes:

The bill amends s. 812.014(2), F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from $100 or more, but less than $750, to $40 or more, but less than $750.

Additionally, the bill creates new offenses relating to theft from a dwelling or unenclosed curtilage of a dwelling, including:

- A third degree felony,[20] ranked as a Level 4 offense, if the property stolen is valued at $750 or more.
- A second degree felony,[21] ranked as a Level 5 offense, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof.
- Petit theft of the first degree and a first degree misdemeanor,[22] if the property stolen is valued at less than $40.
    - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
    - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

Social media platform means any information service, system, Internet search engine, or access software provider that:

[20]. A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.
[21] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S.
[22] A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S

- Provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;
- Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
- Does business in the state; and
- Satisfies at least one of the following thresholds:
  - Has annual gross revenues in excess of $100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
  - Has at least 100 million monthly individual platform participants globally.[23]

The bill amends s. 812.015, F.S., relating to retail theft, to:

- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense, punishable as a third degree felony. This crime is listed as a level 5 in the offense severity ranking chart.
- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, soliciting the participation of another person in the offense through the use of a social media platform, as defined in s. 501.2041(1), F.S., punishable as a second degree felony. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill provides an effective date of October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[23] Section 501.2041(1)(g), F.S.

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 Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill has a positive significant prison bed impact (increase of more than 25 prison beds).[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 812.015, 921.0022, and 784.07.

[24] Office of Economic and Demographic Research *SB 1222*
http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1222.pdf

IX. Additional Information:

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

CS by Criminal Justice on January 23, 2024:
The committee substitute makes the following technical changes by:

- Adding necessary statute citations.
- Correcting the Offense Severity Ranking Chart regarding the punishment for retail theft, s. 812.015(9)(b) F.S., to reflect the increase to a 45 day period.
- Reordering the new offense added in the Offense Severity Ranking Chart.

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 Criminal Justice; and Senators Trumbull and Perry

591-02400-24 20241222c1

A bill to be entitled

An act relating to theft; amending s. 812.014, F.S.; reducing the minimum threshold amount for grand theft of the third degree; creating the offense of grand theft of the third degree; providing criminal penalties; creating the offense of grand theft of the second degree; providing criminal penalties; creating the offense of petit theft of the first degree; providing criminal penalties; providing enhanced criminal penalties for committing petit theft of the first degree and having certain previous convictions; amending s. 812.015, F.S.; defining the term "social media platform"; revising specified timeframes, from 30-day periods to 45-day periods, during which there is a lookback period for the commission of specified retail theft offenses; providing criminal penalties for persons committing certain retail theft acts in concert with a certain number of other persons within one or more establishments for specified purposes; providing criminal penalties for persons who commit retail theft and have certain prior retail theft convictions; providing criminal penalties for persons who commit retail theft who possess a firearm during the commission of such offense; making technical changes; amending s. 921.0022, F.S.; ranking offenses on the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; conforming a cross-reference; amending s. 784.07, F.S.; conforming a cross-reference; making a

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correction; providing an effective date.

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

Section 1. Present paragraphs (e) and (f) of subsection (2) of section 812.014, Florida Statutes, are redesignated as paragraphs (f) and (g), respectively, a new paragraph (e) is added to that subsection, and paragraphs (c) and (d) of that subsection are amended, to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (g) ~~paragraph (f)~~.

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility,

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a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second

degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms "conditions arising from a riot" and "conditions arising from the emergency" have the same meanings as provided in paragraph (b). A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(d)1. It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $40 ~~$100~~ or more, but less than $750, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

2. It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $750 or more, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

3. It is grand theft of the second degree and a felony of the second degree, punishable as provided in s. 775.082, s.

775.083, or s. 775.084, if the property stolen is taken from more than 20 dwellings as defined in s. 810.011(2) or from the unenclosed curtilage of more than 20 dwellings pursuant to s. 810.09(1), or any combination thereof.

(e)1. It is petit theft of the first degree and a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the property stolen is valued at less than $40 and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

2. A person who commits a violation of subparagraph 1. and has previously been convicted of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

3. A person who commits a violation of subparagraph 1. and has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Present subsection (11) of section 812.015, Florida Statutes, is redesignated as subsection (12), a new subsection (11) is added to that section, and subsections (1), (8), (9), and (10) of that section are amended, to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(g) ~~(a)~~ "Merchandise" means any personal property, capable of manual delivery, displayed, held, or offered for retail sale

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by a merchant.

(h) ~~(b)~~ "Merchant" means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.

(n) ~~(c)~~ "Value of merchandise" means the retail sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

(i) ~~(d)~~ "Retail theft" means the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

(c) ~~(e)~~ "Farm produce" means livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.

(e) ~~(f)~~ "Farmer" means a person who is engaging in the growing or producing of farm produce, milk products, honey, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent. No person defined as a farm labor contractor pursuant to s. 450.28 shall be designated to act as an agent for purposes of this section.

(d) ~~(g)~~ "Farm theft" means the unlawful taking possession of

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any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(e).

(a) ~~(h)~~ "Antishoplifting or inventory control device" means a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise. The term includes any electronic or digital imaging or any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.

(b) ~~(i)~~ "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

(l) ~~(j)~~ "Transit fare evasion" means the unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare-paying passengers, and shall constitute petit theft as proscribed by this chapter.

(f) ~~(k)~~ "Mass transit vehicle" means buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare-paying passengers.

(k) ~~(l)~~ "Transit agency" means any state agency, political subdivision of the state, or municipality which operates mass

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transit vehicles.

(m) "Trespass" means the violation as described in s. 810.08.

(j) "Social media platform" has the same meaning as in s. 501.2041(1).

(8) Except as provided in subsection (9) or subsection (11), a person who commits retail theft commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:

(a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 45-day ~~30-day~~ period to determine the value of the property stolen and such value is $750 or more;

(b) Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 45-day ~~30-day~~ period is aggregated to determine the value of the stolen property and such value is $750 or more;

(c) Individually, or in concert with one or more other persons, commits theft from more than one location within a 45-day ~~30-day~~ period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is $750 or more;

(d) Acts in concert with one or more other individuals within one or more establishments to distract the merchant,

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merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is $750 or more;

(e) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is $750 or more; ~~or~~

(f) Individually, or in concert with one ~~1~~ or more other persons, commits five ~~5~~ or more retail thefts within a 45-day ~~30-day~~ period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 45-day ~~30-day~~ period to determine the total number of items stolen, regardless of the value of such merchandise, and two ~~2~~ or more of the thefts occur at different physical merchant locations; or

(g) Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.

(9) Except as provided in subsection (11), a person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:

(a) Violates subsection (8) and has previously been convicted of a violation of subsection (8) or of this subsection;

(b) Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft, in which the amount of

each individual theft within a 45-day ~~30-day~~ period is aggregated to determine the value of the stolen property and such value is in excess of $3,000;

(c) Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in control of another person in exchange for consideration, in which the stolen property taken or placed within a 45-day ~~30-day~~ period is aggregated to have a value in excess of $3,000; ~~or~~

(d) Individually, or in concert with one ~~1~~ or more other persons, commits five ~~5~~ or more retail thefts within a 45-day ~~30-day~~ period and in committing such thefts obtains or uses 20 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 45-day ~~30-day~~ period to determine the total number of items stolen, regardless of the value of such merchandise, and two ~~2~~ or more of the thefts occur at a different physical retail merchant location; or

(e) Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, a merchant's employee, or a law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, solicits the participation of another person in the offense through the use of a social media platform.

(10) If a person commits retail theft in more than one judicial circuit within a 45-day ~~30-day~~ period, the value of the stolen property resulting from the thefts in each judicial

circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56.

(11) A person commits a felony of the first degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if he or she violates subsection (8) or subsection (9) and:

(a) Has two or more previous convictions of violations of either or both of those subsections; or

(b) Possesses a firearm during the commission of such offense.

Section 3. Paragraphs (b), (d), (e), (f), (g), and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.03(3)	3rd	Battery during a riot or an aggravated riot.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice,

		etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
806.13(3)	3rd	Criminal mischief; damage of $200 or more to a memorial or historic property.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $750 or more but less than $5,000.
812.014(2)(d)1. ~~812.014(2)(d)~~	3rd	Grand theft, 3rd degree; $40 ~~$100~~ or more but

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		less than $750, taken from dwelling or its unenclosed curtilage ~~of dwelling~~.
812.014(2)(e)2.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage with one prior theft conviction.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver

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		hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.

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831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.
843.08	3rd	False personation.
843.19(3)	3rd	Touch or strike police,

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		fire, SAR canine or police horse.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

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499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.
784.031	3rd	Battery by strangulation.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators

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		facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or

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		materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device,

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		destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd	Destroying or demolishing a memorial or historic property.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or

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		battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
812.014(2)(d)2.	3rd	Grand theft, 3rd degree; $750 or more taken from dwelling or its unenclosed curtilage.
812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than $40 taken from dwelling or its unenclosed curtilage with two or more prior theft convictions.

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812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than $10,000.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.

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828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an

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		individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
847.0135(5)(c)	3rd	Lewd or lascivious

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		exhibition using computer; offender less than 18 years.
870.01(3)	2nd	Aggravated rioting.
870.01(5)	2nd	Aggravated inciting a riot.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily

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		injury.
916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county

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		detention facility.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

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379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(3)	3rd	Unlawful carrying of a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of

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		firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.014(2)(d)3.	2nd	Grand theft, 2nd degree; theft from 20 or more dwellings or their unenclosed curtilage, or any combination.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less

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		than $50,000.
812.015 (8)(a) & (c)-(e)	3rd	Retail theft; property stolen is valued at $750 or more and one or more specified acts.
812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.
812.015(8)(g)	3rd	Retail theft; in concert with five or more other persons within one or more establishments.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.081(3)	2nd	Trafficking in trade secrets.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud,

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		value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.

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817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child

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		pornography.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.

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847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2.,

		(2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.

775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.

784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.

790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.

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800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(2)(c)5.	3rd	Grand theft; third degree; firearm.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.

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812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 45 ~~30~~ days is $3,000 or more; coordination of others.
812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
812.015(9)(e)	2nd	Retail theft; in concert with five or more other persons within one or more establishments and solicits participation.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
817.5695(3)(b)	2nd	Exploitation of person 65 years of age or older, value $10,000 or more, but less than $50,000.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult

		and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent

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		to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.

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944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent

		disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.

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461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel

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		without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment

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		instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an

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		attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim

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		pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code

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		inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing

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		or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.

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796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.

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810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.

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812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.014(2)(g) ~~812.014(2)(f)~~	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm,

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		deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.418(2)(a)	3rd	Offering for sale or

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		advertising personal protective equipment with intent to defraud.
817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing

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		great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of

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		legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis,

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		more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than

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		14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

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893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.

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896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure

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		to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of

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		a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.

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499.0051(6)	1st	Knowing trafficking in contraband prescription drugs.
499.0051(7)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial

		institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.

782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the

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		transfer or transport of any adult from outside Florida to within the state.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not

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		use physical force likely to cause injury.
794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
800.04(4)(b)	2nd	Lewd or lascivious battery.
800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive,

		believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.
812.015(11)(b)	1st	Retail theft; possession of a firearm during commission of offense.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon,

		or other weapon.
817.418(2)(b)	2nd	Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.
817.504(1)(b)	2nd	Offering or advertising a vaccine with intent to defraud; second or subsequent offense.
817.505(4)(c)	1st	Patient brokering; 20 or more patients.
817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
817.535(4)(a)1.	2nd	Filing false lien or other unauthorized

		document; defendant is incarcerated or under supervision.
817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.

825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $50,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

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893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
893.135 (1)(c)4.b.(II)	1st	Trafficking in fentanyl, 14 grams or more, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135	1st	Trafficking in gamma-

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(1)(h)1.b.		hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.135 (1)(m)2.c.	1st	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.
893.135 (1)(n)2.b.	1st	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or

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		resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or

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		exceeding $20,000 but less than $100,000.

Section 4. Paragraph (f) of subsection (1) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers and other specified personnel; reclassification of offenses; minimum sentences.—

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

(f) "Public transit employees or agents" means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as defined ~~described~~ in s. 812.015(1) ~~s. 812.015(1)(1)~~.

Section 5. This act shall take effect October 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

fiscal policy
Committee

1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/2024
Meeting Date

Fiscal Policy
Committee

1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

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Tallahassee FL 32308
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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

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Florida Sheriffs Association

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SB 1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon (ow-ray-lee)

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Email aurelie.colon-larraui@splcactionfund.org

Montgomery AL
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

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☒ I am a registered lobbyist, representing: SPLC Action Fund

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SB 1222
Bill Number or Topic

Amendment Barcode (if applicable)

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TLH 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: Office of Attorney General

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

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SB 1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jessica Kraynak

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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 Retail Federation

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1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lavia Munoz

Phone

Address
Street

Email

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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:

FLSP

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1222
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yaretiz Mendez- Zamora
Mendez Zamora

Phone

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Street

Email

City State 33025 Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ 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:
FLIC

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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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 1224
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Children, Families, and Elder Affairs Committee; and Senator Burton
SUBJECT:	Dependent Children
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	**Fav/CS**
2.	Kolich	Harkness	ACJ	**Fav/CS**
3.	Rao	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1224 adjusts the role and operations of the Statewide Guardian ad Litem Office (Office). The bill specifies the duties and responsibilities of the Office and guardians ad litem (GAL). Specifically, the bill:

- Allows the GAL and AAL to inspect records.
- Requires the GAL to receive invitation to a multidisciplinary team staffing in the event of a placement change.
- Requires that the written description of programs and services required in the case plan for a child who is 13 years of age or older must include age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.
- Requires the Statewide GAL Office to provide oversight and technical assistance to AALs; develop a training program in collaboration with dependency court stakeholders, including, but not limited to, dependency judges, representatives from legal aid providing AAL representation, and an AAL appointed from a registry maintained by the chief judge. The Office is required to offer consultation and technical assistance to chief judges in maintaining attorney registries and assist in recruiting, training, and mentoring of AAL as needed.
- Requires the Office to assist youth in meeting supportive adults with the hope of creating an ongoing relationship andrequires collaboration with the Department of Children and Families (DCF) Office of Continuing Care to connect youth with supportive adults.
- Creates the Fostering Prosperity Program in the Department of Education for youth and young adults aging out of foster care providing financial literacy instruction, CLT, SAT and

ACT preparation, including one-on-one support and fee waivers for the examination, and assisting those persons pursuing trade careers or paid apprenticeships.

The bill has an indeterminate fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

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 investigation[2] leading to approximately 588,000 children with a finding of maltreatment.[3] More than 4.28 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 community-care based lead agencies (CBCs) to provide services.[7]

Florida's Child Welfare System - Generally

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.

[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 Jan. 23, 2024). As of January, 2024, the 2022 Report is not yet available.
[2] *Id.* at 13; referred to as "screened in referrals."
[3] *Id.* at 21; referred to as "victims from reporting states."
[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 Jan. 23, 2024).
[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.

Child welfare services are directed toward the prevention of abandonment,[8] abuse,[9] and neglect[10] of children.[11] 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-contracted community-based care lead agencies (CBC).[12] 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 services.[13] Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.[14]

Department of Children and Families

The DCF's statutory mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.[15] The DCF must develop a strategic plan to fulfill this mission and establish measurable goals, objectives, performance standards, and quality assurance requirements to ensure the DCF is accountable to taxpayers.[16]

The DCF is required to provide services relating to:
- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.

[8] Section 39.01(1), F.S., defined to mean 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. For purposes of this subsection, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child

[9] Section 39.01(2), F.S., defined to mean 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] *See* s. 39.01(50), F.S., defined, in part, to mean 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.

[11] Section 39.001(8), F.S.

[12] 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 Jan. 23, 2024).

[13] 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, p. 2, available at available at: https://oppaga.fl.gov/Documents/Reports/06-50.pdf (last viewed Jan. 23, 2024).

[14] *Id.*

[15] Section 20.19(1)(a), F.S.

[16] Section 20.19(1)(b), F.S.

- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.[17]

The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.[18] These private providers include CBCs delivering child welfare services and managing entities (MEs) delivering behavioral health services.[19]

Dependency Case Process

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and, if necessary, terminate parental rights and free that child for adoption.

Steps in the dependency process usually include:
- A report to the Florida Abuse 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 after termination of parental rights.[20]

Dependency Proceeding	Description of Process	Controlling Statute(s)
Removal	The DCF may remove a child from his or her home after a protective investigation determines that conditions in that child's home are unsafe and a safety plan cannot make the conditions safe.	s. 39.401, F.S.
Shelter Hearing	The court must hold a shelter hearing within 24 hours after removal. At this hearing, the judge determines whether there was probable cause to remove the child and whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	The DCF must file a petition for dependency within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.

[17] Section 20.19(4)(a), F.S.,
[18] Section 20.19(1)(c), F.S.
[19] Part V of ch. 409, F.S., and s. 394.9082, F.S.
[20] 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.

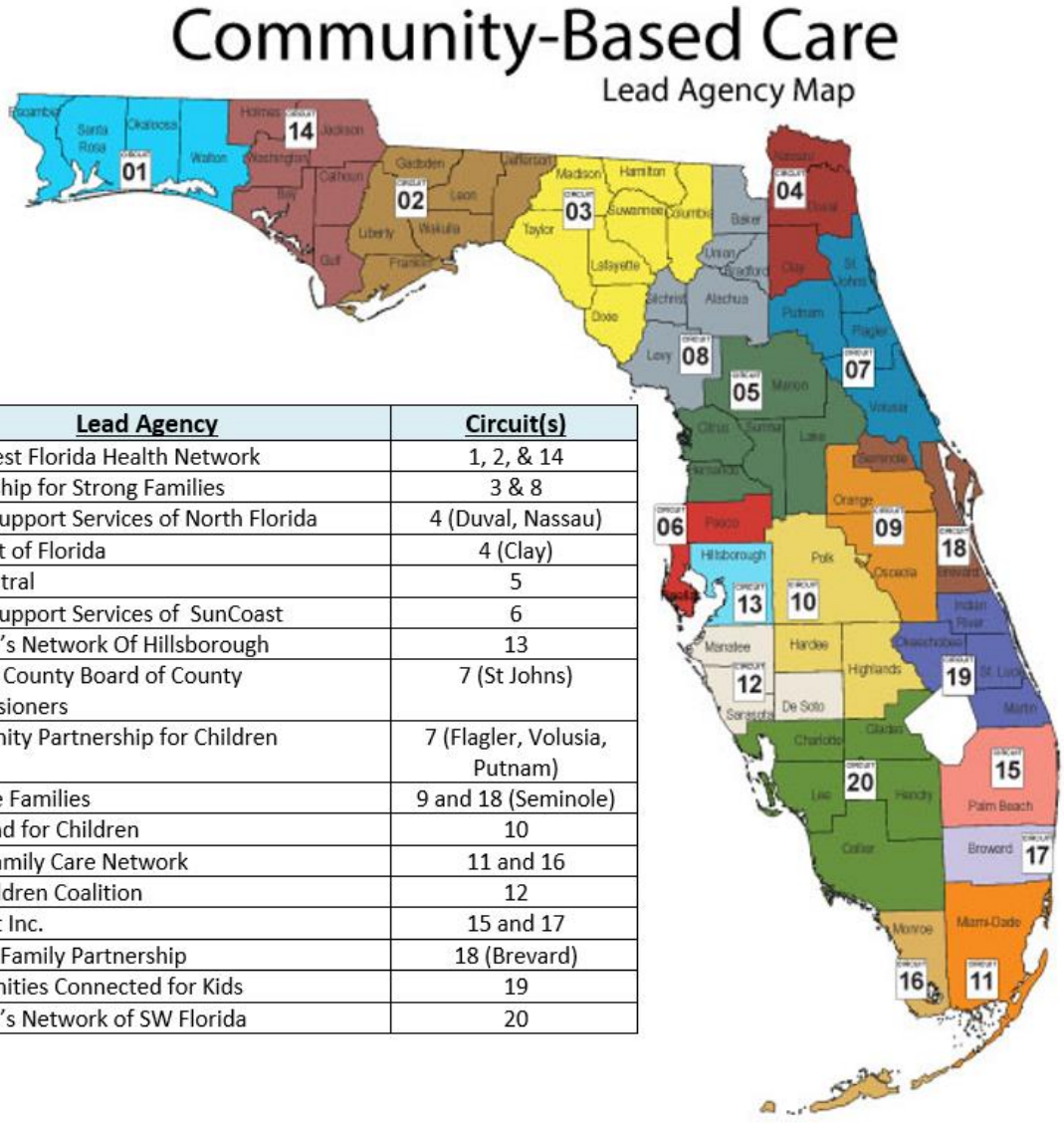
Dependency Proceeding	Description of Process	Controlling Statute(s)
Arraignment Hearing and Shelter Review	The court must hold an arraignment and shelter review within 28 days of the shelter hearing. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any previous shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	The court must hold an adjudicatory trial within 30 days of arraignment. The judge determines whether a child is dependent during this trial.	s. 39.507, F.S.
Disposition Hearing	The court must hold a disposition hearing within 15 days of arraignment (if the parents admits or consents to adjudication) or 30 days of adjudication if a court finds the child dependent. At this hearing, the judge reviews the case plan and placement of the child and orders the case plan and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition Change of Custody Hearing	The court may change the temporary out-of-home placement of a child at a postdisposition 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 at least every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	If the DCF determines that reunification is no longer a viable goal and 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	The court must hold an advisory hearing 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	The court must hold an adjudicatory trial 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.

Community-Based Care Organizations and Services

The DCF contracts for case management, out-of-home care (foster care), adoption, and other child welfare related services with the CBCs. This model is designed to increase local community ownership of service delivery and design of child welfare services.[21] There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.[22] The CBCs employ case

[21] 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 Jan. 23, 2024).
[22] 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 Jan. 23, 2024).

managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.[23]



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

The DCF, through the CBCs, administers a system of care[24] 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;

[23] Section 409.988(1), F.S.
[24] *Id.*

- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.[25]

The CBCs must give priority to services that are evidence-based and trauma informed.[26] The CBCs contract with a number of subcontractors for case management and direct care services to children and their families.

In-Home Services

The DCF is required to make all efforts to keep children with their families and provide interventions that allow children to remain safely in their own homes.[27] 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. As of September 30, 2022, there were 8,136 children receiving in-home services.[28]

Out-of-home Placement

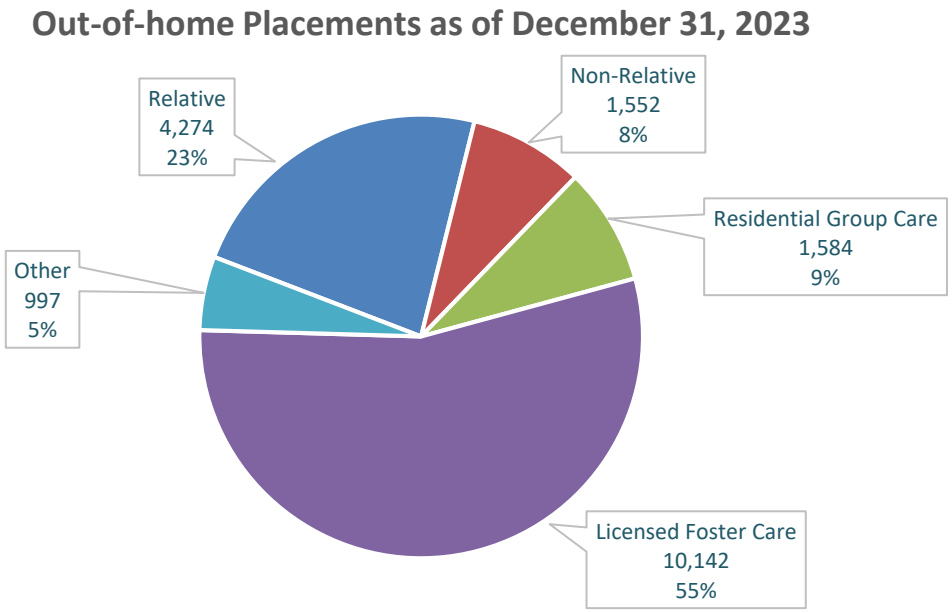
When a child protective investigator determines that in-home services are not enough to ensure safety, the investigator removes and places the child with a safe and appropriate temporary out-of-home placement, often referred to as "foster care".[29] These out-of-home placements provide housing, support, and services to a child until the conditions in his or her home are safe enough to return or the child achieves permanency with another family through another permanency option, like adoption.[30]

The CBCs must maintain and license various out-of-home placement types[31] to place children in the most appropriate available setting after conducting an assessment using child-specific factors.[32] Legislative intent is to place a child in the least restrictive, most family-like environment in close proximity to parents when removed from his or her home.[33]

The DCF, through the CBCs, places children in a variety of settings. As of December 31, 2023, there were 18,549 children in out-of-home care with 4,274 with non-licensed relatives; 1,552 with non-licensed non-relative kin; 10,142 in licensed family foster homes (to include Level I

[25] *Id.*; *Also see generally* s. 409.988, F.S.
[26] Section 409.988(3), F.S.
[27] Sections 39.402(7), 39.521(1)(f), and 39.701(d), F.S.
[28] The DCF, *Child Welfare Key Indicators Monthly Report,* September 2023, p. 30, available at: https://www.myflfamilies.com/sites/default/files/2023-11/KI_Monthly_Report_Oct2023.pdf (last viewed Jan. 25, 2024).
[29] Sections 39.401 through 39.4022, F.S.
[30] The Office of Program Policy and Government Accountability, *Program Summary*, available at https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053 (last visited Jan. 25, 2024).
[31] Chapter 65C-45, F.A.C.
[32] 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.
[33] Sections 39.001(1) and 39.4021(1), F.S.

licensed family and kin); and 1,584 in residential group care.[34]



Source: Department of Children and Families, Placement in Out-of-Home Care Data Dashboard

Case planning

For all children and families requiring services in the child welfare system, the DCF must develop and draft a case plan.[35] The purpose of a case plan is to develop a documented plan that details the identified concerns and barriers within the family unit, the permanency goal or goals, and the services designed to ameliorate those concerns and barriers and achieve the permanency goal.[36]

The services detailed in a case plan must be designed in collaboration with the parent and stakeholders to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement.[37] The services offered must be the least intrusive possible into the life of the parent and child and must provide the most efficient path to quick reunification or other permanent placement.[38]

Multidisciplinary Teams

Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, multidisciplinary team staffings (MDTs) are used to enhance and improve child protective investigations and responses necessary for children and families to recover and

[34] The DCF Placement in Out-of-Home Care Data, Children in Out-of-Home Care by Placement Type Dashboard, available at: https://www.myflfamilies.com/services/abuse/domestic-violence/programs/child-welfare-child-protection/placement-out-home-care (last visited Jan. 26, 2024).
[35] *See* Part VII of ch. 39, F.S.
[36] Section 39.6012(1), F.S.
[37] *Id.*
[38] *Id.*

succeed.[39] MDT's are becoming more widely used to involve a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services.[40]

MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.[41] As a result, a number of states are using a MDT team model, also known as a "Child and Family Team".[42] This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.[43]

Currently, Florida law and the DCF rules provide for the use of MDT's in a number of circumstances, such as:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- Initial placement decisions for a child who is placed in out-of-home care, changes in physical custody after the child is placed in out-of-home care, changes in a child's educational placement, and any other important, complex decisions in the child's life for which an MDT would be necessary, under s. 39.4022, F.S.; and
- When a child is suspected of being a victim of human trafficking under ss. 39.524 and 409.1754, F.S.

The multidisciplinary team (MDT) approach to representing children is increasingly popular and widely considered a good practice, dramatically improving case outcomes and a child's experience in foster care. Research shows that MDTs lead to quicker case resolution and preserved family connections more often.[44] Children served by an MDT had fewer removals after intervention, fewer adjudications of jurisdiction, and fewer petitions to terminate parental rights.[45] When children were removed from the home, and a MDT was assigned to the cases, the children were more likely to be placed with relatives and less likely to be placed in foster care.[46]

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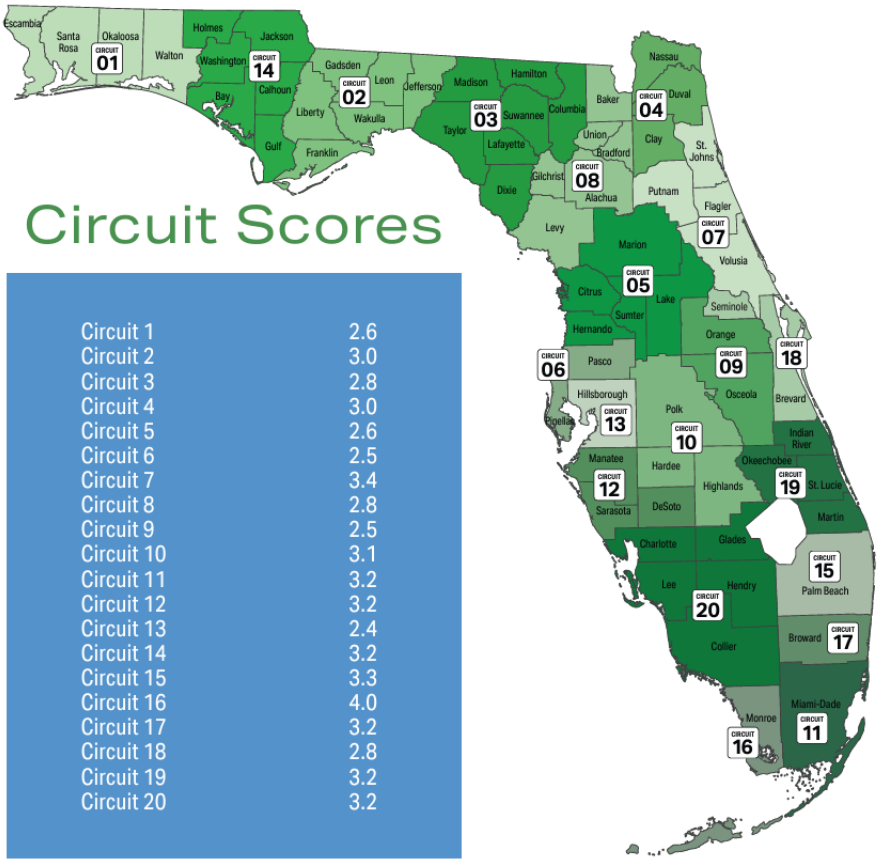
[39] Section 39.4022, F.S.
[40] *Id.*
[41] National Center on Child Abuse and Neglect, U.S. Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, p. 8, available at https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf (last viewed Jan. 27, 2024).
[42] *See e.g.* State of Tennessee Department of Children's Services, *Administrative Policies and Procedures: 31.7*, available at https://files.dcs.tn.gov/policies/chap31/31.7.pdf; and Indiana Department of Child Services, *Child Welfare Policy*, Jan. 1, 2020, available at https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf (all sites last viewed Jan. 27, 2024).
[43] California Department of Social Services, *About Child and Family Teams*, available at https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about (last visited Jan. 27, 2024).
[44] Duquette, et al., *Children's Justice: How to Improve Legal Representation for Children in the Child Welfare System* [University of Michigan Law School Scholarship Repository, 2021], secs. 12.5 and 13.8, available at https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1109&context=books (last viewed Jan. 27, 2024)
[45] *Id.*
[46] *Id.*

Well-being of Children in Florida's Child Welfare System

While there are no standardized definitions or measures for well-being, there is general consensus in the literature and among stakeholders regarding common elements, including financial security, obtaining education, securing housing, finding and maintaining stable employment, independence from public assistance, permanent connections and social supports.[47] DCF has also identified areas that have the most significant systemic impact on improving permanency and well-being[48] and evaluated progress toward achieving permanency, safety, and well-being for children in the welfare system.[49]

In FY 2022-2023, the DCF gave 12 of 20 circuits a score of 3 or higher, indicating that the circuit's performance exceeds established standards.[50] A score of 2.00-2.99 indicated the circuit's performance does not meet established standards:[51]



[47] The OPPAGA, *Presentation on Independent Living Services*, Senate Committee on Children, Families, and Elder Affairs, January 24, 2023, available at https://oppaga.fl.gov/Documents/Presentations/OPPAGA%20ILS%20Senate%20Presentation_final.pdf (last visited Jan. 27, 2024).

[48] The DCF, *Annual Accountability Report on the Health of Florida's Child Welfare System*, *Fiscal Year 2022-2023*, pg. 3, available at https://myflfamilies.com/sites/default/files/2023-12/Annual_Accountibility_Report_on_the_Health_of_Floridas_Child_Welfare_System_F_202022-23.pdf (last visited Jan. 27, 2024) (hereinafter cited as "DCF Accountability Report")

[49] *Id.*

[50] *Id.* at p. 6.

[51] *Id.*

The Legislature recognizes the need to focus on creating and preserving family relationships so that young adults have a permanent, lifelong connection with at least one committed adult who provides a safe and stable parenting relationship.[52] Science shows that children who do well despite serious hardship have had at least one stable and committed relationship with a supportive adult.[53]

Transition to Adulthood

Young adults who age out of the foster care system more frequently have challenges achieving self-sufficiency compared to young adults who never came to the attention of the foster care system. Young adults who age out of the foster care system are less likely to earn a high school diploma or GED and more likely to have lower rates of college attendance.[54] They suffer more from mental health problems, have a higher rate of involvement with the criminal justice system, and are more likely to have difficulty achieving financial independence.[55] These young adults also have a higher need for public assistance and are more likely to experience housing instability and homelessness.[56]

Extended Foster Care

In 2013, the Legislature created a path for youth who have not achieved permanency and turned 18 years of age while in licensed care to remain in licensed care and receive case management services until the date of the young adult's 21st birthday.[57] This program is commonly referred to as "extended foster care" or "EFC." To be eligible for extended foster care (EFC), a young adult must be:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed at least 80 hours per month; or
- Unable to participate in the above listed activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation.[58]

[52] Section 409.1451, F.S.
[53] National Scientific Council on the Developing Child (2015), *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13*, available at https://harvardcenter.wpenginepowered.com/wp-content/uploads/2015/05/The-Science-of-Resilience2.pdf (last visited Jan. 27, 2024).
[54] Gypen, L., Vanderfaeillie, J., et al., "Outcomes of Children Who Grew Up in Foster Care: Systematic-Review", *Children and Youth Services Review*, vol. 76, pp. 74-83, available at http://dx.doi.org/10.1016/j.childyouth.2017.02.035 (last visited Jan. 27, 2024).
[55] *Id.*
[56] *Id.*
[57] Chapter 2013-178 s. 5, L.O.F., codified as s. 39.6251, F.S.
[58] *Id.*

Independent Living Services

Florida's Independent Living service array is designed to assist youth and young adults in obtaining skills and support in six federally identified outcome areas[59] as they transition to adulthood. Independent Living programs include:

- Extended Foster Care (EFC) – a program that allows young adults to remain in foster care until the age of 21 while they participate in school, work or work training, and live in a supervised living arrangement;
- Postsecondary Education Services and Support- a program that helps pay for housing, and other expenses related to attending an educational institution; and
- Aftercare Services - a temporary needs-based program intended to be a bridge between EFC and PESS programs that may include mentoring, tutoring, mental health and substance abuse services, counseling, and financial assistance.[60]

Office of Continuing Care

In 2020, the Legislature created the Office of Continuing Care within the DCF to help individuals who have aged out of the child welfare system.[61] The office provides ongoing support and care coordination needed for young adults to achieve self-sufficiency. Duties of the office include, but are not limited to:

- Informing young adults who age out of the foster care system of the purpose of the office, the types of support the office provides, and how to contact the office.
- Serving as a direct contact to the young adult in order to provide information on how to access services to support the young adult's self-sufficiency, including but not limited to, food assistance, behavioral health services, housing, Medicaid, and educational services.
- Assisting in accessing services and supports for the young adult to attain self-sufficiency, including, but not limited to, completing documentation required to apply for services.
- Collaborating with the CBC's to identify local resources that can provide support to young adults served by the office.[62]

Guardian ad Litem Program

In 2003, the Legislature created the statewide Guardian ad Litem Office (Office) within the Justice Administrative Commission.[63] The Office has oversight responsibilities for and provides technical assistance to all guardian ad litem programs located within the judicial circuits.[64]

[59] The six federally identified outcome areas are increasing financial self-sufficiency, improving educational attainment, increasing connections to caring adults, reducing homelessness, reducing high-risk behavior, and improving access to health insurance.
[60] *See generally* The DCF, Office of Child and Family Well-Being, Legislatively Mandated Reports, Independent Living Services Annual Report FY 2021-2022, February 2023, available at https://www.myflfamilies.com/services/child-family/independent-living/annual-reports-for-independent-living (last visited Jan. 27, 2024).
[61] Chapter 2021-169 s. 20, L.O.F.; codified as s. 414.56, F.S.
[62] Section 414.56, F.S.
[63] Chapter 2003-53 s. 1, L.O.F.; codified as s. 39.8296, F.S.
[64] Section 39.8296(2)(b), F.S.

The court must appoint a Guardian ad Litem (GAL) to represent a child as soon as possible in any child abuse, abandonment, or neglect proceeding.[65] Florida law outlines requirements to serve as a GAL.[66] A person appointed as guardian ad litem must be:

- Certified by the GAL Program pursuant to s. 39.821, F.S.;
- Certified by a not-for-profit legal aid organization as defined in s. 68.096, F.S.; or
- An attorney who is a member in good standing of The Florida Bar.

"Guardian ad litem" for the purposes of ch. 39, F.S., proceedings is defined as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child in a proceeding.[67]

In cases that involve an allegation of child abuse, abandonment, or neglect as defined in s. 39.01, F.S., the court must appoint a guardian ad litem at the earliest possible time to represent the child.[68] The guardian ad litem must be a party to any judicial proceeding from the date of the appointment until the date of discharge.[69]

The Office has more than 180 attorneys on staff and relies on more than 200 pro bono attorneys volunteering their services.[70] In 2021, the Office served more than 37,000 kids and had more than 13,000 volunteers.[71]

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.[72] The Child Abuse Prevention and Treatment Act (CAPTA) makes the approval of CAPTA grants contingent on an eligible state plan, which must include provisions and procedures to appoint a GAL in every case.[73] The GAL must be appointed to:

- Obtain first-hand knowledge of the child's situation and needs; and
- Make recommendations to the court regarding the best interest of the child.[74]

The FY 23-24 Long Range Program Plan for the GAL Program details the following statistics regarding FY 2021-22:

- The program represented on average:
  - 24,993 children per month, and 36,948 total children during that fiscal year.[75]

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[65] Section 39.822, F.S.
[66] Sections 61.402 and 39.821, F.S.
[67] Section 39.820(1), F.S.
[68] Section 39.822, F.S.
[69] Section 39.820(1), F.S.
[70] Florida Statewide Guardian ad Litem Office, *About Us*, available at https://guardianadlitem.org/about/ (last visited on Jan. 27, 2024).
[71] *Id.*
[72] 42 U.S.C. 67 §5106a.(b)(2)(xiii); S. 39.822(1), F.S.
[73] 42 U.S.C. 67 §5106a.(b)(2)(xiii).
[74] *Id.*
[75] Statewide Guardian ad Litem Office, *Long Range Program Plan*, Fiscal Years 2023-24 through 2027-28; Sept. 30, 2022, p. 13, available at http://floridafiscalportal.state.fl.us/Document.aspx?ID=24413&DocType=PDF (last viewed on Jan. 27, 2024).

- 85.2% of children in the dependency system each month.[76]
- 1,671 new volunteers were certified, with a total of 9,342 volunteers active each month on average.[77]

Transportation of Children by GAL Volunteers

In 2012, the Legislature, allowed GAL volunteers to transport a child on his or her caseload.[78] This is intended to promote normalcy for the child as well as establish and promote trust between a court-appointed volunteer and the child.[79]

GAL Qualifications Committee

Section 39.8296(2), F.S., creates a Guardian ad Litem Qualification Committee that is composed of five members[80] to provide for advertisement and the receiving of applications for the position of the executive director of the Office. Current law provides that an executive director serves a 3-year term and may be allowed to serve more than one term.[81]

GAL Program Direct Support Organization

Section 39.8298, F.S., allows the Office to create a Direct-Support Organization (DSO). The direct-support organization must conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Office.[82] The executive director of the Office appoints the board of directors.[83]

Legal Representation of Children in the Child Welfare System

Child representation in dependency proceedings varies but in most instances is based on what is in the child's best interest, direct representation, or a hybrid approach.[84] The table below provides a summary of the different models and how they operate:[85]

[76] *Id.*
[77] *Id.* at p. 14.
[78] Chapter 2012-123 s. 5, L.O.F.; codified as s. 39.8296(2)(b)7., F.S.
[79] *Id.*
[80] Two appointed by the Governor, two appointed by the Chief Justice of the Supreme Court, and one appointed by the Guardian ad Litem Association.
[81] Section 39.8296(2)(a), F.S.
[82] Section 39.8298(1)(b) and (3), F.S.
[83] Section 39.8298(3), F.S.
[84] The Office of Program Policy Analysis and Government Accountability (OPPAGA), *OPPAGA Review of Florida's Guardian ad Litem Program, Presentation to the Senate Committee on Children, Families, and Elder Affairs*, p. 9, January 26, 2021, available at https://oppaga.fl.gov/Documents/Presentations/GAL%20Presentation%201-26-21.pdf (last visited Jan. 27, 2024).
[85] OPPAGA, *OPPAGA Review of Florida's Guardian ad Litem Program*, p. 5 and 34, December 2020 (on file with the Committee on Children, Families, and Elder Affairs).

Exhibit 3
States' Models of Representation for Children in Dependency Proceedings Fall Into Six Categories

Representation Model	Number of States That Use Model	Description
Age Dependent	4	Children in these states receive different types of representation depending on their age. In these states, older children receive a client-directed attorney, and younger children receive a GAL.
Best Interest (attorney or professional)	20	Children in these states always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Best Interest (lay volunteer)	12	Children in these states always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Client-Directed Attorney	7	Children in these states always receive a client-directed attorney. These states may also allow for the appointment of a separate GAL or CASA at the discretion of the judge or in certain circumstances.
Hybrid	6	Children in these states always receive both a client-directed attorney and a GAL.
Multidisciplinary Team	2	Children in these states are represented by a GAL team, made up of a volunteer, a staff advocate, and an attorney.

Source: OPPAGA analysis of state statutes and court rules.

Appointment of an Attorney for a Special Needs Child

The Office currently has a role in in the appointment of an attorney for a special needs child. The court must ask the Office for a recommendation for an attorney willing to work without additional compensation, prior to the court appointing an attorney on a compensated basis.[86] That attorney must be available for services within 15 days after the court's request.[87] If, however, the Office does not make a recommendation within 15 days after the court's request, the court may appoint a compensated attorney.[88] An attorney appointed for a specific purpose is commonly referred to as attorney ad litem (AAL); however, that term is not defined in statute.

An AAL representing a child provides the complete range of legal services from removal from the home or initial appointment through all appellate proceedings.[89] With court permission, the attorney is authorized to arrange for supplemental or separate counsel to handle appellate matters.[90] The Justice Administrative Commission contracts with appointed attorneys, whose fees are limited to $1,000 per child per year subject to appropriations and to review by the Commission for reasonableness.[91] Notwithstanding the specific procedures to appoint an attorney for a special needs child, the court has the general authority to appoint an attorney for a dependent child in any proceeding under ch. 39, F.S.[92]

[86] Section 39.01305, F.S.
[87] *Id.*
[88] *Id.*
[89] Section 39.01305(4)(b), F.S.
[90] *Id.*
[91] Section 39.01305(5), F.S.
[92] Section 39.01305(8), F.S.

III. Effect of Proposed Changes:

The bill amends numerous sections of ch. 39, F.S., governing proceedings and services relating to children in the child welfare system to adjust the structure, role, and operations of the Statewide Guardian ad Litem office.

Statewide Guardian Ad Litem Office

The bill changes references from the "Guardian ad Litem Program" to the "Statewide Guardian ad Litem Office," and requests the Division of Law Revision to prepare a reviser's bill for the 2025 Regular Session to substitute the term "Statewide Guardian ad Litem Office" for the term "Guardian Ad Litem Program" or "Statewide Guardian Ad Litem Program" throughout the Florida Statutes.

Executive Director

The bill allows the Statewide GAL Office executive director to serve more than one term without convening the Guardian ad Litem Qualification Committee.

Multidisciplinary Teams

The bill requires the Statewide GAL Office to assign an attorney to each case. As available resources allow, the Statewide GAL Office is to assign a multidisciplinary team to represent the child. The bill includes mentors, pro bono attorneys, social workers, and volunteers as part of the MDT.

Training

The bill removes the requirement for the Statewide GAL Office to establish a curriculum committee to develop required training, granting unilateral authority to the office to develop, maintain, and regularly update the GAL training program. The bill also requires a GAL to complete specialized training in the dynamics of child sexual abuse when serving children who have been sexually abused and are subject to proceedings regarding establishing visitation with the child's abuser under s. 39.0139, F.S.

Role of the Guardian ad Litem

The bill makes the guardian ad litem appointment mandatory rather than optional for the court. This means courts will have no discretion regarding appointing a guardian ad litem for a child, and will increase the number of children in the child welfare system who have a GAL by approximately 7 percent.

The bill conforms references to a GAL's role in chapter 39 to specify that the GAL represents the *child*, rather than the child's *best interest*. This representation is to use a best interest standard.

The bill authorizes a child's GAL to represent a child in other judicial proceedings to secure the services and benefits that provide for the care, safety, and protection of the child. It authorizes

the school district to involve the GAL of a child who has, or is suspected to have, a disability in any transition planning for that child.

The bill requires multidisciplinary teams led by DCF or a CBC to include the GAL.

The bill requires the Statewide GAL Office to provide oversight and technical assistance to AALs. The Statewide GAL Office's responsibilities include, but are not limited to:

- Developing an attorney ad litem training program in collaboration with dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge.
- Offering consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.
- Assisting as needed with recruitment and mentoring of AALs.

Transition-Age Youth

Case planning

The bill requires any case plan tailored for a transition to independent living to include a written description of age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

Mentors for older foster youth

For youths aged 16 and up who are transitioning out of foster care into independent living, the bill requires the Office of Continuing Care within the DCF to coordinate with the Statewide GAL Office to help those children establish a mentorship with at least one supportive adult. The bill requires documented evidence of a formal agreement in the child's court file.

Fostering Prosperity Grant Program

The bill establishes the Fostering Prosperity program to administer grants to youth and young adults aging out of foster care for:

- Financial literacy instruction using a curriculum developed by the Department of Financial Services in consultation with the Department of Education.
- Classic Learning Test (CLT), SAT, or ACT preparation, including one-on-one support and fee waivers for the examinations.
- Pursuing trade careers or paid apprenticeships.

If a youth later reunifies with the youth's parents, the grants remain available for the youth for up to 1 year.

The bill requires the State Board of Education to adopt rules to administer this program.

Other Provisions

The bill makes numerous conforming language and cross reference changes throughout the bill to give effect to the substantive provisions.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

At common law, children cannot legally enter into contractual agreements. The inability to contract is due to an unemancipated minors' lack of mental capacity to conduct business, known as the disability of non-age. The disability of non-age is expressly recognized in the Florida Constitution and in statute.[93] Due to the disability of non-age, "an adult person of reasonable judgment and integrity" must conduct any litigation for the minor in judicial proceedings."[94] It follows that the unemancipated minors cannot engage legal counsel on their own unless there is a constitutional right or legislative act allowing such engagement.[95] The U.S. Supreme Court has only found a constitutional right to counsel for minors in delinquency proceedings.[96]

The Supreme Court held in In re Gualt that juveniles need counsel in delinquency proceedings because such actions may result in a loss of liberty, which is comparable in seriousness to a felony prosecution for adults.[97]

The Florida Legislature has authorized appointment of legal counsel for minors:

- If the disability of non-age has been removed under chapter 743, F.S.,
- At the discretion of the judge in domestic relations cases, under s. 61.401, F.S.,
- At the discretion of the judge in a dependency proceeding, under s. 39.4085, F.S., or

[93] Fla. Const. Art. III, §11(a)(17); s. 743.01, 07, F.S.
[94] Garner v. I. E. Schilling Co., 174 So. 837, 839 (Fla. 1937).
[95] Buckner v. Family Services of Central Florida, Inc., 876 So.2d 1285 (Fla. 5th DCA 2004).
[96] In re Gault, 387 U.S. 1, 41 (1967).
[97] *Id*. at p. 36.

- If the child is within one of the five categories requiring mandatory appointment in dependency proceedings.[98]

In all other circumstances, "an adult person of reasonable judgment and integrity should conduct the litigation for the minor in judicial proceedings."[99]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has an indeterminate impact on the Statewide Guardian ad Litem Office and educational institutions. However, Budget Amendment Request B0461, which will be implemented on February 15, 2024, will release spending authority for 64.5 FTE, 3,061,234 in salary rate, and $4,381,391 for Title IV-E reimbursements. These funds will allow the Office to submit claims for independent legal representation provided by an attorney for Title IV-E foster care or a Title IV-E eligible child in foster care.

The Fostering Prosperity program is subject to the appropriation of funds for that purpose by the legislature. The Fostering Prosperity language in the bill, if unfunded, could have a fiscal impact to the institutions providing the fee waivers for the examinations provided under the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[98] Section 39.01305, F.S., requires an attorney to be appointed for a dependent child who:
- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed a psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in s. 393.063, F.S.;
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking as defined in s. 787.06(2)(d), F.S.

[99] Garner v. I. E. Schilling Co., 174 So. 837, 839 (Fla. 1937).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.00145, 39.00146, 39.0016, 39.01, 39.013, 39.01305, 39.0132, 39.0136, 39.01375, 39.0139, 39.202, 39.402, 39.4022, 39.4023, 39.407, 39.4085, 39.502, 39.522, 39.6012, 39.621, 39.6241, 39.701, 39.801, 39.807, 39.808, 39.815, 39.821, 39.822, 39.827, 39.8296, 39.8297, 29.008, 39.6011, 40.24, 43.16, 61.402, 110.205, 320.08058, 943.053, 985.43, 985.441, 985.455, 985.461, 985.48, 39.302, 39.521, 61.13, 119.071, 322.09, 394.495, 414.56, 627.746, 934.255, and 960.065.

This bill creates the following sections of the Florida Statutes: 39.6036 and 1009.898.

This bill repeals section 39.280 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/CS by Fiscal Policy on February 22, 2024:

- Requires the DCF Office of Continuing Care to coordinate with the Statewide Guardian ad Litem Office to identify supportive adults for children transitioning out of the foster care system to live independently.
- Maintains current law that allows the Justice Administrative Commission to inspect court dockets to audit compensation of court appointed attorneys, rather than just attorneys ad litem.

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 8, 2024:

The committee substitute:

- Makes a technical change to remove "attorney ad litem" from the catchline of s. 39.013, F.S.
- Changes "Pathway to Prosperity" to "Fostering Prosperity" and provides that the program is subject to legislative appropriation.

CS by Children, Families, and Elder Affairs on January 30, 2024:

The committee substitute:

- Removes the proposed changes to s. 39.8298, F.S. relating to direct-support organizations and restores current law.
- Removes the proposed changes to s. 39.013, F.S. relating to the appointment of an attorney ad litem.
- Removes changes to s. 39.01305, F.S. related to representation for children with special needs and restores current law.
- Makes technical conforming changes to the name of the Statewide Guardian ad Litem Office within that section.
- Increases the amount of time that a Pathway to Prosperity grant is available to a youth aging out of care from 6 months to 1 year.

- Provides specific rulemaking authority to the State Board of Education to implement the 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.

655070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Burton) recommended the following:

Senate Amendment

Delete line 539
and insert:
appointed attorneys. If the docket is insufficient for

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Burton) recommended the following:

Senate Amendment (with title amendment)

Between lines 1818 and 1819
insert:

Section 35. Subsection (6) is added to section 414.56, Florida Statutes, to read:

414.56 Office of Continuing Care.—The department shall establish an Office of Continuing Care to ensure 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, have a

568060

point of contact until the young adult reaches the age of 26 in order to receive ongoing support and care coordination needed to achieve self-sufficiency. Duties of the office include, but are not limited to:

(6) In coordination with the Statewide Guardian Ad Litem Office, identifying supportive adults for children transitioning out of foster care to live independently in accordance with s. 39.6036.

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

And the title is amended as follows:

Delete line 101

and insert:

changes made by the act; amending s. 414.56, F.S.; revising the duties of the Office of Continuing Care; creating s. 1009.898, F.S.;

By the Appropriations Committee on Criminal and Civil Justice; the Committee on Children, Families, and Elder Affairs; and Senator Burton

604-03139-24 20241224c2

A bill to be entitled

An act relating to dependent children; amending s. 39.001, F.S.; revising the purposes of chapter 39; requiring the Statewide Guardian ad Litem Office and circuit guardian ad litem offices to participate in the development of a certain state plan; conforming a provision to changes made by the act; amending s. 39.00145, F.S.; authorizing a child's attorney ad litem to inspect certain records; amending s. 39.00146, F.S.; conforming provisions to changes made by the act; amending s. 39.0016, F.S.; requiring a child's guardian ad litem be included in the coordination of certain educational services; amending s. 39.01, F.S.; providing and revising definitions; amending s. 39.013, F.S.; requiring the court to appoint a guardian ad litem for a child at the earliest possible time; authorizing a guardian ad litem to represent a child in other proceedings to secure certain services and benefits; amending s. 39.01305, F.S.; conforming a provision to changes made by the act; amending s. 39.0132, F.S.; authorizing a child's attorney ad litem to inspect certain records; amending s. 39.0136, F.S.; revising the parties who may request a continuance in a proceeding; amending s. 39.01375, F.S.; conforming provisions to changes made by the act; amending s. 39.0139, F.S.; conforming provisions to changes made by the act; amending s. 39.202, F.S.; requiring that certain confidential records be released to the guardian ad litem and

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

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attorney ad litem; conforming a cross-reference; amending s. 39.402, F.S.; requiring parents to consent to provide certain information to the guardian ad litem and attorney ad litem; conforming provisions to changes made by the act; amending s. 39.4022, F.S.; revising the participants who must be invited to a multidisciplinary team staffing; amending s. 39.4023, F.S.; requiring that notice of a multidisciplinary team staffing be provided to a child's guardian ad litem and attorney ad litem; conforming provisions to changes made by the act; amending s. 39.407, F.S.; conforming provisions to changes made by the act; amending s. 39.4085, F.S.; providing a goal of permanency; conforming provisions to changes made by the act; amending ss. 39.502 and 39.522, F.S.; conforming provisions to changes made by the act; amending s. 39.6012, F.S.; requiring a case plan to include written descriptions of certain activities; conforming a cross-reference; creating s. 39.6036, F.S.; providing legislative findings and intent; requiring the Statewide Guardian ad Litem Office to work with certain children to identify a supportive adult to enter into a specified agreement; requiring such agreement be documented in the child's court file; requiring the office to coordinate with the Office of Continuing Care for a specified purpose; amending s. 39.621, F.S.; conforming provisions to changes made by the act; amending s. 39.6241, F.S.; requiring a guardian ad litem to advise the court

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regarding certain information and to ensure a certain agreement has been documented in the child's court file; amending s. 39.701, F.S.; requiring certain notice be given to an attorney ad litem; requiring a court to give a guardian ad litem an opportunity to address the court in certain proceedings; requiring the court to inquire and determine if a child has a certain agreement documented in his or her court file at a specified hearing; conforming provisions to changes made by the act; amending s. 39.801, F.S.; conforming provisions to changes made by the act; amending s. 39.807, F.S.; requiring a court to appoint a guardian ad litem to represent a child in certain proceedings; revising a guardian ad litem's responsibilities and authorities; deleting provisions relating to bonds and service of pleadings or papers; amending s. 39.808, F.S.; conforming provisions to changes made by the act; amending s. 39.815, F.S.; conforming provisions to changes made by the act; repealing s. 39.820, F.S., relating to definitions of the terms "guardian ad litem" and "guardian advocate"; amending s. 39.821, F.S.; conforming provisions to changes made by the act; amending s. 39.822, F.S.; declaring that a guardian ad litem is a fiduciary and must provide independent representation of a child; revising responsibilities of a guardian ad litem; requiring that guardians ad litem have certain access to the children they represent; providing actions that a guardian ad litem does and does not have to fulfill;

making technical changes; amending s. 39.827, F.S.; authorizing a child's guardian ad litem and attorney ad litem to inspect certain records; amending s. 39.8296, F.S.; revising the duties and appointment of the executive director of the Statewide Guardian ad Litem Office; requiring the training program for guardians ad litem to be maintained and updated regularly; deleting provisions regarding the training curriculum and the establishment of a curriculum committee; requiring the office to provide oversight and technical assistance to attorneys ad litem; specifying certain requirements of the office; amending s. 39.8297, F.S.; conforming provisions to changes made by the act; creating s. 1009.898, F.S.; authorizing, subject to appropriation, the Fostering Prosperity program to provide certain grants to youth and young adults who are aging out of foster care; requiring that such grants remain available for a certain period of time after reunification of a young adult with his or her parent; requiring the State Board of Education to adopt certain rules; amending ss. 29.008, 39.6011, 40.24, 43.16, 61.402, 110.205, 320.08058, 943.053, 985.43, 985.441, 985.455, 985.461, and 985.48, F.S.; conforming provisions to changes made by the act; amending ss. 39.302, 39.521, 61.13, 119.071, 322.09, 394.495, 627.746, 934.255, and 960.065, F.S.; conforming cross-references; providing a directive to the Division of Law Revision; providing an effective date;

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

Section 1. Paragraph (j) of subsection (1), paragraph (j) of subsection (3), and paragraph (a) of subsection (10) of section 39.001, Florida Statutes, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(j) To ensure that, when reunification or adoption is not possible, the child will be prepared for alternative permanency goals or placements, to include, but not be limited to, long-term foster care, independent living, custody to a relative on a permanent basis with or without legal guardianship, or custody to a foster parent or legal custodian on a permanent basis with or without legal guardianship. Permanency for a child who is transitioning from foster care to independent living includes naturally occurring, lifelong, kin-like connections between the child and a supportive adult.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(j) The ability to contact their guardian ad litem or attorney ad litem, if one is appointed, by having that individual's name entered on all orders of the court.

(10) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children. The Department of

Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, the Statewide Guardian ad Litem Office, and the Agency for Persons with Disabilities shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community mental health centers; circuit guardian ad litem offices ~~programs for children under the circuit court~~; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary Child Protection Teams; child day care centers; law enforcement agencies; and the circuit courts~~,~~ ~~when guardian ad litem programs are not available in the local area~~. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

Section 2. Subsection (2) of section 39.00145, Florida

Statutes, is amended to read:

39.00145 Records concerning children.—

(2) Notwithstanding any other provision of this chapter, all records in a child's case record must be made available for inspection, upon request, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed.

(a) A complete and accurate copy of any record in a child's case record must be provided, upon request and at no cost, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed.

(b) The department shall release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released, which may include the release of information in a therapeutic setting, if appropriate. This paragraph does not deny the child access to his or her records.

(c) If a child or the child's caregiver, guardian ad litem, or attorney ad litem, if one is appointed, requests access to the child's case record, any person or entity that fails to provide any record in the case record under assertion of a claim of exemption from the public records requirements of chapter 119, or fails to provide access within a reasonable time, is subject to sanctions and penalties under s. 119.10.

(d) For the purposes of this subsection, the term "caregiver" is limited to parents, legal custodians, permanent guardians, or foster parents; employees of a residential home, institution, facility, or agency at which the child resides; and

other individuals legally responsible for a child's welfare in a residential setting.

Section 3. Paragraph (a) of subsection (2) of section 39.00146, Florida Statutes, is amended to read:

39.00146 Case record face sheet.—

(2) The case record of every child under the supervision or in the custody of the department or the department's authorized agents, including community-based care lead agencies and their subcontracted providers, must include a face sheet containing relevant information about the child and his or her case, including at least all of the following:

(a) General case information, including, but not limited to, all of the following:

1. The child's name and date of birth.~~;~~

2. The current county of residence and the county of residence at the time of the referral.~~;~~

3. The reason for the referral and any family safety concerns.~~;~~

4. The personal identifying information of the parents or legal custodians who had custody of the child at the time of the referral, including name, date of birth, and county of residence.~~;~~

5. The date of removal from the home.~~; and~~

6. The name and contact information of the attorney or attorneys assigned to the case in all capacities, including the attorney or attorneys that represent the department and the parents, and the guardian ad litem~~, if one has been appointed~~.

Section 4. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 39.0016, Florida Statutes, are

amended to read:

39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—

(2) AGENCY AGREEMENTS.—

(b) The department shall enter into agreements with district school boards or other local educational entities regarding education and related services for children known to the department who are of school age and children known to the department who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements must ~~shall~~ include, but are not limited to:

1. A requirement that the department shall:

a. Ensure that children known to the department are enrolled in school or in the best educational setting that meets the needs of the child. The agreement must ~~shall~~ provide for continuing the enrollment of a child known to the department at the school of origin when possible if it is in the best interest of the child, with the goal of minimal disruption of education.

b. Notify the school and school district in which a child known to the department is enrolled of the name and phone number of the child known to the department caregiver and caseworker for child safety purposes.

c. Establish a protocol for the department to share information about a child known to the department with the school district, consistent with the Family Educational Rights and Privacy Act, since the sharing of information will assist each agency in obtaining education and related services for the benefit of the child. The protocol must require the district

school boards or other local educational entities to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

d. Notify the school district of the department's case planning for a child known to the department, both at the time of plan development and plan review. Within the plan development or review process, the school district may provide information regarding the child known to the department if the school district deems it desirable and appropriate.

e. Show no prejudice against a caregiver who desires to educate at home a child placed in his or her home through the child welfare system.

2. A requirement that the district school board shall:

a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department.

b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department.

c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless

enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation.

d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

3. A requirement that the department and the district school board shall cooperate in accessing the services and supports needed for a child known to the department who has or is suspected of having a disability to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances. Coordination of services for a child known to the department who has or is suspected of having a disability may include:

a. Referral for screening.

b. Sharing of evaluations between the school district and the department where appropriate.

c. Provision of education and related services appropriate for the needs and abilities of the child known to the department.

d. Coordination of services and plans between the school and the residential setting to avoid duplication or conflicting service plans.

e. Appointment of a surrogate parent, consistent with the

Individuals with Disabilities Education Act and pursuant to subsection (3), for educational purposes for a child known to the department who qualifies.

f. For each child known to the department 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff and the guardian ad litem of the child, to meet the requirements of the local school district for educational purposes.

(3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.—

(b)1. Each district school superintendent or dependency court must appoint a surrogate parent for a child known to the department who has or is suspected of having a disability, as defined in s. 1003.01(9), when:

a. After reasonable efforts, no parent can be located; or

b. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decisionmaker for the child without judicial action.

2. A surrogate parent appointed by the district school superintendent or the court must be at least 18 years old and have no personal or professional interest that conflicts with the interests of the student to be represented. Neither the district school superintendent nor the court may appoint an employee of the Department of Education, the local school district, a community-based care provider, the Department of

Children and Families, or any other public or private agency involved in the education or care of the child as appointment of those persons is prohibited by federal law. This prohibition includes group home staff and therapeutic foster parents. However, a person who acts in a parental role to a child, such as a foster parent or relative caregiver, is not prohibited from serving as a surrogate parent if he or she is employed by such agency, willing to serve, and knowledgeable about the child and the exceptional student education process. The surrogate parent may be a court-appointed guardian ad litem or a relative or nonrelative adult who is involved in the child's life regardless of whether that person has physical custody of the child. Each person appointed as a surrogate parent must have the knowledge and skills acquired by successfully completing training using materials developed and approved by the Department of Education to ensure adequate representation of the child.

3. ~~If a guardian ad litem has been appointed for a child,~~ The district school superintendent must first consider the child's guardian ad litem when appointing a surrogate parent. The district school superintendent must accept the appointment of the court if he or she has not previously appointed a surrogate parent. Similarly, the court must accept a surrogate parent duly appointed by a district school superintendent.

4. A surrogate parent appointed by the district school superintendent or the court must be accepted by any subsequent school or school district without regard to where the child is receiving residential care so that a single surrogate parent can follow the education of the child during his or her entire time in state custody. Nothing in this paragraph or in rule shall

limit or prohibit the continuance of a surrogate parent appointment when the responsibility for the student's educational placement moves among and between public and private agencies.

5. For a child known to the department, the responsibility to appoint a surrogate parent resides with both the district school superintendent and the court with jurisdiction over the child. If the court elects to appoint a surrogate parent, notice shall be provided as soon as practicable to the child's school. At any time the court determines that it is in the best interests of a child to remove a surrogate parent, the court may appoint a new surrogate parent for educational decisionmaking purposes for that child.

6. The surrogate parent shall continue in the appointed role until one of the following occurs:

a. The child is determined to no longer be eligible or in need of special programs, except when termination of special programs is being contested.

b. The child achieves permanency through adoption or legal guardianship and is no longer in the custody of the department.

c. The parent who was previously unknown becomes known, whose whereabouts were unknown is located, or who was unavailable is determined by the court to be available.

d. The appointed surrogate no longer wishes to represent the child or is unable to represent the child.

e. The superintendent of the school district in which the child is attending school, the Department of Education contract designee, or the court that appointed the surrogate determines that the appointed surrogate parent no longer adequately

represents the child.

f. The child moves to a geographic location that is not reasonably accessible to the appointed surrogate.

7. The appointment and termination of appointment of a surrogate under this paragraph shall be entered as an order of the court with a copy of the order provided to the child's school as soon as practicable.

8. The person appointed as a surrogate parent under this paragraph must:

a. Be acquainted with the child and become knowledgeable about his or her disability and educational needs.

b. Represent the child in all matters relating to identification, evaluation, and educational placement and the provision of a free and appropriate education to the child.

c. Represent the interests and safeguard the rights of the child in educational decisions that affect the child.

9. The responsibilities of the person appointed as a surrogate parent shall not extend to the care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child, unless the same person is appointed by the court for such other purposes.

10. A person appointed as a surrogate parent shall enjoy all of the procedural safeguards afforded a parent with respect to the identification, evaluation, and educational placement of a student with a disability or a student who is suspected of having a disability.

11. A person appointed as a surrogate parent shall not be held liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child.

Section 5. Present subsections (8) through (30) and (31) through (87) of section 39.01, Florida Statutes, are redesignated as subsections (9) through (31) and (34) through (90), respectively, present subsections (9), (36), and (58) are amended, and new subsections (8), (32), and (33) are added to that section, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(8) "Attorney ad litem" means an attorney appointed by the court to represent a child in a dependency case who has an attorney-client relationship with the child under the rules regulating The Florida Bar.

(10) ~~(9)~~ "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (57) ~~(54)~~.

(32) "Guardian ad litem" means a person or an entity that is a fiduciary appointed by the court to represent a child in any civil, criminal, or administrative proceeding to which the child is a party, including, but not limited to, under this chapter, which uses a best interest standard for decisionmaking and advocacy. For purposes of this chapter, the term includes, but is not limited to, the Statewide Guardian ad Litem Office, which includes all circuit guardian ad litem offices and the duly certified volunteers, staff, and attorneys assigned by the Statewide Guardian ad Litem Office to represent children; a court-appointed attorney; or a responsible adult who is appointed by the court. A guardian ad litem is a party to the judicial proceeding as a representative of the child and serves

until the jurisdiction of the court over the child terminates or until excused by the court.

(33) "Guardian advocate" means a person appointed by the court to act on behalf of a drug-dependent newborn under part XI of this chapter.

(39) ~~(36)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's welfare as defined in subsection (57) ~~(54)~~.

(61) ~~(58)~~ "Party" means the parent or parents of the child, the petitioner, the department, the guardian ad litem ~~or the representative of the guardian ad litem program when the program has been appointed~~, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

Section 6. Subsection (11) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel; guardian ad litem.—

(11) The court shall appoint a guardian ad litem at the earliest possible time to represent a child throughout the proceedings, including any appeals. The guardian ad litem may represent the child in proceedings outside of the dependency

case to secure the services and benefits that provide for the care, safety, and protection of the child ~~encourage the Statewide Guardian Ad Litem Office to provide greater representation to those children who are within 1 year of transferring out of foster care~~.

Section 7. Paragraph (b) of subsection (1) of section 39.01305, Florida Statutes, is amended to read:

39.01305 Appointment of an attorney for a dependent child with certain special needs.—

(1)

(b) The Legislature recognizes the existence of organizations that provide attorney representation to children in certain jurisdictions throughout the state. Further, the Statewide Guardian ad Litem Office ~~Program~~ provides best interest representation for dependent children in every jurisdiction in accordance with state and federal law. The Legislature, therefore, does not intend that funding provided for representation under this section supplant proven and existing organizations representing children. Instead, the Legislature intends that funding provided for representation under this section be an additional resource for the representation of more children in these jurisdictions, to the extent necessary to meet the requirements of this chapter, with the cooperation of existing local organizations or through the expansion of those organizations. The Legislature encourages the expansion of pro bono representation for children. This section is not intended to limit the ability of a pro bono attorney to appear on behalf of a child.

Section 8. Subsection (3) of section 39.0132, Florida

Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter may ~~shall~~ not be open to inspection by the public. All records may ~~shall~~ be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to ~~the provisions of~~ s. 63.162, a child, ~~and~~ the parents of the child and their attorneys, the guardian ad litem, criminal conflict and civil regional counsels, law enforcement agencies, ~~and~~ the department and its designees, and the attorney ad litem, if one is appointed, ~~shall~~ always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys ad litem. If the docket is insufficient for purposes of the audit, the commission may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

Section 9. Paragraph (a) of subsection (3) of section 39.0136, Florida Statutes, is amended to read:

39.0136 Time limitations; continuances.—

(3) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel, ~~or the child's~~ guardian ad litem, or attorney ad litem, if one is appointed~~, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child~~. The court must consider the best interests of the child when determining periods of delay under this section.

Section 10. Subsection (7) of section 39.01375, Florida Statutes, is amended to read:

39.01375 Best interest determination for placement.—The department, community-based care lead agency, or court shall consider all of the following factors when determining whether a proposed placement under this chapter is in the child's best interest:

(7) The recommendation of the child's guardian ad litem~~, if one has been appointed~~.

Section 11. Paragraphs (a) and (b) of subsection (4) of section 39.0139, Florida Statutes, are amended to read:

39.0139 Visitation or other contact; restrictions.—

(4) HEARINGS.—A person who meets any of the criteria set forth in paragraph (3)(a) who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Before ~~Prior to~~ the hearing, the court shall appoint ~~an attorney ad litem or~~ a guardian ad litem for the child if one has not already been appointed. The guardian ad litem and ~~Any~~ attorney ad litem, if one is ~~or guardian ad litem~~ appointed, must ~~shall~~ have special training in the dynamics of child sexual abuse.

(b) At the hearing, the court may receive and rely upon any relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the Child Protection Team, the child's therapist, the child's guardian ad litem, or the child's attorney ad litem, if one is appointed, even if these reports, recommendations, and evidence may not be admissible under the rules of evidence.

Section 12. Paragraphs (d) and (t) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect; exception.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which may only ~~shall~~ be released ~~only~~ as provided in subsection (5), may only ~~shall~~ be granted ~~only~~ to the following persons, officials, and agencies:

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected; the child; the child's guardian ad litem; the child's attorney ad litem, if one is appointed; or~~, and the child, and their attorneys, including~~ any attorney representing a child in civil or criminal proceedings. This access must ~~shall~~ be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including

foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 13. Paragraph (c) of subsection (8), paragraphs (b) and (c) of subsection (11), and paragraph (a) of subsection (14) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best interest of the child~~, unless the court finds that such representation is unnecessary~~;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013;

3. Give the parents or legal custodians an opportunity to be heard and to present evidence; and

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall inquire under oath of those present at the shelter hearing whether they have any of the following information:

a. Whether the mother of the child was married at the

probable time of conception of the child or at the time of birth of the child.

b. Whether the mother was cohabiting with a male at the probable time of conception of the child.

c. Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

d. Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

e. Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.

f. Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(11)

(b) The court shall request that the parents consent to provide access to the child's medical records and provide information to the court, the department or its contract agencies, and the ~~any~~ guardian ad litem or attorney ad litem, if one is appointed, for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide

services to the child, the court shall issue an order granting access. The court may also order the parents to provide all known medical information to the department and to any others granted access under this subsection.

(c) The court shall request that the parents consent to provide access to the child's child care records, early education program records, or other educational records and provide information to the court, the department or its contract agencies, and the ~~any~~ guardian ad litem or attorney ad litem, if one is appointed, for the child. If a parent is unavailable or unable to consent or withholds consent and the court determines access to the records and information is necessary to provide services to the child, the court shall issue an order granting access.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's ~~counsel or the child's~~ guardian ad litem or attorney ad litem, if one is ~~has been~~ appointed by the court~~, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child's attorney or the child's guardian ad litem, if one has been appointed by the court, and the child~~.

Section 14. Paragraphs (a) and (b) of subsection (4) of section 39.4022, Florida Statutes, are amended to read:

39.4022 Multidisciplinary teams; staffings; assessments; report.—

(4) PARTICIPANTS.—

(a) Collaboration among diverse individuals who are part of the child's network is necessary to make the most informed

decisions possible for the child. A diverse team is preferable to ensure that the necessary combination of technical skills, cultural knowledge, community resources, and personal relationships is developed and maintained for the child and family. The participants necessary to achieve an appropriately diverse team for a child may vary by child and may include extended family, friends, neighbors, coaches, clergy, coworkers, or others the family identifies as potential sources of support.

1. Each multidisciplinary team staffing must invite the following members:

a. The child, unless he or she is not of an age or capacity to participate in the team, and the child's guardian ad litem;

b. The child's family members and other individuals identified by the family as being important to the child, provided that a parent who has a no contact order or injunction, is alleged to have sexually abused the child, or is subject to a termination of parental rights may not participate;

c. The current caregiver, provided the caregiver is not a parent who meets the criteria of one of the exceptions under sub-subparagraph b.;

d. A representative from the department other than the Children's Legal Services attorney, when the department is directly involved in the goal identified by the staffing;

e. A representative from the community-based care lead agency, when the lead agency is directly involved in the goal identified by the staffing;

f. The case manager for the child, or his or her case manager supervisor; and

g. A representative from the Department of Juvenile

Justice, if the child is dually involved with both the department and the Department of Juvenile Justice.

2. The multidisciplinary team must make reasonable efforts to have all mandatory invitees attend. However, the multidisciplinary team staffing may not be delayed if the invitees in subparagraph 1. fail to attend after being provided reasonable opportunities.

(b) Based on the particular goal the multidisciplinary team staffing identifies as the purpose of convening the staffing as provided under subsection (5), the department or lead agency may also invite to the meeting other professionals, including, but not limited to:

1. A representative from Children's Medical Services;

2. ~~A guardian ad litem, if one is appointed;~~

~~3.~~ A school personnel representative who has direct contact with the child;

3.~~4.~~ A therapist or other behavioral health professional, if applicable;

4.~~5.~~ A mental health professional with expertise in sibling bonding, if the department or lead agency deems such expert is necessary; or

5.~~6.~~ Other community providers of services to the child or stakeholders, when applicable.

Section 15. Paragraph (d) of subsection (3) and paragraph (c) of subsection (4) of section 39.4023, Florida Statutes, are amended to read:

39.4023 Placement and education transitions; transition plans.—

(3) PLACEMENT TRANSITIONS.—

(d) *Transition planning.*—

1. If the supportive services provided pursuant to paragraph (c) have not been successful to make the maintenance of the placement suitable or if there are other circumstances that require the child to be moved, the department or the community-based care lead agency must convene a multidisciplinary team staffing as required under s. 39.4022 before the child's placement is changed, or within 72 hours of moving the child in an emergency situation, for the purpose of developing an appropriate transition plan.

2. A placement change may occur immediately in an emergency situation without convening a multidisciplinary team staffing. However, a multidisciplinary team staffing must be held within 72 hours after the emergency situation arises.

3. The department or the community-based care lead agency must provide written notice of the planned move at least 14 days before the move or within 72 hours after an emergency situation, to the greatest extent possible and consistent with the child's needs and preferences. The notice must include the reason a placement change is necessary. A copy of the notice must be filed with the court and be provided to all of the following:

a. The child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the department or lead agency to provide notice in an age-appropriate and capacity-appropriate alternative manner.~~;~~

b. The child's parents, unless prohibited by court order.~~;~~

c. The child's out-of-home caregiver.~~;~~

d. The guardian ad litem.~~, if one is appointed;~~

e. The attorney ad litem for the child, if one is

appointed.~~; and~~

f. The attorney for the department.

4. The transition plan must be developed through cooperation among the persons included in subparagraph 3., and such persons must share any relevant information necessary for its development. Subject to the child's needs and preferences, the transition plan must meet the requirements of s. 409.1415(2)(b)8. and exclude any placement changes that occur between 7 p.m. and 8 a.m.

5. The department or the community-based care lead agency shall file the transition plan with the court within 48 hours after the creation of such plan and provide a copy of the plan to the persons included in subparagraph 3.

(4) EDUCATION TRANSITIONS.—

(c) *Minimizing school changes.*—

1. Every effort must be made to keep a child in the school of origin if it is in the child's best interest. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

2. Members of a multidisciplinary team staffing convened for a purpose other than a school change must determine the child's best interest regarding remaining in the school or program of origin if the child's educational options are affected by any other decision being made by the multidisciplinary team.

3. The determination of whether it is in the child's best interest to remain in the school of origin, and if not, of which school the child will attend in the future, must be made in consultation with the following individuals, including, but not

limited to, the child; the parents; the caregiver; the child welfare professional; the guardian ad litem~~, if appointed~~; the educational surrogate, if appointed; child care and educational staff, including teachers and guidance counselors; and the school district representative or foster care liaison. A multidisciplinary team member may contact any of these individuals in advance of a multidisciplinary team staffing to obtain his or her recommendation. An individual may remotely attend the multidisciplinary team staffing if one of the identified goals is related to determining an educational placement. The multidisciplinary team may rely on a report from the child's current school or program district and, if applicable, any other school district being considered for the educational placement if the required school personnel are not available to attend the multidisciplinary team staffing in person or remotely.

4. The multidisciplinary team and the individuals listed in subparagraph 3. must consider, at a minimum, all of the following factors when determining whether remaining in the school or program of origin is in the child's best interest or, if not, when selecting a new school or program:

a. The child's desire to remain in the school or program of origin.

b. The preference of the child's parents or legal guardians.

c. Whether the child has siblings, close friends, or mentors at the school or program of origin.

d. The child's cultural and community connections in the school or program of origin.

e. Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multitiered system of supports.

f. Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973.

g. Whether the child is a student with a disability under IDEA who is receiving special education and related services or a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin.

h. Whether the child is an English Language Learner student and is receiving language services and, if so, whether those required services are available in a school or program other than the school or program of origin.

i. The impact a change to the school or program of origin would have on academic credits and progress toward promotion.

j. The availability of extracurricular activities important to the child.

k. The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at a school or program other than the school or program of origin.

l. The child's permanency goal and timeframe for achieving permanency.

m. The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and

behaviorally.

n. The length of the commute to the school or program from the child's home or placement and how such commute would impact the child.

o. The length of time the child has attended the school or program of origin.

5. The cost of transportation cannot be a factor in making a best interest determination.

Section 16. Paragraph (f) of subsection (3) of section 39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(f)1. The department shall fully inform the court of the child's medical and behavioral status as part of the social services report prepared for each judicial review hearing held for a child for whom psychotropic medication has been prescribed or provided under this subsection. As a part of the information provided to the court, the department shall furnish copies of all pertinent medical records concerning the child which have been generated since the previous hearing. On its own motion or on good cause shown by any party, including the ~~any~~ guardian ad litem~~, attorney,~~ or attorney ad litem, if one is ~~who has been~~ appointed ~~to represent the child or the child's interests~~, the court may review the status more frequently than required in this subsection.

2. The court may, in the best interests of the child, order the department to obtain a medical opinion addressing whether

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the continued use of the medication under the circumstances is safe and medically appropriate.

Section 17. Paragraphs (m), (t), and (u) of subsection (1) of section 39.4085, Florida Statutes, are amended to read:

39.4085 Goals for dependent children; responsibilities; education; Office of the Children's Ombudsman.—

(1) The Legislature finds that the design and delivery of child welfare services should be directed by the principle that the health and safety of children, including the freedom from abuse, abandonment, or neglect, is of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(m) To receive meaningful case management and planning that will quickly return the child to his or her family or move the child on to other forms of permanency. For a child who is transitioning from foster care to independent living, permanency includes establishing naturally occurring, lifelong, kin-like connections between the child and a supportive adult.

(t) To have a guardian ad litem appointed ~~to represent, within reason, their best interests~~ and, if appropriate, an attorney ad litem ~~appointed to represent their legal interests~~; the guardian ad litem or ~~and~~ attorney ad litem, if one is appointed, ~~shall~~ have immediate and unlimited access to the children they represent.

(u) To have all their records available for review by their guardian ad litem or ~~and~~ attorney ad litem, if one is appointed, if they deem such review necessary.

This subsection establishes goals and not rights. This

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subsection does not require the delivery of any particular service or level of service in excess of existing appropriations. A person does not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. This subsection does not require the expenditure of funds to meet the goals established in this subsection except those funds specifically appropriated for such purpose.

Section 18. Subsection (8) of section 39.502, Florida Statutes, is amended to read:

39.502 Notice, process, and service.—

(8) It is not necessary to the validity of a proceeding covered by this part that the parents be present if their identity or residence is unknown after a diligent search has been made; however, ~~but in this event~~ the petitioner must ~~shall~~ file an affidavit of diligent search prepared by the person who made the search and inquiry, and the court must ~~may~~ appoint a guardian ad litem for the child if a guardian ad litem has not previously been appointed.

Section 19. Paragraph (c) of subsection (3) of section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—

(3)

(c)1. The department or community-based care lead agency must notify a current caregiver who has been in the physical custody placement for at least 9 consecutive months and who meets all the established criteria in paragraph (b) of an intent

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to change the physical custody of the child, and a multidisciplinary team staffing must be held in accordance with ss. 39.4022 and 39.4023 at least 21 days before the intended date for the child's change in physical custody, unless there is an emergency situation as defined in s. 39.4022(2)(b). If there is not a unanimous consensus decision reached by the multidisciplinary team, the department's official position must be provided to the parties within the designated time period as provided for in s. 39.4022.

2. A caregiver who objects to the department's official position on the change in physical custody must notify the court and the department or community-based care lead agency of his or her objection and the intent to request an evidentiary hearing in writing in accordance with this section within 5 days after receiving notice of the department's official position provided under subparagraph 1. The transition of the child to the new caregiver may not begin before the expiration of the 5-day period within which the current caregiver may object.

3. Upon the department or community-based care lead agency receiving written notice of the caregiver's objection, the change to the child's physical custody must be placed in abeyance and the child may not be transitioned to a new physical placement without a court order, unless there is an emergency situation as defined in s. 39.4022(2)(b).

4. Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status hearing, at which time the court must do all of the following:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of

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that child for at least 9 continuous months for the limited purpose of filing a motion for a hearing on the objection and presenting evidence pursuant to this subsection.~~;~~

~~b. Appoint an attorney for the child who is the subject of the permanent custody proceeding, in addition to the guardian ad litem, if one is appointed;~~

b.~~c.~~ Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing.~~; and~~

c.~~d.~~ Appoint a court-selected neutral and independent licensed professional with expertise in the science and research of child-parent bonding.

Section 20. Paragraph (c) of subsection (1) and paragraph (c) of subsection (3) of section 39.6012, Florida Statutes, are amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

(3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:

(c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care

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to independent living. The written description must include age-appropriate activities for the child's development of relationships, coping skills, and emotional well-being.

Section 21. Section 39.6036, Florida Statutes, is created to read:

39.6036 Supportive adults for children transitioning out of foster care.—

(1) The Legislature finds that a committed, caring adult provides a lifeline for a child transitioning out of foster care to live independently. Accordingly, it is the intent of the Legislature that the Statewide Guardian ad Litem Office help children connect with supportive adults with the hope of creating an ongoing relationship that lasts into adulthood.

(2) The Statewide Guardian ad Litem Office shall work with a child who is transitioning out of foster care to identify at least one supportive adult with whom the child can enter into a formal agreement for an ongoing relationship and document such agreement in the child's court file. If the child cannot identify a supportive adult, the Statewide Guardian ad Litem Office shall work in coordination with the Office of Continuing Care to identify at least one supportive adult with whom the child can enter into a formal agreement for an ongoing relationship and document such agreement in the child's court file.

Section 22. Paragraph (c) of subsection (10) of section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.—

(10) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed

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absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child.

(c) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

1. The compliance or noncompliance of the parent with the case plan;

2. The circumstances which caused the child's dependency and whether those circumstances have been resolved;

3. The stability and longevity of the child's placement;

4. The preferences of the child, if the child is of sufficient age and understanding to express a preference;

5. The recommendation of the current custodian; and

6. Any ~~The~~ recommendation of the guardian ad litem~~, if one has been appointed~~.

Section 23. Subsection (2) of section 39.6241, Florida Statutes, is amended to read:

39.6241 Another planned permanent living arrangement.—

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver. The guardian ad litem must also advise the court whether the child has been connected with a supportive adult

and, if the child has been connected with a supportive adult, whether the child has entered into a formal agreement with the adult. If the child has entered into a formal agreement pursuant to s. 39.6036, the guardian ad litem must ensure that the agreement is documented in the child's court file.

Section 24. Paragraphs (b) and (f) of subsection (1), paragraph (c) of subsection (2), subsection (3), and paragraph (e) of subsection (4) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months after ~~following~~ the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem~~, if one has been appointed,~~ and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(f) Notice of a judicial review hearing or a citizen review panel hearing, and a copy of the motion for judicial review, if any, must be served by the clerk of the court upon all of the following persons, if available to be served, regardless of whether the person was present at the previous hearing at which

the date, time, and location of the hearing was announced:

1. The social service agency charged with the supervision of care, custody, or guardianship of the child, if that agency is not the movant.

2. The foster parent or legal custodian in whose home the child resides.

3. The parents.

4. The guardian ad litem for the child~~, or the representative of the guardian ad litem program if the program has been appointed~~.

5. The attorney ad litem for the child, if one is appointed.

6. The child, if the child is 13 years of age or older.

7. Any preadoptive parent.

8. Such other persons as the court may direct.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(c) *Review determinations.*—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or caregiver, the guardian ad litem, the ~~or~~ surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to

be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

1. If the parent was advised of the right to receive assistance from any person or social service agency in the preparation of the case plan.

2. If the parent has been advised of the right to have counsel present at the judicial review or citizen review hearings. If not so advised, the court or citizen review panel shall advise the parent of such right.

3. If a guardian ad litem needs to be appointed for the child in a case in which a guardian ad litem has not previously been appointed ~~or if there is a need to continue a guardian ad litem in a case in which a guardian ad litem has been appointed~~.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among

siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interests of the child.

8. The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable.

9. Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care lead agency that:

a. The placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

b. The community-based care lead agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement.

10. A projected date likely for the child's return home or other permanent placement.

11. When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the

efforts of the social service agency to secure party participation in a case plan were sufficient.

12. For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. For a child who is 15 years of age or older, the court shall determine if appropriate steps are being taken for the child to obtain a driver license or learner's driver license.

13. If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

14. If the parents and caregivers have developed a productive relationship that includes meaningful communication and mutual support.

(3) REVIEW HEARINGS FOR CHILDREN 16 AND 17 YEARS OF AGE.—At each review hearing held under this subsection, the court shall give the child and the guardian ad litem the opportunity to address the court and provide any information relevant to the child's best interest, particularly in relation to independent living transition services. The foster parent or~~,~~ legal custodian~~, or guardian ad litem~~ may also provide any information relevant to the child's best interest to the court. In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, and the review and report required under s. 39.822(2)(a)2., the court shall:

(a) Inquire about the life skills the child has acquired and whether those services are age appropriate, at the first judicial review hearing held subsequent to the child's 16th birthday. At the judicial review hearing, the department shall provide the court with a report that includes specific

information related to the life skills that the child has acquired since the child's 13th birthday or since the date the child came into foster care, whichever came later. For any child who may meet the requirements for appointment of a guardian advocate under s. 393.12 or a guardian under chapter 744, the updated case plan must be developed in a face-to-face conference with the child, if appropriate; the child's attorney ad litem, if one is appointed; the child's~~; any court-appointed~~ guardian ad litem; the temporary custodian of the child; and the parent of the child, if the parent's rights have not been terminated.

(b) The court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed under ss. 743.044-743.047 for any disability that the court finds is in the child's best interest to remove. The department shall include in the social study report for the first judicial review that occurs after the child's 17th birthday written verification that the child has:

1. A current Medicaid card and all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching the age of 18, if such application is appropriate.

2. A certified copy of the child's birth certificate and, if the child does not have a valid driver license, a Florida identification card issued under s. 322.051.

3. A social security card and information relating to social security insurance benefits if the child is eligible for those benefits. If the child has received such benefits and they

are being held in trust for the child, a full accounting of these funds must be provided and the child must be informed as to how to access those funds.

4. All relevant information related to the Road-to-Independence Program under s. 409.1451, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed family home or group care provider with whom the child was residing at the time the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by the department.

5. An open bank account or the identification necessary to open a bank account and to acquire essential banking and budgeting skills.

6. Information on public assistance and how to apply for public assistance.

7. A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and the educational program or school in which he or she will be enrolled.

8. Information related to the ability of the child to remain in care until he or she reaches 21 years of age under s. 39.013.

9. A letter providing the dates that the child is under the jurisdiction of the court.

10. A letter stating that the child is in compliance with financial aid documentation requirements.

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing the child's case file.

14. A statement encouraging the child to attend all judicial review hearings.

15. Information on how to obtain a driver license or learner's driver license.

(c) At the first judicial review hearing held subsequent to the child's 17th birthday, if the court determines pursuant to chapter 744 that there is a good faith basis to believe that the child qualifies for appointment of a guardian advocate, limited guardian, or plenary guardian for the child and that no less restrictive decisionmaking assistance will meet the child's needs:

1. The department shall complete a multidisciplinary report which must include, but is not limited to, a psychosocial evaluation and educational report if such a report has not been completed within the previous 2 years.

2. The department shall identify one or more individuals who are willing to serve as the guardian advocate under s. 393.12 or as the plenary or limited guardian under chapter 744. Any other interested parties or participants may make efforts to identify such a guardian advocate, limited guardian, or plenary guardian. The child's biological or adoptive family members, including the child's parents if the parents' rights have not been terminated, may not be considered for service as the plenary or limited guardian unless the court enters a written order finding that such an appointment is in the child's best interests.

3. Proceedings may be initiated within 180 days after the child's 17th birthday for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744. The Legislature encourages the use of pro bono representation to initiate proceedings under this section.

4. In the event another interested party or participant initiates proceedings for the appointment of a guardian advocate, plenary guardian, or limited guardian for the child, the department shall provide all necessary documentation and information to the petitioner to complete a petition under s. 393.12 or chapter 744 within 45 days after the first judicial review hearing after the child's 17th birthday.

5. Any proceedings seeking appointment of a guardian advocate or a determination of incapacity and the appointment of a guardian must be conducted in a separate proceeding in the court division with jurisdiction over guardianship matters and pursuant to chapter 744.

(d) If the court finds at the judicial review hearing after the child's 17th birthday that the department has not met its obligations to the child as stated in this part, in the written case plan, or in the provision of independent living services, the court may issue an order directing the department to show cause as to why it has not done so. If the department cannot justify its noncompliance, the court may give the department 30 days within which to comply. If the department fails to comply within 30 days, the court may hold the department in contempt.

(e) If necessary, the court may review the status of the

child more frequently during the year before the child's 18th birthday. At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of subsection (2), the court shall:

1. Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in s. 39.6251 and determine if the child has entered into a formal agreement for an ongoing relationship with a supportive adult.

2. Ensure that the transition plan includes a supervised living arrangement under s. 39.6251.

3. Ensure the child has been informed of:

a. The right to continued support and services from the department and the community-based care lead agency.

b. The right to request termination of dependency jurisdiction and be discharged from foster care.

c. The opportunity to reenter foster care under s. 39.6251.

4. Ensure that the child, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:

a. Services or benefits for which the child may be eligible based on his or her former placement in foster care, including, but not limited to, the assistance of the Office of Continuing Care under s. 414.56.

b. Services or benefits that may be lost through termination of dependency jurisdiction.

c. Other federal, state, local, or community-based services or supports available to him or her.

(4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually.

(e)1. Notwithstanding the provisions of this subsection, if a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

a.~~1.~~ Attendance of the young adult at the hearing; or

b.~~2.~~ Findings by the court that:

(I)~~a.~~ The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and

(II)~~b.~~ The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or

(III)~~c.~~ The young adult has voluntarily left the program, has not signed the document in sub-subparagraph b., and is unwilling to participate in any further court proceeding.

2.~~3.~~ In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the

proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation. The court shall also inquire of the young adult regarding his or her relationship with the supportive adult with whom the young adult has entered into a formal agreement for an ongoing relationship, if such agreement exists.

Section 25. Paragraph (a) of subsection (3) of section 39.801, Florida Statutes, is amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights; if applicable, instructions for appearance through audio-video communication technology; and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s.

39.503 or s. 39.803, unless a court order has been entered pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child ~~or the representative of the guardian ad litem program, if the program has been appointed~~.

A party may consent to service or notice by e-mail by providing a primary e-mail address to the clerk of the court. The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

Section 26. Subsection (2) of section 39.807, Florida

Statutes, is amended to read:

39.807 Right to counsel; guardian ad litem.—

(2)(a) The court shall appoint a guardian ad litem to represent the ~~best interest of the~~ child in any termination of parental rights proceedings and shall ascertain at each stage of the proceedings whether a guardian ad litem has been appointed.

(b) The guardian ad litem has the ~~following~~ responsibilities and authority specified in s. 39.822.~~:~~

~~1. To investigate the allegations of the petition and any subsequent matters arising in the case and,~~

(c) Unless excused by the court, the guardian ad litem must ~~to~~ file a written report. This report must include a statement of the wishes of the child and the recommendations of the guardian ad litem and must be provided to all parties and the court at least 72 hours before the disposition hearing.

~~2. To be present at all court hearings unless excused by the court.~~

~~3. To represent the best interests of the child until the jurisdiction of the court over the child terminates or until excused by the court.~~

~~(c) A guardian ad litem is not required to post bond but shall file an acceptance of the office.~~

~~(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.~~

(d) ~~(c)~~ This subsection does not apply to any voluntary relinquishment of parental rights proceeding.

Section 27. Subsection (2) of section 39.808, Florida Statutes, is amended to read:

39.808 Advisory hearing; pretrial status conference.—

(2) At the hearing the court shall inform the parties of their rights under s. 39.807, ~~shall~~ appoint counsel for the parties in accordance with legal requirements, and ~~shall~~ appoint a guardian ad litem to represent the ~~interests of the~~ child if one has not already been appointed.

Section 28. Subsection (2) of section 39.815, Florida Statutes, is amended to read:

39.815 Appeal.—

(2) An attorney for the department shall represent the state upon appeal. When a notice of appeal is filed in the circuit court, the clerk shall notify the attorney for the department, ~~together with~~ the attorney for the parent, the guardian ad litem, and the ~~any~~ attorney ad litem for the child, if one is appointed.

Section 29. Section 39.820, Florida Statutes, is repealed.

Section 30. Subsections (1) and (3) of section 39.821, Florida Statutes, are amended to read:

39.821 Qualifications of guardians ad litem.—

(1) Because of the special trust or responsibility placed in a guardian ad litem, the Statewide Guardian ad Litem Office ~~Program~~ may use any private funds collected by the office ~~program~~, or any state funds so designated, to conduct a security background investigation before certifying a volunteer to serve. A security background investigation must include, but need not be limited to, employment history checks, checks of references, local criminal history records checks through local law enforcement agencies, and statewide criminal history records checks through the Department of Law Enforcement. Upon request,

an employer shall furnish a copy of the personnel record for the employee or former employee who is the subject of a security background investigation conducted under this section. The information contained in the personnel record may include, but need not be limited to, disciplinary matters and the reason why the employee was terminated from employment. An employer who releases a personnel record for purposes of a security background investigation is presumed to have acted in good faith and is not liable for information contained in the record without a showing that the employer maliciously falsified the record. A security background investigation conducted under this section must ensure that a person is not certified as a guardian ad litem if the person has an arrest awaiting final disposition for, been convicted of, regardless of adjudication, entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under the provisions listed in s. 435.04. All applicants must undergo a level 2 background screening pursuant to chapter 435 before being certified to serve as a guardian ad litem. In analyzing and evaluating the information obtained in the security background investigation, the office ~~program~~ must give particular emphasis to past activities involving children, including, but not limited to, child-related criminal offenses or child abuse. The office ~~program~~ has sole discretion in determining whether to certify a person based on his or her security background investigation. The information collected pursuant to the security background investigation is confidential and exempt from s. 119.07(1).

(3) It is a misdemeanor of the first degree, punishable as

provided in s. 775.082 or s. 775.083, for any person to willfully, knowingly, or intentionally fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for a volunteer position or for paid employment with the Statewide Guardian ad Litem Office ~~Program~~, any material fact used in making a determination as to the applicant's qualifications for such position.

Section 31. Section 39.822, Florida Statutes, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1) A guardian ad litem shall be appointed by the court at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal. A guardian ad litem is a fiduciary and must provide independent representation of the child using a best interest standard of decisionmaking and advocacy.

(2)(a) A guardian ad litem must:

1. Be present at all court hearings unless excused by the court.

2. Investigate issues related to the best interest of the child who is the subject of the appointment, review all disposition recommendations and changes in placement, and, unless excused by the court, file written reports and recommendations in accordance with general law.

3. Represent the child until the court's jurisdiction over the child terminates or until excused by the court.

4. Advocate for the child's participation in the proceedings and to report the child's preferences to the court,

to the extent the child has the ability and desire to express his or her preferences.

5. Perform other duties that are consistent with the scope of the appointment.

(b) A guardian ad litem shall have immediate and unlimited access to the children he or she represents.

(c) A guardian ad litem is not required to post bond but must file an acceptance of the appointment.

(d) A guardian ad litem is entitled to receive service of pleadings and papers as provided by the Florida Rules of Juvenile Procedure.

(3) Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(4) ~~(2)~~ In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem representation ~~services~~. Reimbursement to the individual providing guardian ad litem representation is not ~~services shall not be~~ contingent upon successful collection by the court from the parent or parents.

(5) ~~(3)~~ Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made

confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or an organization, other than an agency under paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

~~(4) The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.~~

Section 32. Subsection (4) of section 39.827, Florida Statutes, is amended to read:

39.827 Hearing for appointment of a guardian advocate.—

(4) The hearing under this section must ~~shall~~ remain confidential and closed to the public. The clerk shall keep all court records required by this part separate from other records of the circuit court. All court records required by this part

are ~~shall be~~ confidential and exempt from ~~the provisions of~~ s. 119.07(1). ~~All~~ Records may only ~~shall~~ be inspected ~~only~~ upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or custodians of the child and their attorneys, the guardian ad litem, ~~and~~ the department and its designees, and the attorney ad litem, if one is appointed, ~~shall~~ always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, or authorized agent of the department is ~~shall be~~ confidential and exempt from ~~the provisions of~~ s. 119.07(1) and may ~~shall~~ not be disclosed to anyone other than the authorized personnel of the court or the department and its designees, except upon order of the court.

Section 33. Paragraphs (a), (b), and (d) of subsection (1) and subsection (2) of section 39.8296, Florida Statutes, are amended to read:

39.8296 Statewide Guardian ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that for the past 20 years, the Statewide Guardian ad Litem Office ~~Program~~ has been the only

mechanism for best interest representation for children in Florida who are involved in dependency proceedings.

(b) The Legislature also finds that while the Statewide Guardian ad Litem Office ~~Program~~ has been supervised by court administration within the circuit courts since the office's ~~program's~~ inception, there is a perceived conflict of interest created by the supervision of program staff by the judges before whom they appear.

(d) It is therefore the intent of the Legislature to place the Statewide Guardian ad Litem Office ~~Program~~ in an appropriate place and provide a statewide infrastructure to increase functioning and standardization among the local offices ~~programs~~ currently operating in the 20 judicial circuits.

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian ad Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by a Guardian ad Litem Qualifications Committee. The Guardian ad Litem Qualifications Committee shall be composed of five

persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian ad Litem Office ~~Association~~. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may reject the nominations and request the submission of new nominees. The executive director must have knowledge in dependency law and knowledge of social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall serve on a full-time basis and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Guardian ad Litem Office in accordance with state and federal law and the state's long-established policy of prioritizing children's best interests. The executive director shall report to the Governor. The executive director shall serve a 3-year term, subject to removal for cause by the Governor. Any person appointed to serve as the executive director may be permitted to serve more than one term without the necessity of convening the Guardian ad Litem Qualifications Committee.

(b) The Statewide Guardian ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem offices ~~programs~~ located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking

reliable and consistent case data.

2. The office shall review the current guardian ad litem offices ~~programs~~ in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop and maintain a guardian ad litem training program, which must be updated regularly~~, which shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse~~.

5. The office shall review the various methods of funding guardian ad litem offices ~~programs~~, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem offices ~~programs~~.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent

children.

7. The office shall ensure that each child has an attorney assigned to his or her case and, within available resources, is represented using multidisciplinary teams that may include volunteers, pro bono attorneys, social workers, and mentors.

8. The office shall provide oversight and technical assistance to attorneys ad litem, including, but not limited to, all of the following:

a. Develop an attorney ad litem training program in collaboration with dependency court stakeholders, including, but not limited to, dependency judges, representatives from legal aid providing attorney ad litem representation, and an attorney ad litem appointed from a registry maintained by the chief judge. The training program must be updated regularly with or without convening the stakeholders group.

b. Offer consultation and technical assistance to chief judges in maintaining attorney registries for the selection of attorneys ad litem.

c. Assist with recruitment, training, and mentoring of attorneys ad litem as needed.

9.~~7.~~ In an effort to promote normalcy and establish trust between a ~~court-appointed volunteer~~ guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem ~~volunteer~~ may not be required by a guardian ad litem circuit office or ordered by ~~or directed by the program or~~ a court to transport a child.

10.~~8.~~ The office shall submit to the Governor, the President of the Senate, the Speaker of the House of

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Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem representation ~~services~~ and related issues.

Section 34. Section 39.8297, Florida Statutes, is amended to read:

39.8297 County funding for guardian ad litem employees.—

(1) A county and the executive director of the Statewide Guardian ad Litem Office may enter into an agreement by which the county agrees to provide funds to the local guardian ad litem office in order to employ persons who will assist in the operation of the guardian ad litem office ~~program~~ in the county.

(2) The agreement, at a minimum, must provide that:

(a) Funding for the persons who are employed will be provided on at least a fiscal-year basis.

(b) The persons who are employed will be hired, supervised, managed, and terminated by the executive director of the Statewide Guardian ad Litem Office. The statewide office is responsible for compliance with all requirements of federal and state employment laws, and shall fully indemnify the county from

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any liability under such laws, as authorized by s. 768.28(19), to the extent such liability is the result of the acts or omissions of the Statewide Guardian ad Litem Office or its agents or employees.

(c) The county is the employer for purposes of s. 440.10 and chapter 443.

(d) Employees funded by the county under this section and other county employees may be aggregated for purposes of a flexible benefits plan pursuant to s. 125 of the Internal Revenue Code of 1986.

(e) Persons employed under this section may be terminated after a substantial breach of the agreement or because funding to the guardian ad litem office ~~program~~ has expired.

(3) Persons employed under this section may not be counted in a formula or similar process used by the Statewide Guardian ad Litem Office to measure personnel needs of a judicial circuit's guardian ad litem office ~~program~~.

(4) Agreements created pursuant to this section do not obligate the state to allocate funds to a county to employ persons in the guardian ad litem office ~~program~~.

Section 35. Section 1009.898, Florida Statutes, is created to read:

1009.898 Fostering Prosperity grants.—

(1) Subject to the appropriation of funds for that purpose by the Legislature, the Fostering Prosperity program shall administer the following grants to youth and young adults aging out of foster care:

(a) Grants to provide financial literacy instruction using a curriculum developed by the Department of Financial Services

in consultation with the Department of Education.

(b) Grants to provide CLT, SAT, or ACT preparation, including one-on-one support and fee waivers for the examinations.

(c) Grants to youth and young adults planning to pursue trade careers or paid apprenticeships.

(2) If a young adult who is aging out of foster care is reunited with his or her parent, the grants must remain available for the young adult for up to 1 year after reunification.

(3) The State Board of Education shall adopt rules to administer this section.

Section 36. Subsection (1) of section 29.008, Florida Statutes, is amended to read:

29.008 County funding of court-related functions.—

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of this section, the term "circuit and county courts" includes the offices and staffing of the guardian ad litem offices ~~programs~~, and the term "public defenders' offices" includes the offices of criminal conflict and civil regional counsel. The county designated under s. 35.05(1) as the headquarters for each appellate district shall

fund these costs for the appellate division of the public defender's office in that county. For purposes of implementing these requirements, the term:

(a) "Facility" means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services, except this requirement applies only to facilities that are leased, or on which construction commences, after June 30, 2003. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services.

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms,

hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

(b) "Construction or lease" includes, but is not limited to, all reasonable and necessary costs of the acquisition or lease of facilities for all judicial officers, staff, jurors, volunteers of a tenant agency, and the public for the circuit and county courts, the public defenders' offices, state attorneys' offices, and for performing the court-related functions of the offices of the clerks of the circuit and county courts. This includes expenses related to financing such facilities and the existing and future cost and bonded indebtedness associated with placing the facilities in use.

(c) "Maintenance" includes, but is not limited to, all reasonable and necessary costs of custodial and groundskeeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the

public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

(d) "Utilities" means all electricity services for light, heat, and power; natural or manufactured gas services for light, heat, and power; water and wastewater services and systems, stormwater or runoff services and systems, sewer services and systems, all costs or fees associated with these services and systems, and any costs or fees associated with the mitigation of environmental impacts directly related to the facility.

(e) "Security" includes but is not limited to, all reasonable and necessary costs of services of law enforcement officers or licensed security guards and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.

(f) "Communications services" are defined as any reasonable and necessary transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, audio equipment, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, guardians ad litem, criminal

conflict and civil regional counsel, and all staff of the state courts system, state attorneys' offices, public defenders' offices, and clerks of the circuit and county courts performing court-related functions. Such system or services shall include, but not be limited to:

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance, and facsimile equipment, wireless communications, cellular telephones, pagers, and video teleconferencing equipment and line charges. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay toll charges for local and long distance service.

2. All computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services including any county-funded support staff located in the offices of the circuit court, county courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel; training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, the guardian ad litem offices, the offices of criminal conflict and civil regional counsel, and the offices of the clerks of the circuit and county courts; and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by July 1, 2006, and, at a

minimum, permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and be able to electronically exchange judicial case background data, sentencing scoresheets, and video evidence information stored in integrated case management systems over secure networks. Once the integrated system becomes operational, counties may reject requests to purchase communications services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to former s. 29.0086.

3. Courier messenger and subpoena services.

4. Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Such auxiliary aids and services include, but are not limited to, sign language interpretation services required under the federal Americans with Disabilities Act other than services required to satisfy due-process requirements and identified as a state funding responsibility pursuant to ss. 29.004-29.007, real-time transcription services for individuals who are hearing impaired, and assistive listening devices and the equipment necessary to implement such accommodations.

(g) "Existing radio systems" includes, but is not limited to, law enforcement radio systems that are used by the circuit and county courts, the offices of the public defenders, the offices of the state attorneys, and for court-related functions of the offices of the clerks of the circuit and county courts. This includes radio systems that were operational or under

contract at the time Revision No. 7, 1998, to Art. V of the State Constitution was adopted and any enhancements made thereafter, the maintenance of those systems, and the personnel and supplies necessary for operation.

(h) "Existing multiagency criminal justice information systems" includes, but is not limited to, those components of the multiagency criminal justice information system as defined in s. 943.045, supporting the offices of the circuit or county courts, the public defenders' offices, the state attorneys' offices, or those portions of the offices of the clerks of the circuit and county courts performing court-related functions that are used to carry out the court-related activities of those entities. This includes upgrades and maintenance of the current equipment, maintenance and upgrades of supporting technology infrastructure and associated staff, and services and expenses to assure continued information sharing and reporting of information to the state. The counties shall also provide additional information technology services, hardware, and software as needed for new judges and staff of the state courts system, state attorneys' offices, public defenders' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

Section 37. Paragraph (a) of subsection (1) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan

of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the following requirements:

(a) The case plan must be developed in a face-to-face conference with the parent of the child, the ~~any~~ court-appointed guardian ad litem, and, if appropriate, the child and the temporary custodian of the child.

Section 38. Subsection (8) of section 40.24, Florida Statutes, is amended to read:

40.24 Compensation and reimbursement policy.—

(8) In circuits that elect to allow jurors to donate their jury service fee upon conclusion of juror service, each juror may irrevocably donate all of the juror's compensation to the 26 U.S.C. s. 501(c)(3) organization specified by the Statewide Guardian ad Litem Office ~~program~~ or to a domestic violence shelter as specified annually on a rotating basis by the clerk of court in the circuit for the juror's county of residence. The funds collected may not reduce or offset the amount of compensation that the Statewide Guardian ad Litem Office ~~program~~ or domestic violence shelter would otherwise receive from the state. The clerk of court shall ensure that all jurors are given written notice at the conclusion of their service that they have the option to so donate their compensation, and that the applicable program specified by the Statewide Guardian ad Litem Office ~~program~~ or a domestic violence shelter receives all funds donated by the jurors. Any circuit guardian ad litem office

~~program~~ receiving donations of juror compensation must expend such moneys on services for children for whom guardians ad litem have been appointed.

Section 39. Subsections (5), (6), and (7) of section 43.16, Florida Statutes, are amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Statewide Guardian Ad Litem Office ~~Program~~.

(b) Each state attorney, public defender, and criminal conflict and civil regional counsel and the Statewide Guardian Ad Litem Office ~~Program~~ shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward such items to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public defender, a criminal conflict and civil regional counsel, or the Statewide Guardian Ad Litem Office ~~Program~~, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire

project involved.

(6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Statewide Guardian Ad Litem Office ~~Program~~ shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

(7) ~~The provisions contained in~~ This section is ~~shall be~~ supplemental to ~~those of~~ chapter 27, relating to state attorneys, public defenders, criminal conflict and civil regional counsel, and capital collateral regional counsel; to ~~those of~~ chapter 39, relating to the Statewide Guardian Ad Litem Office ~~Program~~; or to other laws pertaining hereto.

Section 40. Paragraph (a) of subsection (1) and subsection (4) of section 61.402, Florida Statutes, are amended to read:

61.402 Qualifications of guardians ad litem.—

(1) A person appointed as a guardian ad litem pursuant to s. 61.401 must be:

(a) Certified by the Statewide Guardian Ad Litem Office ~~Program~~ pursuant to s. 39.821;

(b) Certified by a not-for-profit legal aid organization as defined in s. 68.096; or

(c) An attorney who is a member in good standing of The

Florida Bar.

(4) Nothing in this section requires the Statewide Guardian Ad Litem Office ~~Program~~ or a not-for-profit legal aid organization to train or certify guardians ad litem appointed under this chapter.

Section 41. Paragraph (x) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(x) All officers and employees of the Justice Administrative Commission, Office of the State Attorney, Office of the Public Defender, regional offices of capital collateral counsel, offices of criminal conflict and civil regional counsel, and Statewide Guardian Ad Litem Office, including the circuit guardian ad litem offices ~~programs~~.

Section 42. Paragraph (b) of subsection (96) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(96) GUARDIAN AD LITEM LICENSE PLATES.—

(b) The annual use fees from the sale of the plate shall be distributed to the Florida Guardian Ad Litem Foundation, Inc., a direct-support organization and a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. Up to 10 percent of the proceeds may be used for administrative costs and the marketing of the plate. The remainder of the proceeds must be used in this state to support the mission and efforts of the Statewide Guardian Ad Litem Office ~~Program~~ to represent abused, abandoned, and neglected children and advocate for their best interests;

recruit and retain volunteer child advocates; and meet the unique needs of the dependent children the program serves.

Section 43. Paragraph (e) of subsection (3) of section 943.053, Florida Statutes, is amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3)

(e) The fee per record for criminal history information provided pursuant to this subsection and s. 943.0542 is $24 per name submitted, except that the fee for the Statewide Guardian Ad Litem Office ~~program~~ and vendors of the Department of Children and Families, the Department of Juvenile Justice, the Agency for Persons with Disabilities, and the Department of Elderly Affairs is $8 for each name submitted; the fee for a state criminal history provided for application processing as required by law to be performed by the Department of Agriculture and Consumer Services is $15 for each name submitted; and the fee for requests under s. 943.0542, which implements the National Child Protection Act, is $18 for each volunteer name submitted. An office of the public defender or an office of criminal conflict and civil regional counsel may not be assessed a fee for Florida criminal history information or wanted person information.

Section 44. Subsection (2) of section 985.43, Florida Statutes, is amended to read:

985.43 Predisposition reports; other evaluations.—

(2) The court shall consider the child's entire assessment and predisposition report and shall review the records of earlier judicial proceedings before making a final disposition

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of the case. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Statewide Guardian Ad Litem Office ~~Program~~ and the child's attorney ad litem, if one is appointed. The court may, by order, require additional evaluations and studies to be performed by the department; the county school system; or any social, psychological, or psychiatric agency of the state. The court shall order the educational needs assessment completed under s. 985.18(2) to be included in the assessment and predisposition report.

Section 45. Subsection (4) of section 985.441, Florida Statutes, is amended to read:

985.441 Commitment.—

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment nonresidential conditional release program, except that the department may not transfer any child adjudicated solely for a misdemeanor to a residential program except as provided in subsection (2). The department shall notify the court that committed the child to the department and any attorney of record for the child, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. If the child is under the jurisdiction of a dependency court, the department shall also provide notice to the dependency court, ~~and~~ the Department of Children and Families, ~~and, if appointed,~~ the Statewide Guardian Ad Litem Office,

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~~Program~~ and the child's attorney ad litem, if one is appointed. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 46. Subsection (3) of section 985.455, Florida Statutes, is amended to read:

985.455 Other dispositional issues.—

(3) Any commitment of a delinquent child to the department must be for an indeterminate period of time, which may include periods of temporary release; however, the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense, except that the duration of a minimum-risk nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. The duration of the child's placement in a commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's treatment plan progress and adjustment-related issues shall be reported to the court quarterly, unless the court requests monthly reports. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Statewide Guardian Ad Litem Office ~~Program~~ or the child's attorney ad litem, if one is appointed. The child's length of stay in a commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in the program shall not be extended for purposes of sanction or punishment.

Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's treatment plan progress and adjustment-related issues must be communicated to the court at the time the department requests the court to consider releasing the child from the commitment program. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

Section 47. Paragraph (b) of subsection (4) of section 985.461, Florida Statutes, is amended to read:

985.461 Transition to adulthood.—

(4) As part of the child's treatment plan, the department may provide transition-to-adulthood services to children released from residential commitment. To support participation in transition-to-adulthood services and subject to appropriation, the department may:

(b) Use community reentry teams to assist in the development of a list of age-appropriate activities and responsibilities to be incorporated in the child's written case plan for any youth who is under the custody or supervision of

the department. Community reentry teams may include representatives from school districts, law enforcement, workforce development services, community-based service providers, the Statewide Guardian Ad Litem Office ~~Program~~, and the youth's family. Such community reentry teams must be created within existing resources provided to the department. Activities may include, but are not limited to, life skills training, including training to develop banking and budgeting skills, interviewing and career planning skills, parenting skills, personal health management, and time management or organizational skills; educational support; employment training; and counseling.

Section 48. Subsection (11) of section 985.48, Florida Statutes, is amended to read:

985.48 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(11) Membership of a sexual abuse intervention network shall include, but is not limited to, representatives from:

(a) Local law enforcement agencies;

(b) Local school boards;

(c) Child protective investigators;

(d) The office of the state attorney;

(e) The office of the public defender;

(f) The juvenile division of the circuit court;

(g) Professionals licensed under chapter 458, chapter 459, s. 490.0145, or s. 491.0144 providing treatment for juvenile sexual offenders or their victims;

(h) The Statewide Guardian Ad Litem Office ~~program~~;

(i) The Department of Juvenile Justice; and

(j) The Department of Children and Families.

Section 49. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(39) or (57) ~~s. 39.01(36) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 business days after making the oral report. A criminal investigation shall be coordinated,

whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 50. Paragraph (c) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and

pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(37)(g) ~~s. 39.01(34)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of

the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

Section 51. Paragraph (c) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial and material change of circumstances.

1. It is the public policy of this state that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. Unless otherwise provided in this section or agreed to by the parties, there is a rebuttable presumption that equal time-sharing of a minor child is in the best interests of the minor child. To rebut this presumption, a party must prove by a preponderance of the evidence that equal time-sharing is not in the best interests of the minor child. Except when a time-sharing schedule is agreed to by the parties and approved by the court, the court must evaluate all of the factors set forth in subsection (3) and make specific written findings of fact when creating or modifying a time-sharing schedule.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. In determining detriment to the child, the court

shall consider:

a. Evidence of domestic violence, as defined in s. 741.28;

b. Whether either parent has or has had reasonable cause to believe that he or she or his or her minor child or children are or have been in imminent danger of becoming victims of an act of domestic violence as defined in s. 741.28 or sexual violence as defined in s. 784.046(1)(c) by the other parent against the parent or against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court;

c. Whether either parent has or has had reasonable cause to believe that his or her minor child or children are or have been in imminent danger of becoming victims of an act of abuse ~~as defined in s. 39.01(2)~~, abandonment ~~as defined in s. 39.01(1)~~, or neglect, as those terms are defined in s. 39.01, ~~s. 39.01(50)~~ by the other parent against the child or children whom the parents share in common regardless of whether a cause of action has been brought or is currently pending in the court; and

d. Any other relevant factors.

3. The following evidence creates a rebuttable presumption that shared parental responsibility is detrimental to the child:

a. A parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775;

b. A parent meets the criteria of s. 39.806(1)(d); or

c. A parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

(I) The parent was 18 years of age or older.

(II) The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

4. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

5. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

6. There is a rebuttable presumption against granting time-sharing with a minor child if a parent has been convicted of or had adjudication withheld for an offense enumerated in s. 943.0435(1)(h)1.a., and at the time of the offense:

a. The parent was 18 years of age or older.

b. The victim was under 18 years of age or the parent believed the victim to be under 18 years of age.

A parent may rebut the presumption upon a specific finding in writing by the court that the parent poses no significant risk of harm to the child and that time-sharing is in the best interests of the minor child. If the presumption is rebutted, the court must consider all time-sharing factors in subsection (3) when developing a time-sharing schedule.

7. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

Section 52. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

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

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(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care

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

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone

numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges~~,~~ and ~~of~~ current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and ~~of~~ current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or

former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the

children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.01 ~~s. 39.820~~; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of

Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person’s skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees;

and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction

treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s.

90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the

statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized

to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

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

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party

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

can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 53. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license

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

signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 54. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

Section 55. Section 627.746, Florida Statutes, is amended to read:

627.746 Coverage for minors who have a learner's driver license; additional premium prohibited.—An insurer that issues an insurance policy on a private passenger motor vehicle to a named insured who is a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~ may not charge an additional premium for coverage of the minor while the minor is operating the insured vehicle, for the period of time that the minor has a learner's driver license, until such time as the minor obtains a driver license.

Section 56. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

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

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(80) ~~s. 39.01(77)~~.

Section 57. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(80)(g) ~~s. 39.01(77)(g)~~.

Section 58. The Division of Law Revision is requested to prepare a reviser's bill for the 2025 Regular Session of the Legislature to substitute the term "Statewide Guardian ad Litem Office" for the term "Guardian ad Litem Program" or "Statewide Guardian ad Litem Program" throughout the Florida Statutes.

Section 59. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2-22-2024
Meeting Date

Fiscal Policy
Committee

1224
Bill Number or Topic

Amendment Barcode (if applicable)

Name Erin Collins/Junior Leagues of FL

Phone (850) 570-1492

Address 1400 Village Sq. Blvd., #3-110
Street

Email Erin@FloridaAllianceEndHT.co

Tallahassee FL 32312
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. 2020-2022JointRules.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

2/22/24
Meeting Date

Fiscal Policy
Committee

1224
Bill Number or Topic

655070 / 568060
Amendment Barcode (if applicable)

Name Dennis Moore

Phone (850) 922-7213

Address 111 W. Madison St
Street

Tallahassee FL
City State Zip

Email dennis.moore@gcf.fl.gov

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

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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 Committee on Fiscal Policy

BILL:	CS/SB 1230
INTRODUCER:	Appropriations Committee on Criminal and Civil Justice and Senator Bradley
SUBJECT:	Sexual Predators and Sexual Offenders
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	**Favorable**
2.	Kolich	Harkness	ACJ	**Fav/CS**
3.	Vaughan	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1230 amends both ss. 775.21 (sexual predators), and 943.0435, F.S. (sexual offenders), to:

- Remove references to "a sanction" in the definition of the terms conviction and convicted.
- Specify that certain sexual predators and sexual offenders must provide the registration number for a vessel, live-aboard vessel, or houseboat.
- Authorize sexual predators and sexual offenders to report to the Department of Law Enforcement (FDLE) or through the FDLE's online system within a specified timeframe after changes to vehicle information.
- Require sexual predators and sexual offenders to register all changes in vehicles owned.
- Require that a sexual predator or sexual offender report in person to the sheriff's office in the county of current residence *at least 48 hours* before the date the person intends to leave this state to establish residence in another state or jurisdiction, or at least 21 days before the intended travel date for any travel outside the United States. Any travel not known at least 48 hours before the person intends to establish a residence in another state or jurisdiction or 21 days before departure for travel outside the United States must be reported to the sheriff's office as soon as possible before departure.
- Specify that the FDLE must notify the intended country of travel of such travel.
- Establish that transient check-in information shall be gathered by each sheriff's office in a manner set forth by the FDLE, rather than each sheriff's office determining how to conduct check-ins. The sheriff's office must electronically submit such information within 2 business days after the sexual predator or sexual offender provides it to the sheriff's office.

- Require sexual predators and offenders to respond to any address verification correspondence from FDLE or from county or local law enforcement agencies within three weeks after the date of the correspondence, rather than only from FDLE.
- Specify that each instance of failure to register or report changes to the required information specified constitutes a separate offense.

The bill amends s. 775.21, F.S., to amend the definitions of the terms "permanent residence," "temporary residence," and "transient residence" to specify the number of days a person is required to be in a place for each type of residence.

The bill further amends s. 775.21, F.S., to specify that certain sexual predators must meet criteria provided in s. 943.0435, F.S., to qualify for removal of certain registration requirements.

The bill amends s. 943.0435, F.S., to require the FDLE be notified of a petition for relief and may present evidence at a hearing. A person eligible for relief from registration must show that they do not meet any qualifying criteria.

The bill amends s. 943.0435, F.S., to require all of the following:
- Require the local jail to register sexual offenders in their custody within certain time frames;
- Require jail custodians to take digital photographs of sexual offenders in their custody, provide those photographs to the FDLE, and notify the FDLE if the sexual offender escapes or dies.

The bill will have an insignificant negative fiscal impact on FDLE. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2024.

II. Present Situation:

Sexual Predators and Offenders

The Florida Department of Law Enforcement is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles (DHSMV), and law enforcement officials.[1] Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.[2] The sex offender registry database is a statewide system that collects and disseminates sex offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.[3]

[1] FDLE, *Sexual Offender and Predator System*, https://offender.fdle.state.fl.us/offender.sops.home.jsf, (last visited on January 11, 2024).
[2] Sections 775.21 and 943.0435, F.S.
[3] *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.[4] The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes[5] and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the DHSMV, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;[6]
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.[7]

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.[8]

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.[9] Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under the DOC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

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[4] Sections 775.21 and 943.0435, F.S.

[5] Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

[6] Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

[7] Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

[8] Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

[9] All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register per s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (on the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (on the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The FDLE, through its agency website, provides a searchable database that includes some of this information.[10] Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

FDLE's Online System

The FDLE is required to establish an online system through which sexual predators and sexual offenders may securely access, submit, and update all electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.[11]

A sexual predator or sexual offender must register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the FDLE through the FDLE's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses and Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DOC, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DOC before using such electronic mail addresses or Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DJJ, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DJJ before using such electronic mail addresses or Internet identifiers.[12]

A sexual predator or sexual offender must register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education in the same manner previously described.[13]

Currently, the law does not specify that a sexual predator and sexual offender may report changes to vehicles owned through FDLE's online system. The FDLE notes that "[c]urrent law requires sexual offenders and predators to report in-person to the sheriff's office within 48 hours after any change in vehicle owned. While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the

[10] The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *See* http://offender.fdle.state.fl.us/offender/Search.jsp (last visited on Mar. 4, 2021).
[11] Sections 775.21(6)(g)5.c. and 943.0435(4)(e)3., F.S.
[12] Sections 775.21(6)(g)5.a. and 943.0435(4)(e)1., F.S.
[13] Sections 775.21(6)(g)5.b. and 943.0435(4)(e)2., F.S.

sheriff's office has created a significant burden."[14] Further, according to the FDLE, "[a]llowing registrants the option to report their vehicle information and address changes online will facilitate faster access to this critical information and reduce the impact on sheriff's offices."[15]

Reporting when Driver License or State Identification is Renewed and Reporting Change of Residence or Name

Within 48 hours after initial registration with the sheriff's office, a sexual predator or sexual offender who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the DOC, must register in person at a driver license office of the DHSMV and present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3), F.S., was previously secured or updated under s. 944.607, F.S.[16]

At the driver license office the sexual predator or sexual offender must do all of the following:

- If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card.
- Identify himself or herself as a sexual predator or sexual offender who is required to register, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the FDLE in maintaining current records of sexual predators. (There are registration requirements for other places of residence such as mobile homes and vessels.)
- Pay the costs assessed by the DHSMV for issuing or renewing a driver license or an identification card.
- Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.[17]

Each time a sexual predator's or sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the predator's or offender's driver license or identification card, within 48 hours after any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process, the predator or offender must report in person to a driver license office and is subject to the requirements previously described. The DHSMV must forward to the FDLE and the DOC all photographs and information provided by sexual predators or sexual offenders.[18]

A sexual predator or sexual offender who is unable to secure or update a driver license or an identification card with the DHSMV as previously described must also report any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported

[14] *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).
[15] *Id.*
[16] Section 775.021(6)(f) and 943.0435(3), F.S.
[17] *Id.*
[18] Sections 775.021(6)(g)1. and 943.0435(4), F.S.

such information to the DHSMV. These reporting requirements do not negate the requirement for a sexual predator or sexual offender to obtain a Florida driver license or identification card.[19]

Reporting Residence in Another State or Jurisdiction and Travel

A sexual predator or sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than Florida must report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator or sexual offender 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure.[20]

The sexual predator or sexual offender must provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator or sexual offender must also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel.[21]

The sheriff must promptly provide to the FDLE the information received from the sexual predator or sexual offender. The FDLE must notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's or sexual offender's intended residence. The failure of a sexual predator or sexual offender to provide his or her intended place of residence is a third degree felony.[22]

A sexual predator or sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country and later decides to remain in this state must, within 48 hours after the date upon which the sexual predator or sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual predator or sexual offender reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator or sexual offender that he or she intends to remain in this state, the sheriff must promptly report this information to the FDLE. A sexual predator or sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country, but who remains in this state without reporting to the sheriff as previously described commits a second degree felony.[23]

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[19] *Id.*
[20] Sections 775.21(6)(i) and 943.0435(7), F.S.
[21] *Id.*
[22] *Id.* A third degree felony is punishable by up to 5 years in state prison and a $5,000 fine. Sections 775.082 and 775.083, F.S.
[23] Sections 775.21(6)(j) and (10) and 943.0435(8), F.S. A second degree felony is punishable by up to 15 years in state prison and a $10,000 fine. Sections 775.082 and 775.083, F.S.

Residence Definitions

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.[24]

"Permanent residence" means a place where the person abides, lodges, or resides for 3 or more consecutive days.[25]

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.[26]

"Transient residence" means a county where a person lives, remains, or is located for a period of 3 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.[27]

Section 775.21, F.S., refers to "days" when addressing "permanent residence," "temporary residence," and "transient residence," however the current law does not specify how "a day" is calculated.

Removal Requirements and Sexual Offender Registration Based on Out-of-State Conviction for Offense Not Similar to Florida Offense Requiring Registration and Not Public in Other State

A sexual predator must maintain registration with the FDLE for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding.[28]

Except as provided in s. 943.04354, F.S., a sexual offender must maintain registration with the FDLE for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding. However, a sexual offender must be considered for removal of the registration requirement if he or she has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, and the requirement to register was not based on an adult conviction for specified crimes.[29]

[24] Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.
[25] Section 775.21(2)(k), F.S.
[26] Section 775.21(2)(n), F.S.
[27] Section 775.21(2)(o), F.S
[28] Section 775.21(6)(l), F.S.
[29] Section 943.0435(11)(a)1., F.S.

A sexual offender may petition the court to remove the requirement and the court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release. The requested relief must comply with the U.S. Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety.[30] This relief does not require the court or the offender to notify FDLE of the petitions.

As previously noted, for purposes of sexual offender registration, the definition of "sexual offender" includes, but is not limited to, a person who establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender.[31]

According to the FDLE, the criteria previously described apply to a person "based solely upon a requirement to register in another state for an offense that is *not* similar to a conviction offense requiring registration in Florida and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only."[32]

The FDLE has indicated concerns about the application of these criteria to such person. "As Florida does not have a non-public registry, such an individual's registration information would be publicly available."[33]

III. Effect of Proposed Changes:

Section 775.21, F.S., The Florida Sexual Predators Act

The bill amends s. 775.21, F.S., by clarifying definitions of "permanent residence,"[34] "temporary residence,"[35] and "transient residence"[36] by specifying how days are calculated for each type of residence. For each of the above definitions for residence, the first day that a person lives, remains, or is located in a county for the purpose of abiding, lodging, or residing is excluded and each subsequent day is counted. A day includes any part of a calendar day.

The definition for qualifications of transient residence was clarified to include the county where the person is located for the purpose of abiding, lodging, or residing.

[30] Section 943.0435(11)(a)3., F.S.
[31] Section 943.0435(1)(h)1.b., F.S.
[32] *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).
[33] *Id.*
[34] Section 775.21(2)(k), F.S.
[35] Section 775.21(2)(n), F.S.
[36] Section 775.21(2)(o), F.S.

The bill removes reference to a "sanction" in the definition of "convicted."

The bill clarifies that the removal of registration requirements for persons who have not yet been designated a sexual predator by a court, but has the sexual predator, sexually violent predator, or another sexual offender designation in another state or jurisdiction, must meet the criteria for removal in s. 943.0435, F.S.

Registration and Verification

Section 775.21(6)(d), F.S., is amended to allow a sexual predator to report to the FDLE through their online system or in person to the sheriff's office within 48 hours after any change in vehicles owned. The bill requires a sexual predator to register all changes to vehicles owned.

Section 775.21(6), F.S, specifies the timeframe for sexual predators who intend to establish permanent, temporary, or transient residence in another state or jurisdiction to report to the sheriff *at least* 48 hours before the date intended to leave. If travel is not known to the offender 48 hours prior to departure, it must be reported to the sheriff's office as soon as possible.

All travel outside of the United States must also be reported to the sheriff's office 21 days before the departure date. If travel is not known to the offender 21 days prior to departure, it must be reported as soon as possible before departure.

The FDLE must provide notification of intent to travel.

The bill amends s. 775.21, F.S., to specify if the sexual predator's place of residence is a vessel, live aboard vessel, or house boat, he or she must provide the registration number for the vessel, live-aboard vessel, or houseboat.

Penalties

Section 775.21(10), F.S., adds or clarifies the following reporting requirements for sexual predators:

- Change of name information;
- Employment changes;
- Vehicle ownership, including new vehicles, changes to the make, model, or color, vehicle identification number, and license and tag numbers of previously reported vehicles; and
- Address verification from county or local law enforcement agencies.

The bill also adds language to clarify that each instance of failure to register or report constitutes a separate offense.

Section 943.0435, F.S., Sexual Offenders Required to Register

Section 943.0435, F.S., is amended to allow a sexual offender to report to the FDLE through their online system or in person to the sheriff's office within 48 hours after any change in vehicles owned. The bill requires a sexual offender to register all changes to vehicles owned.

The bill amends s. 943.0435, F.S., to specify if the sexual predator's place of residence is a vessel, live aboard vessel, or houseboat, he or she must provide the registration number for the vessel, live-aboard vessel, or houseboat.

The bill amends s. 943.0435, F.S., to:

- Require the local jail to register sexual offenders in their custody within certain time frames; and
- Require jail custodians to take digital photographs of sexual offenders in their custody, provide those photographs to the FDLE, and notify the FDLE if the sexual offender escapes or dies.

Section 943.0435, F.S, specifies the timeframe for sexual offenders who intend to establish permanent, temporary, or transient residence in another state or jurisdiction to report to the sheriff *at least* 48 hours before the date intended to leave. If travel is not known to the offender 48 hours prior to departure, it must be reported to the sheriff's office as soon as possible.

All travel outside of the United States must also be reported to the sheriff's office 21 days before the departure date. If travel is not known to the offender 21 days prior to departure, it must be reported as soon as possible before departure.

The bill amends s. 943.0435(9)(a), F.S., to specify requirements for reporting and provides that failure to report each instance constitutes a separate offense. It is a third degree felony,[37] for a sexual offender to fail:

- To register;
- After registration, to maintain, acquire, or renew a driver license or ID card;
- To provide required location information;
- To provide change-of-name information;
- To provide electronic mail addresses, internet identifiers, and each Internet identifier's corresponding website homepage or application software name;
- To provide all home telephone numbers and cellular telephone numbers;
- To report any changes to employment information;
- To report changes in status at an institution of higher education;
- To report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles;
- To make a required report in connection with vacating a permanent residence;
- To reregister as required;
- To respond to any address verification correspondence from the department or from county or local law enforcement agencies within three weeks after the date of the correspondence; and
- To knowingly provide false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section.

[37] Section 893.13(1), F.S. A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.

The FDLE must be notified of a petition for relief by a sexual offender under s. 943.0435(11), F.S.

The bill amends definitions by providing clarification for "educational" institution when referring to an institution of higher education, and by removing references to "a sanction" in the definition of the term convicted. The term sanction referred to a fine, probation, community control, parole, conditional release, control release, or incarceration in state, federal or private prison or local detention facility.

The bill amends both s. 775.21 and s. 943.0435, F.S., by restructuring and reorganizing the language, and making technical changes throughout the bill.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE reports this bill requires changes to existing IT systems with an estimated cost of $15,000[38], which can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.21 and 943.0435.

The bill reenacts the following sections of the Florida Statutes: 944.606, 1012.467, 320.02, 775.25, 938.10, 944.607, 985.481, and 985.4815.

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 Criminal and Civil Justice:
The committee substitute:
- Removes language created by the bill that relates to the removal of registration requirements for sex offenders.
- Provides a new effective date of October 1, 2024.

B. Amendments:

None.

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

[38] 2024 FDLE Legislative Bill Analysis, January 5, 2024 (on file with the Senate Committee on Criminal Justice).

By the Appropriations Committee on Criminal and Civil Justice; and Senator Bradley

604-03140-24 20241230c1

A bill to be entitled

An act relating to sexual predators and sexual offenders; amending s. 775.21, F.S.; revising the definitions of the terms "conviction," "permanent residence," "temporary residence," and "transient residence"; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; authorizing sexual predators to report to the Department of Law Enforcement through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned; requiring sheriffs' offices to report to the department transient residence information in a manner prescribed by the department; requiring sheriffs' offices to electronically submit to and update with the department specified information within a specified timeframe after the sexual predator provides it to the sheriff's office; requiring sexual predators to register all changes to vehicles owned through the department's online system; requiring the department to establish an online system through which sexual predators may securely access, submit, and update all vehicles owned; revising the reporting requirements and applicable timeframes with which a sexual predator must comply if he or she intends to establish a certain permanent, temporary, or transient residence or to travel; requiring sheriffs' offices to electronically submit to and update with the

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

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department, in a manner specified by the department, specified information within a specified timeframe after the sexual predator provides it to the sheriff's office; revising the list of requirements for which a sexual predator's failure to comply constitutes a criminal offense; specifying that each instance of a failure to register or report changes to specified required information constitutes a separate offense; conforming provisions to changes made by the act; making technical changes; amending s. 943.0435, F.S.; revising the definition of the term "convicted"; authorizing sexual offenders to report to the department through the department's online system within a specified timeframe required vehicle information changes after any change in vehicles owned; requiring sheriffs' offices to report to the department transient residence information in a manner prescribed by the department; requiring sheriffs' offices to electronically submit to and update with the department specified information within a specified timeframe after the sexual offender provides it to the sheriff's office; requiring sexual offenders to register all changes to vehicles owned through the department's online system; requiring the department to establish an online system through which sexual offenders may securely access, submit, and update all vehicles owned; requiring that, if a sexual offender is in the custody of a local jail, the custodian of the local jail register a sexual offender within a

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

specified timeframe after intake of the sexual offender for any reason and upon release; requiring the custodian to take a digitized photograph of the sexual offender and forward the photograph and such registration information to the department; revising the reporting requirements and applicable timeframes with which a sexual offender must comply if he or she intends to establish a certain permanent, temporary, or transient residence or to travel; revising the list of requirements for which a sexual offender's failure to comply constitutes a criminal offense; specifying that each instance of a failure to register or report changes to specified required information constitutes a separate offense; specifying that, in order to qualify for removal of certain registration requirements, certain sexual offenders must meet specified criteria; requiring sheriffs' offices to electronically submit to and update with the department, in a manner specified by the department, specified information within a specified timeframe after the sexual offender provides it to the sheriff's office; conforming provisions to changes made by the act; making technical changes; reenacting s. 944.606(1)(d), F.S., relating to the definitions of the terms "permanent residence," "temporary residence," and "transient residence," to incorporate the amendment made to s. 775.21, F.S., in a reference thereto; reenacting s. 1012.467(1)(b), F.S., relating to the definition of the term "convicted," to

incorporate the amendment made to s. 943.0435, F.S., in a reference thereto; reenacting ss. 320.02(4), 775.25, 938.10(1), 944.607(4)(a) and (9), 985.481(1)(a) and (d), and 985.4815(1)(b) and (f) and (9), F.S., relating to registration required, application for registration, and forms; prosecutions for acts or omissions; additional court cost imposed in cases of certain crimes; notification to department of information on sexual offenders; sexual offenders adjudicated delinquent and notification upon release; and notification to department of information on juvenile sexual offenders, respectively, to incorporate the amendments to ss. 775.21 and 943.0435, F.S., in references thereto; providing an effective date.

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

Section 1. Section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(1) SHORT TITLE.—This section may be cited as "The Florida Sexual Predators Act."

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

(a) "Change in status at an institution of higher education" means the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in

location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

(b) "Chief of police" means the chief law enforcement officer of a municipality.

(c) "Child care facility" has the same meaning as provided in s. 402.302.

(d) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a permanent, temporary, or transient residence.

(e) "Conviction" means 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. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere ~~resulting in a sanction~~ in any state of the United States or other jurisdiction. ~~A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.~~

(f) "Department" means the Department of Law Enforcement.

(g) "Electronic mail address" has the same meaning as provided in s. 668.602.

(h) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(i) "Institution of higher education" means a career center, a community college, a college, a state university, or an independent postsecondary educational institution.

(j) "Internet identifier" means any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. Internet identifier does not include a date of birth, social security number, personal identification number (PIN), or password. A sexual offender's or sexual predator's use of an Internet identifier that discloses his or her date of birth, social security number, PIN ~~personal identification number (PIN)~~, password, or other information that would reveal the identity of the sexual offender or sexual predator waives the disclosure exemption in this paragraph for such personal information.

(k) "Permanent residence" means a place where the person abides, lodges, or resides for 3 or more consecutive days. For the purpose of calculating a permanent residence under this paragraph, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(l) "Professional license" means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.

(m) "Social Internet communication" means any communication through a commercial social networking website as defined in s. 943.0437, or application software. The term does not include any

of the following:

1. Communication for which the primary purpose is the facilitation of commercial transactions involving goods or services;

2. Communication on an Internet website for which the primary purpose of the website is the dissemination of news; or

3. Communication with a governmental entity.

As used in ~~For purposes of~~ this paragraph, the term "application software" means any computer program designed to run on a mobile device such as a smartphone or tablet computer, that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users, and that offers a mechanism for communication with other users through a forum, a chatroom, electronic mail, or an instant messenger.

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. For the purpose of calculating a temporary residence under this paragraph, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(o) "Transient residence" means a county where the ~~a~~ person

lives, remains, or is located for the purpose of abiding, lodging, or residing for a period of 3 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address. For the purpose of calculating a transient residence under this paragraph, the first day that a person lives, remains, or is located in a county for the purpose of abiding, lodging, or residing is excluded and each subsequent day is counted. A day includes any part of a calendar day.

(p) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their

crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification

for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the ~~Florida~~ department ~~of Law Enforcement~~, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim

is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or

similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation

as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit

a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the

offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designates ~~designating~~ an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, "Sexual Predator Registration." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria

but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall

register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state. To qualify for removal of the registration requirements under this paragraph, a sexual offender described in this paragraph must meet the criteria for removal under s. 943.0435.

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary

address, any transient residence within this ~~the~~ state; address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in this subparagraph in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and status at an institution of higher education.

b. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those

terms are defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

c. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

d. A sexual predator shall report to the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1. in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and change in status at an institution of higher education. When a sexual predator registers with the sheriff's office, the sheriff shall take a

photograph, a set of fingerprints, and palm prints of the sexual predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the sexual predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual predator shall also provide to the Department of

Highway Safety and Motor Vehicles the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the sexual predator's driver license or identification card, within 48 hours after any change of the sexual predator's residence or change in the sexual predator's name by reason of marriage or other legal process, the sexual predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The

Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change in ~~of~~ the sexual predator's permanent, temporary, or transient residence or change in the sexual predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the sexual predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did

vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place where ~~that~~ he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall report ~~establish procedures for reporting~~ transient residence information in a manner prescribed by the department and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall~~,~~ ~~within 2 business days,~~ electronically submit to and update with the department all such information within 2 business days after ~~provided by~~ the sexual predator provides it to the sheriff's office ~~department~~.

3. A sexual predator who remains at a permanent, temporary,

or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the sexual predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. A sexual predator ~~An offender~~ who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph 2.b. is punishable as provided in subsection (10).

5.a. A sexual predator shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses or ~~and~~ Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in

the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this sub-subparagraph shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(h) The department shall notify the sheriff and the state

attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence at least ~~within~~ 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~ outside of the United States. Any travel that is not known by the sexual predator 48 hours before he or she intends to establish a residence in another state or jurisdiction, or 21 days before the departure date for travel outside of the United States, must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual predator's intended residence or intended travel. The failure of a sexual predator

to provide his or her intended place of residence or intended travel is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff's office ~~sheriff~~ to which the sexual predator reported the intended change of residence or intended international travel, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be

stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record, unless otherwise made exempt or confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The department may disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator shall maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff

of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed child care facility, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The sexual predator's current permanent, temporary, and transient addresses, and descriptions of registered locations that have no specific street address, including the name of the county or municipality if known;

4. The circumstances of the sexual predator's offense or offenses; and

5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the

community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with

registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state including the address, location or description of the transient residences, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; all electronic mail addresses; all Internet identifiers and each Internet identifier's corresponding website homepage or application software name; all home telephone numbers and cellular telephone numbers; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she

is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual predator shall also provide the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall~~, within 2 working days,~~ electronically submit to and update with the department, in a manner prescribed by the department, all such information within 2 business days after ~~provided by~~ the sexual predator provides it to the sheriff's office ~~department in a manner prescribed by~~

~~the department~~.

(9) IMMUNITY.—The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information or change-of-name information; who fails to provide electronic mail addresses, Internet identifiers, and each

Internet identifier's corresponding website homepage or application software name; who fails to provide all home telephone numbers and cellular telephone numbers; who fails to report any changes to~~,~~ employment information or changes~~, change~~ in status at an institution of higher education~~, or change of name information~~; who fails to report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks after ~~of~~ the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of a failure to register or report changes to the required information specified in this paragraph constitutes a separate offense.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another

jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) For a felony violation of this section, excluding paragraph (g), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.

2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.

3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(d) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the sexual predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(f) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to

register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional

facility, a local jail, or a federal correctional facility.

Section 2. Section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a) "Change in status at an institution of higher education" has the same meaning as provided in s. 775.21.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere ~~resulting in a sanction~~ in any state of the United States or other jurisdiction. ~~A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.~~

(c) "Electronic mail address" has the same meaning as provided in s. 668.602.

(d) "Institution of higher education" has the same meaning as provided in s. 775.21.

(e) "Internet identifier" has the same meaning as provided in s. 775.21.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(g) "Professional license" has the same meaning as provided in s. 775.21.

(h)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-sub-subparagraph or at least one offense listed in this sub-sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from a sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) and does not otherwise meet the

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

criteria for registration as a sexual offender under chapter 944 or chapter 985. For purposes of this sub-sub-subparagraph, a sanction imposed in this state or in any other jurisdiction means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. If no sanction is imposed, the person is deemed to be released upon conviction;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;

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s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals;

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals; or

(V) Any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(i) "Vehicles owned" has the same meaning as provided in s. 775.21.

(2) Upon initial registration, a sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and any change in status at an institution of higher education after the sexual offender reports in person at the sheriff's office must be reported in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; tattoos or other identifying marks; hair and eye color; ~~tattoos or other identifying marks;~~ fingerprints; palm prints; photograph; employment information; address of permanent or legal residence or address of any current temporary residence, within this ~~the~~ state or out of state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state;~~,~~ address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; home telephone numbers and cellular telephone numbers; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided

in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number (VIN); the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of

Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report with the department through the department's online system or in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information ~~provided by~~ the sexual offender is required to provide pursuant to this section. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver license office of the Department of Highway Safety and Motor Vehicles, unless a driver license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an

identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section. The driver license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the offender's driver license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and

Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(b)1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place where ~~that~~ he or she is or will be located during the time in which he or she fails to establish

or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall report ~~establish procedures for reporting~~ transient residence information in a manner prescribed by the department and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall~~,~~ ~~within 2 business days,~~ electronically submit to and update with the department all such information within 2 business days after ~~provided by~~ the sexual offender provides it to the sheriff's office ~~department~~.

(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of

reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. A sexual ~~An~~ offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e)1. A sexual offender shall register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the department through the department's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses or ~~and~~ Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice

before using such electronic mail addresses or Internet identifiers.

2. A sexual offender shall register all changes to vehicles owned, all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48 hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(f) If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the sexual offender within 3 business days after intake of the sexual offender for any reason and upon release, and shall forward the registration information to the department. The custodian of the

local jail shall also take a digitized photograph of the sexual offender while the sexual offender remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual offender escapes from custody or dies.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections, in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence at least ~~within~~ 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel ~~if the intended residence of 5 days or more is~~

outside of the United States. Any travel that is not known by the sexual offender 48 hours before he or she intends to establish a residence in another state or jurisdiction, or 21 days before the departure date for travel outside of the United States, must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence or the intended country of travel of the sexual offender's intended residence or intended travel. The failure of a sexual offender to provide his or her intended place of residence or intended travel is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff's office ~~sheriff~~ to which the sexual offender reported the intended change of ~~permanent, temporary, or transient~~ residence or intended international

travel, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or intent to travel to another country, but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) Except as otherwise specifically provided, a sexual offender who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information or change-of-name information; who fails to provide electronic mail addresses, Internet identifiers, and each Internet identifier's corresponding website homepage or application software name; who fails to provide all home telephone numbers and cellular telephone numbers; who fails to report any changes to employment information or changes in status at an institution of higher education; who fails to report any changes to vehicles owned, including the addition of new vehicles and changes to the make, model, color, vehicle identification number (VIN), and license tag numbers of previously reported vehicles; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department or from county or local law enforcement agencies within 3 weeks after the date of the correspondence; who knowingly provides false

registration information by act or omission; or who otherwise fails, by act or omission, to ~~A sexual offender who does not~~ comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each instance of a failure to register or report changes to the required information specified in this paragraph constitutes a separate offense.

(b) For a felony violation of this section, excluding subsection (13), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.

2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.

3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(c) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

(d) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting,

or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent, temporary, or transient residence.

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender shall be considered for removal of the requirement to register as a sexual offender only if the person:

(a)1. Has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)(c)2. where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;

f. For a violation of s. 825.1025(2)(a);

g. For any attempt or conspiracy to commit any such offense;

h. For a violation of similar law of another jurisdiction; or

i. For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

2. If the sexual offender meets the criteria in subparagraph 1., the sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit:

a. Where the conviction or adjudication occurred, for a conviction in this state;

b. Where the sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or

c. Where the sexual offender last resided, for a sexual offender with a conviction of a violation of similar law of another jurisdiction who no longer resides in this state.

3. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of

registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The department and the state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The department and the state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

4. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) Maintains ~~As defined in sub-subparagraph (1)(h)1.b. must maintain~~ registration with the department as described in sub-subparagraph (1)(h)1.b. for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or any other ~~by another~~ sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law

or court order in the state or jurisdiction in which the designation was made, ~~and~~ provided that such person no longer meets the criteria for registration as a sexual offender under the laws of this state. To qualify for removal of the registration requirements under this paragraph, a sexual offender described in sub-subparagraph (1)(h)1.b. must establish that his or her designation has been removed and establish that he or she does not meet the criteria for registration under any other sub-subparagraph under subparagraph (1)(h)1.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is

seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; ~~or~~

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(a)2. where the court finds the offense

involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Section 825.1025(2)(a);

9. Any attempt or conspiracy to commit such offense;

10. A violation of a similar law of another jurisdiction; or

11. A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within this ~~the~~ state or out of

state, including a rural route address and a post office box; if he or she has no permanent or temporary address, any transient residence within this ~~the~~ state; address, location or description, and dates of any current or known future temporary residence within this ~~the~~ state or out of state; all electronic mail addresses or Internet identifiers and each Internet identifier's corresponding website homepage or application software name; all home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as those terms are defined in chapter 320, the sexual offender shall also provide the vehicle identification number (VIN); the license tag number; the registration number; and a description, including

color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as those terms are defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number of the vessel, live-aboard vessel, or houseboat; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

~~4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses and all Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(d) The sheriff's office shall~~, within 2 working days,~~ electronically submit to and update with the department, in a manner prescribed by the department, all such information within 2 business days after ~~provided by~~ the sexual offender provides it to the sheriff's office ~~department in a manner prescribed by the department~~.

Section 3. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, paragraph (d) of subsection (1) of section 944.606, Florida Statutes, is reenacted to read:

944.606 Sexual offenders; notification upon release.—

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

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

Section 4. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 1012.467, Florida Statutes, is reenacted to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

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

(b) "Convicted" has the same meaning as in s. 943.0435.

Section 5. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, subsection (4) of section 320.02, Florida Statutes, is reenacted to read:

320.02 Registration required; application for registration; forms.—

(4) Except as provided in ss. 775.21, 775.261, 943.0435, 944.607, and 985.4815, the owner of any motor vehicle registered in the state shall notify the department in writing of any change of address within 30 days of such change. The notification shall include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner's full name.

Section 6. For the purpose of incorporating the amendments

made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, section 775.25, Florida Statutes, is reenacted to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 7. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, subsection (1) of section 938.10, Florida Statutes, is reenacted to read:

938.10 Additional court cost imposed in cases of certain crimes.—

(1) If a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of s. 784.085, chapter 787, chapter 794, former s. 796.03, former s. 796.035, s. 800.04, chapter 827, s.

847.012, s. 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145, s. 893.147(3), or s. 985.701, or any offense in violation of s. 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the court shall impose a court cost of $151 against the offender in addition to any other cost or penalty required by law.

Section 8. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraph (a) of subsection (4) and subsection (9) of section 944.607, Florida Statutes, are reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); employment information required to be provided pursuant to s. 943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence

within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence within the state; and address, location or description, and dates of any current or known future temporary residence within the state or out of state. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435. The department shall report to the Department of Law Enforcement any failure by a sexual predator or sexual offender to comply with registration requirements.

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register and obtain a distinctive driver license or identification card in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register and obtain a distinctive driver license or identification card as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 9. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida

Statutes, in references thereto, paragraphs (a) and (d) of subsection (1) of section 985.481, Florida Statutes, are reenacted to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(1) As used in this section:

(a) "Convicted" has the same meaning as provided in s. 943.0435.

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

Section 10. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, paragraphs (b) and (f) of subsection (1) and subsection (9) of section 985.4815, Florida Statutes, are reenacted to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

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

(b) "Conviction" has the same meaning as provided in s. 943.0435.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(9) A sexual offender, as described in this section, who is under the care, jurisdiction, or supervision of the department but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register in the manner provided in s. 943.0435(3), (4), and (5), unless

the sexual offender is a sexual predator, in which case he or she shall register as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9).

Section 11. This act shall take effect October 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bobbie Smith

Phone 850-251-6392

Address 2331 Phillips Rd.
Street

Email bobbiesmith@fdle.state.fl.us

Tall FL 32311
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:
FDLE

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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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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2/22/2024
Meeting Date

Fiscal Policy
Committee

1230
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

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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 Sheriffs 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

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Punta Gorda
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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22
Meeting Date

Fiscal Policy
Committee

SB 1230
Bill Number or Topic

Amendment Barcode (if applicable)

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Email jennifer@floridaactioncommittee.org

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:

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1274
INTRODUCER:	Fiscal Policy Committee; Criminal Justice Committee; and Senator Martin
SUBJECT:	Juvenile Justice
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	**Fav/CS**
2.	Parker	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1274 makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S. Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

Prearrest Delinquency Citation Programs

The bill amends s. 985.12, F.S., relating to civil citation programs, to rename civil citation programs as prearrest delinquency citation programs, prohibit such programs for firearm related offenses, and provide such programs must specify classes established for the program. Additionally, s. 985.125, F.S., is amended to prohibit school districts from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to revise reporting requirements for law enforcement agencies, and the Florida Department of Juvenile Justice (DJJ).

Firearm and Other Serious Offenses

The bill amends s. 790.22, F.S., to increase the penalty or the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill provides specified punishments for such violations, including minimum mandatory days in secure detention, community service or paid work, and driver license restrictions. Section 985.455, F.S., is amended to provide that the court may, upon finding a compelling circumstance, direct the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor who is charged with firearm related offenses.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

For a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minors driver license, if the court decides not to commit the youth to a residential program.

A child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Secure Detention

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

A child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill provides when minors committing specified

offenses must be held in secure detention, and that the court must make certain findings before releasing such finding. Written notice of release must be given to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the minor's residence.

The bill amends s. 985.26, F.S., to provide the court may order a child to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for specified offenses.

Probation

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

Section 985.438, F.S., is created and requires the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release. The graduated response matrix shall outline sanctions for youth based on their risk to reoffend.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

Conditional Release

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released. Specified conditions of conditional release must be placed on the minor.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

Contraband

The bill amends s. 985.711, F.S., to add specified items to the list of contraband, and provides it is a second degree felony to introduce contraband into a DJJ facility.

The bill permits the DJJ staff to utilize canine units on the grounds of a juvenile detention facility or commitment program to locate and seize contraband and ensure security within such a facility or program.

The bill is effective on July 1, 2024.

II. Present Situation:

Civil Citation/Pre-arrest Diversion

The Florida Department of Juvenile Justice (DJJ) civil citation or similar prearrest delinquency initiative addresses a youth's behavior at his or her first encounter with the juvenile justice system and provides an alternative to arrest for that child.[1]

A civil citation or similar prearrest delinquency program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar prearrest delinquency program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The DJJ shall annually develop and provide guidelines on best practice models for civil citation or similar prearrest delinquency programs to the judicial circuits as a resource.[2]

Each judicial circuit's civil citation or similar prearrest delinquency program must specify:
- The misdemeanor offenses that qualify a juvenile for participation in the program;
- The eligibility criteria for the program;
- The program's implementation and operation;
- The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, approved by the DJJ, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and
- A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.[3]

The state attorney of each circuit shall operate a civil citation or similar prearrest delinquency program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest delinquency program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit. If the state attorney determines that the

[1] Department of Juvenile Justice, Florida Civil Citation or Similar Prearrest delinquency Overview, available at https://www.djj.state.fl.us/partners-providers-staff/our-approach/florida-civil-citation-or-similar-prearrest-diversion) last visited on January 16, 2024).
[2] Section 985.12(2)(a), F.S.
[3] Section 985.12(2)(b), F.S.

independent program is not substantially similar to the civil citation or similar prearrest delinquency program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.[4]

Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the DJJ that identifies each minor who was eligible for a diversion program but was instead referred to the DJJ, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state's civil citation programs is published and continually updated on the DJJ's website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.[5]

Detention of Children in Florida – Intake and Assessment

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.[6] The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.[7] Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center.[8] The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic need and risks.[9] Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.[10]

The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."[11] This instrument takes into consideration, but need not be limited to, the following:

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and

[4] Section 985.12(2)(c), F.S.
[5] Section 985.126(2), F.S.
[6] A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at http://www.djj.state.fl.us/services/probation (last visited January 16, 2024).
[7] Section 985.145(1), F.S.
[8] Section 985.135(4), F.S.
[9] Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.
[10] Section 985.25(1), F.S.
[11] Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

- Any information on the child's history of abuse and neglect.[12]

Secure Detention Care

The DJJ shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.[13] A child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.[14]

All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;[15]
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm;[16]
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;[17]
- Has committed contempt of court by:
  - Intentionally disrupting the administration of the court;
  - Intentionally disobeying a court order; or
  - Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court;[18] or
- Requests protection from imminent bodily harm.[19]

Alternative Consequence Component for Violations of Probation

A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to

[12] Section 985.245(2)(b), F.S.
[13] Section 985.25(1), F.S.
[14] Section 985.26(2)(a)2., F.S.
[15] Section 985.24(1)(a), F.S.
[16] Section 985.24(1)(b), F.S.
[17] Section 985.24(1)(c), F.S.
[18] Section 985.24(1)(d), F.S.
[19] Section 985.24(1)(e), F.S.

noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.[20]

If a youth is noncompliant with technical conditions of his or her probation, but has not committed any new violations of law the court may specify in the disposition order that the Juvenile Probation Officer may access a local alternative consequence program for youth with technical conditions of probation.[21]

Post Commitment Probation/Conditional Release

After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP),[22,23] conditional release (CR),[24] or be directly released.

Conditional Release is designed to provide monitoring and services to those youth who are transitioning back to the community after being in a residential program. These youth have court-ordered sanctions and services that they must complete. Youth on Probation or Conditional Release may be ordered by the Court (or referred by the DJJ) to attend a Day Treatment program while they are being supervised. Day Treatment programs provide additional monitoring of youth and typically offer an alternative educational setting. They also provide additional services, such as anger management classes, social skills building, and substance abuse education.[25]

Minor in Possession of a Firearm

The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.[26] A minor who violates subsection (3) commits a misdemeanor of the first degree;[27] for a first offense, may serve a period of detention of up to 5 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service;[28] and:

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[20] Section 985.435(4), F.S.
[21] *Id*.
[22] Florida Administrative Code 63T.1.002 - Post-Commitment Probation (PCP) – Assessment and intervention services provided to youth who are released from residential commitment programs. Under the legal status of post-commitment probation, the youth is legally transferred from commitment status to probation status, and is subject to court-ordered sanctions.
[23] Section 985.439, F.S.
[24] Section 985.46(1)(a), F.S., "Conditional Release" is the care, treatment, help, supervision, and provision of transition-to-adulthood services to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.
[25] Florida Department of Juvenile Justice, Probation & Community Intervention Overview, available at https://www.djj.state.fl.us/services/probation-community-intervention (last visited January 16, 2024).
[26] Section 790.22(1), F.S.
[27] Section 790.22 (3), F.S.
[28] Section 790.22(5)(a), F.S.

- If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.[29]
- If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the DHSMV to extend the period of suspension or revocation by an additional period of up to 1 year.[30]
- If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.[31]

Contraband

Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:[32]

- Any unauthorized article of food or clothing.
- Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.
- Any controlled substance as defined in s. 893.02(4), F.S., marijuana as defined in s. 381.986, F.S., hemp as defined in s. 581.217, F.S., industrial hemp as defined in s. 1004.4473, F.S., or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
- Any firearm or weapon of any kind or any explosive substance.
- Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.
- Any vapor-generating electronic device as defined in s. 386.203, F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.[33]

[29] Section 790.22(5)(a)1., F.S.
[30] Section 790.22(5)(a)2., F.S.
[31] Section 790.22(5)(a)3., F.S.
[32] Section 985.711(1)(a), F.S.
[33] Section 985.711(1)(b), F.S.

III. Effect of Proposed Changes:

The bill makes multiple changes throughout ch. 985, F.S., to revise provisions relating to citation programs, secure detention, probation, conditional release, and contraband. Sections relating to firearm offenses committed by minors are amended throughout ch. 790, F.S., and ch. 985, F.S.

Additionally, the bill amends s. 1002.221, F.S., to provide that education records may be used for proceedings initiated under ch. 984, F.S., and ch. 985, F.S.

Prearrest Delinquency Citation Programs

The bill amends s. 985.12, F.S., relating to civil citation programs, to:

- Redesignate civil citation programs as prearrest delinquency citation programs.
- Prohibit delinquency citations for firearm-related offenses.
- Provide that each judicial circuit much specify classes established by the DJJ or delinquency citation entity.
- Provide that a civil citation or similar prearrest delinquency program existing before July 1, 2024, must be deemed a delinquency citation program authorized by s. 985.12, F.S., if the civil citation or similar prearrest delinquency program has been approved by the state attorney of the circuit and it complies with the statutory requirements.

Additionally, s. 985.125, F.S., is amended to remove references to prearrest delinquency programs. The bill provides that school districts are prohibited from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to:

- Require each law enforcement agency shall submit to the DJJ data for every youth charged for the first time, who is charged with a misdemeanor.
- Require that the DJJ shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Firearm and Other Serious Offenses

The bill amends s. 790.22, F.S., to increase the penalty or the unlawful possession of a firearm by a minor, from a first degree misdemeanor to a third degree felony. Additionally, the bill:

- Provides that punishment for a first offense includes 5 days in secure detention, and 100 hours of community service or 100 hours of paid work, if such work is approved by the DJJ.
- Retains language that on a second violation a minor must serve 21 days in a secure detention facility, and must complete at least 100 hours of community service or paid work, but not more than 250 hours.
- Provides that for a third or subsequent violation, a minor shall be adjudicated delinquent and admitted to a residential program.
- Permits the court to direct the DHSMV to revoke or withhold issuance of the minor's driver license or driving privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

- Permits the court to direct the DHSMV to extend the period of suspension or revocation if a minor's driver's license is under suspension for a first offense and up to 2 years for a second or subsequent offense.
- Permits the court to direct the DHSMV to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

The bill amends s. 985.455, F.S., providing that if the court orders revocation or suspension of a child's driver license as part of a disposition, the court may, upon finding a compelling circumstance, direct the DHSMV to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

Sections 790.115, and 790.22, F.S., are amended to remove provisions requiring secure detention for any minor under 18 years of age who is charged with possessing or discharging a firearm on school property unless the state attorney authorizes the release of the minor.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

The bill provides that for a firearm offense, other than minor possession under s. 790.22(3), F.S., or for an offense that is committed while the minor is in possession of a firearm, the court must order specified punishments, including 30 days of secure detention, 100 hours of community service, 1 year probation, and restrictions on the minors driver license, if the court decides not to commit the youth to a residential program.

The bill provides that a child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program. Specified offenses include:

- Armed robbery involving a firearm.
- Armed carjacking involving the use or possession of a firearm.
- Having a firearm while committing a felony.
- Armed burglary involving the use or possession of a firearm.
- Delinquent in possession of a firearm.
- Any attempt to commit the above listed offenses.

The bill amends s. 985.601, F.S., providing that the DJJ must establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

Secure Detention

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

The bill also provides that a child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439, F.S., until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. Additionally, the bill:

- Provides that when the court finds probable cause at the detention hearing that the child committed one or more specified offenses then there is a presumption that the child is at risk to public safety and a danger to the community and such child must be held in secure detention prior to an adjudicatory hearing. Specific offenses include:
  - Murder (1st degree and 2nd degree).
  - Armed robbery involving the use/possession of a firearm.
  - Armed carjacking involving the use/possession of a firearm.
  - Having a firearm while committing a felony.
  - Armed burglary involving the use/possession of a firearm.
  - Delinquent in possession of a firearm.
  - Attempt to commit any of the above-listed offenses.
- Provides the court must issue a written order for the release of a child from secure detention and such order must be based upon clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community, and provide that the child shall be placed on supervised release detention care with electronic monitoring until the child's adjudicatory hearing.
- Provide that the court must provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth's residence for any youth released on supervised release under these circumstances.

The bill amends s. 985.26, F.S., to provide that the court may order a minor to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for offenses listed in s. 985.255(1)(g), F.S.

Probation

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ's graduated response matrix as described in s. 985.438, F.S.

The bill creates s. 985.438, F.S., requiring the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release.

The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

- Increased contacts.
- Increased drug tests.
- Curfew reductions.
- Increased community service.
- Additional evaluations.
- Addition of electronic monitoring.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.

Additionally, the DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

Conditional Release

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released, and include at a minimum the following conditions:

- Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1), F.S.
- A curfew.
- A prohibition on contact with victims, co-defendants, or known gang members.
- A prohibition on use of controlled substances.
- A prohibition on possession of firearms.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

Contraband

The bill amends s. 985.711, F.S., revising provisions concerning introduction of contraband into DJJ facilities providing that a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program any of the following articles which are declared to be contraband as follows:

- Food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

- Any currency or coin given or transmitted, to any youth of any juvenile detention facility or commitment program.
- Any cigarettes, or tobacco products, given or intended to be given, to any youth in a juvenile detention facility or commitment program.

The bill provides that introducing contraband into a DJJ facility is a second degree felony.

The bill permits for the DJJ staff to utilize canine units on the grounds of a juvenile detention facility or commitment program to locate and seize contraband and ensure security within such a facility or program.

The bill is effective on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will have an indeterminate fiscal impact at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally

constrained counties could increase in relation to their portion of the annual Detention Cost Share billings. The impact on expenditures is indeterminate at this time. However, several provisions within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is $460.16/youth, and the average per diem for contracted residential programs is $276/youth for nonsecure programs and $307/youth for secure programs.[34]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 790.115, 790.22, 985.101, 985.12, 985.125, 985.126, 985.245, 985.25, 985.255, 985.26, 985.433, 985.435, 985.438, 985.439, 985.455, 985.46, 985.48, 985.4815, 985.601, 985.711, 1002.221, 943.051, 985.11, and 1006.07.

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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Authorizes the DJJ staff to utilize canine units on the grounds of a juvenile detention facility or commitment program to locate and seize contraband and ensure security within such a facility or program.

CS by Criminal Justice on January 30, 2024:
The committee substitute:

- Deletes unnecessary duplicate language.
- Makes technical nonsubstantive changes to maintain consistent terminology throughout the bill.

B. Amendments:

None.

[34] Department of Juvenile Justice, *2024 Agency Legislative Bill Analysis*, (January 12, 2024), at 9 (on file with the Senate Committee on Criminal Justice).

342476

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Between lines 1094 and 1095
insert:

(d) Department staff may use canine units on the grounds of a juvenile detention facility or commitment program to locate and seize contraband and ensure security within such facility or program.

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

342476

And the title is amended as follows:

Delete line 76

and insert:

facilities; authorizing department staff to use canine units on the grounds of juvenile detention facilities and commitment programs for specified purposes; revising criminal penalties for

By the Committee on Criminal Justice; and Senator Martin

591-02654-24 20241274c1

A bill to be entitled

An act relating to juvenile justice; amending s. 790.115, F.S.; removing a provision requiring specified treatment of minors charged with possessing or discharging a firearm on school property; amending s. 790.22, F.S.; revising penalties for minors committing specified firearms violations; removing provisions concerning minors charged with or convicted of certain firearms offenses; amending s. 985.101, F.S.; conforming provisions to changes made by the act; amending s. 985.12, F.S.; redesignating civil citation programs as prearrest delinquency citation programs; revising program requirements; providing that certain existing programs meeting certain requirements shall be deemed authorized; amending s. 985.125, F.S.; conforming provisions to changes made by the act; amending s. 985.126, F.S.; requiring the Department of Juvenile Justice to publish a quarterly report concerning entities using delinquency citations for less than a specified amount of eligible offenses; amending s. 985.245, F.S.; conforming provisions to changes made by the act; amending s. 985.25, F.S.; requiring that youths who are arrested for certain electronic monitoring violations be placed in secure detention until a detention hearing; requiring that a child on probation for an underlying felony firearm offense who is taken into custody be placed in secure detention; providing for renewal of secure detention periods in certain circumstances; amending s. 985.255,

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591-02654-24 20241274c1

F.S.; providing that when there is probable cause that a child committed one of a specified list of offenses that he or she is presumed to be a risk to public safety and danger to the community and must be held in secure a detention before an adjudicatory hearing; providing requirements for release of such a child despite the presumption; revising language concerning the use of risk assessments; amending s. 985.26, F.S.; revising requirements for holding a child in secure detention for more than 21 days; amending s. 985.433, F.S.; requiring conditional release conditions for children released after confinement for specified firearms offenses; requiring specified sanctions for certain children adjudicated for certain firearms offenses who are not committed to a residential program; providing that children who previously have had adjudication withheld for certain offenses my not have adjudication withheld for specified offenses; amending s. 985.435, F.S.; conforming provisions to changes made by the act; creating s. 985.438, F.S.; requiring the Department of Juvenile Justice to create and administer a graduated response matrix to hold youths accountable to the terms of their court ordered probation and the terms of their conditional release; providing requirements for the matrix; amending s. 985.439, F.S.; requiring a state attorney to file a probation violation within a specified period or inform the court and the Department of Juvenile Justice why such violation is not filed; removing

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

provisions concerning an alternative consequence program; allowing placement of electronic monitoring for probation violations in certain circumstances; amending s. 985.455, F.S.; authorizing a court to make an exception to an order of revocation or suspension of driving privileges in certain circumstances; amending s. 985.46, F.S.; revising legislative intent concerning conditional release; revising the conditions of conditional release; providing for assessment of conditional release violations and possible recommitment of violators; amending ss. 985.48 and 985.4815, F.S.; conforming provisions to changes made by the act; amending s. 985.601, F.S.; requiring the Department of Juvenile justice to establish a specified class for firearms offenders; amending s. 985.711, F.S.; revising provisions concerning introduction of contraband into department facilities; revising criminal penalties for violations; amending s. 1002.221, F.S.; revising provisions concerning educational records for certain purposes; amending ss. 943.051, 985.11, and 1006.07, 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. Subsection (4) of section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a

school-sponsored event or on school property prohibited; penalties; exceptions.—

~~(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.~~

Section 2. Subsections (1), (5), (8), (9), and (10) of section 790.22, Florida Statutes, are amended, and subsection (3) of that section is republished, to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent or guardian.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(5)~~(a)~~ A minor who violates subsection (3) commits a felony ~~misdemeanor~~ of the third ~~first~~ degree; for a first offense, shall ~~may~~ serve a period of ~~detention of up to~~ 5 days in a secure detention facility, with credit for time served in secure detention prior to disposition~~;~~ and~~, in addition to any other penalty provided by law,~~ shall be required to perform 100 hours of community service or paid work as determined by the department. For a second violation of subsection (3), a minor shall serve 21 days in a secure detention facility, with credit for time served in secure detention prior to disposition; and shall be required to perform not less than 100 nor more than 250 hours of community service or paid work as determined by the department. For a third or subsequent violation of subsection (3), a minor shall be adjudicated delinquent and committed to a residential program. In addition to the penalties for a first offense and a second or subsequent offense under subsection (3)~~;~~ ~~and~~:

(a)~~1.~~ If the minor is eligible by reason of age for a

driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

(b)~~2.~~ If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

(c)~~3.~~ If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

~~(b) For a second or subsequent offense, a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 21 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.~~

~~2. If the minor's driver license or driving privilege is~~

~~under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.~~

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

~~(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor is charged with an offense that involves the use or possession of a firearm, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.26(1)-(5), if the court finds that the minor meets the criteria specified in s. 985.255, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection which states the period of detention and the relevant demographic information, including, but not limited to, the gender, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge for determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department.~~

~~(9) Notwithstanding s. 985.245, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:~~

~~(a) For a first offense, that the minor shall serve a minimum period of detention of 15 days in a secure detention facility; and~~

~~1. Perform 100 hours of community service; and may~~

~~2. Be placed on community control or in a nonresidential commitment program.~~

~~(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 days in a secure detention facility; and~~

~~1. Perform not less than 100 nor more than 250 hours of community service; and may~~

~~2. Be placed on community control or in a nonresidential commitment program.~~

~~The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.~~

~~(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):~~

~~(a) For a first offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.~~

~~3. If the minor is ineligible by reason of age for a driver~~

~~license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.~~

~~(b) For a second or subsequent offense:~~

~~1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.~~

~~2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.~~

~~3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.~~

Section 3. Paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

985.101 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the

child's probation, supervised release detention, ~~postcommitment probation,~~ or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

Section 4. Section 985.12, Florida Statutes, is amended to read:

985.12 Prearrest delinquency ~~Civil~~ citation ~~or similar prearrest diversion~~ programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of any prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for prearrest delinquency ~~civil~~ citation a~~nd similar prearrest diversion~~ programs. The Legislature further finds that the widespread use of prearrest delinquency ~~civil~~ citation ~~and similar prearrest diversion~~ programs has a positive effect on the criminal justice system by immediately holding youth accountable for their actions and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program created by their judicial circuit under this section.

(2) JUDICIAL CIRCUIT DELINQUENCY ~~CIVIL~~ CITATION ~~OR SIMILAR PREARREST DIVERSION~~ PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

(a) A prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program and develop its policies and procedures. In developing the program's policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ programs to the judicial circuits as a resource.

(b) Each judicial circuit's prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program must specify all of the following:

1. The misdemeanor offenses that qualify a juvenile for participation in the program. Offenses involving the use or possession of a firearm do not qualify for a prearrest delinquency citation program.~~;~~

2. The eligibility criteria for the program.~~;~~

3. The program's implementation and operation.~~;~~

4. The program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, classes established by the

department or the prearrest delinquency citation program, and intervention services indicated by a needs assessment of the juvenile, approved by the department, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.~~; and~~

5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may ~~continue to~~ operate an independent prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program ~~that is in operation as of October 1, 2018,~~ if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program developed by the circuit, the operator of the independent ~~diversion~~ program may revise the program and the state attorney may conduct an additional review of the independent program. A civil citation or similar prearrest diversion program existing before July 1, 2024, shall be deemed a delinquency citation program authorized

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by this section if the civil citation or similar prearrest diversion program has been approved by the state attorney of the circuit in which it operates and it complies with the requirements in paragraph (2)(b).

~~(d) A judicial circuit may model an existing sheriff's, police department's, county's, municipality's, locally authorized entity's, or public or private educational institution's independent civil citation or similar prearrest diversion program in developing the civil citation or similar prearrest diversion program for the circuit.~~

(d)~~(c)~~ If a juvenile does not successfully complete the prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program.

(e)~~(f)~~ Each prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.

(f)~~(g)~~ At the conclusion of a juvenile's prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program, the state attorney or operator of the independent program shall report the outcome to the department. The issuance of a prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program notice is not considered a referral to the department.

(g)~~(h)~~ Upon issuing a prearrest delinquency ~~civil~~ citation

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~~or similar prearrest diversion~~ program notice, the law enforcement officer shall send a copy of the prearrest delinquency ~~civil~~ citation ~~or similar prearrest diversion~~ program notice to the parent or guardian of the child and to the victim.

Section 5. Section 985.125, Florida Statutes, is amended to read:

985.125 ~~Prearrest or~~ Postarrest diversion programs.—

(1) A law enforcement agency ~~or school district~~, in cooperation with the state attorney, may establish a ~~prearrest or~~ postarrest diversion program.

(2) As part of the ~~prearrest or~~ postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver license, or refrain from applying for a driver license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver license for a period that may not exceed 90 days.

Section 6. Subsections (5) and (6) of section 985.126, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (3) and (4) of that section are amended, and a new subsection (5) is added to that section, to read:

985.126 Prearrest and postarrest diversion programs; data collection; denial of participation or expunged record.—

(3)(a) ~~Beginning October 1, 2018,~~ Each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, gender, and age of that minor.

2. The offense committed, including the specific law establishing the offense.

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) ~~Beginning October 1, 2018,~~ Each law enforcement agency shall submit to the department data for every minor charged for the first-time, who is charged with a misdemeanor, and who was ~~that identifies for each minor who was eligible for a diversion program, but was instead~~ referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth's admission into the program.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) ~~Beginning January 1, 2019,~~ The department shall compile

and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, gender, age, and offense committed.

(5) The department shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use prearrest delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Section 7. Subsection (4) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(4) For a child who is under the supervision of the department through probation, supervised release detention, conditional release, ~~postcommitment probation,~~ or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department.

Section 8. Subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child

into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f)~~, is charged with possessing or discharging a firearm on school property in violation of s. 790.115,~~ or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

(e) Notwithstanding any other provision of law, a child who is arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until his or her detention hearing.

(f) Notwithstanding any other provision of law, a child on probation for an underlying felony firearm offense in chapter 790 and who is taken into custody under s. 985.101 for violating

conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If, within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439 until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension. Any release from secure detention shall result in the child being held on supervised release with electronic monitoring pending proceedings under s. 985.439.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 9. Paragraph (a) of subsection (1) and subsection (3) of section 985.255, Florida Statutes, are amended, and paragraphs (g) and (h) are added to subsection (1) of that section, to read:

985.255 Detention criteria; detention hearing.—

(1) Subject to s. 985.25(1), a child taken into custody and placed into detention care shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order a continued detention status if:

(a) The result of the risk assessment instrument pursuant to s. 985.245 indicates secure or supervised release detention

or the court makes the findings required under paragraph (3)(b).

(g) The court finds probable cause at the detention hearing that the child committed one or more of the following offenses:

1. Murder in the first degree under s. 782.04(1)(a).

2. Murder in the second degree under s. 782.04(2).

3. Armed robbery under s. 812.13(2)(a) that involves the use or possession of a firearm as defined in s. 790.001.

4. Armed carjacking under s. 812.133(2)(a) that involves the use or possession of a firearm as defined in s. 790.001.

5. Having a firearm while committing a felony under s. 790.07(2).

6. Armed burglary under s. 810.02(2)(b) that involves the use or possession of a firearm as defined in s. 790.001.

7. Delinquent in possession of a firearm under s. 790.23(1)(b).

8. An attempt to commit any offense listed in this paragraph under s. 777.04.

(h) For a child who meets the criteria in paragraph (g):

1. There is a presumption that the child presents a risk to public safety and danger to the community and such child must be held in secure detention prior to an adjudicatory hearing, unless the court enters a written order that the child would not present a risk to public safety or a danger to the community if he or she were placed on supervised release detention care.

2. The written order releasing a child from secure detention must be based on clear and convincing evidence why the child does not present a risk to public safety or a danger to the community and must list the child's prior adjudications, dispositions, and prior violations of pretrial release orders. A

court releasing a child from secure detention under this subparagraph shall place the child on supervised release detention care with electronic monitoring until the child's adjudicatory hearing.

3. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must prioritize the efficient disposition of cases and hold a review hearing within each successive 7-day review period until the adjudicatory hearing or until the child is placed on supervised release with electronic monitoring under subparagraph 2.

4. If the court, under this section, releases a child to supervised release detention care, the court must provide a copy of the written order to the victim, to the law enforcement agency that arrested the child, and to the law enforcement agency with primary jurisdiction over the child's primary residence.

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall consider ~~use~~ the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall consider ~~use~~ the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should

be held in secure detention.

(b) ~~If~~ The court may order ~~orders~~ a placement more or less restrictive than indicated by the results of the risk assessment instrument, and, if the court does so, shall state, in writing, clear and convincing reasons for such placement.

(c) Except as provided in ~~s. 790.22(8) or~~ s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child's initial detention placement.

Section 10. Paragraph (b) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)

(b) The court may order the child to be held in secure detention beyond 21 days under the following circumstances:

1. Upon good cause being shown that the nature of the

charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may extend the length of secure detention care for up to an additional 21 days if the child is charged with an offense which, if committed by an adult, would be a capital felony, a life felony, a felony of the first degree or the second degree, a felony of the third degree involving violence against any individual, or any other offense involving the possession or use of a firearm. Except as otherwise provided in subparagraph 2., the court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child. At the hearing, the court must make the required findings in writing to extend the period of secure detention. If the court extends the time period for secure detention care, it shall ensure an adjudicatory hearing for the case commences as soon as is reasonably possible considering the totality of the circumstances. The court shall prioritize the efficient disposition of cases in which the child has served 60 or more days in secure detention care.

2. When the child is being held in secure detention under s. 985.255(1)(g), and subject to s. 985.255(1)(h).

Section 11. Paragraph (d) is added to subsection (7) of section 985.433, Florida Statutes, and subsections (8) and (9) of that section are amended, to read:

985.433 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the

following procedures shall be applicable to the disposition of the case:

(7) If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal gang.

(d) Any child adjudicated by the court and committed to the department under a restrictiveness level described in s. 985.03(44)(a)-(d), for any offense or attempted offense involving a firearm must be placed on conditional release, as defined in s. 985.03, for a period of 1 year following his or her release from a commitment program. Such term of conditional release shall include electronic monitoring of the child by the department for the initial 6 months following his or her release and at times and under terms and conditions set by the department.

(8) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver license of the child, community service, and appropriate educational programs as determined by the district school board.

(a)1. Where a child is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of s. 790.22(3), or is found to have committed an offense during the commission of which the child possessed a firearm, and the court has decided not to commit the child to a residential program, the court shall order the child, in addition to any other punishment provided by law, to:

a. Serve a period of detention of 30 days in a secure detention facility, with credit for time served in secure detention prior to disposition.

b. Perform 100 hours of community service or paid work as determined by the department.

c. Be placed on probation for a period of at least 1 year. Such term of probation shall include electronic monitoring of the child by the department at times and under terms and conditions set by the department.

2. In addition to the penalties in subparagraph 1., the court may impose the following restrictions upon the child's driving privileges:

a. If the child is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the child's driver license or driving privilege for up to 1 year.

b. If the child's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional

period for up to 1 year.

c. If the child is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the child would otherwise have become eligible.

For the purposes of this paragraph, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(b) A child who has previously had adjudication withheld for any of the following offenses shall not be eligible for a second or subsequent withhold of adjudication if he or she is subsequently found to have committed any of the following offenses, and must be adjudicated delinquent and committed to a residential program:

1. Armed robbery involving a firearm under s. 812.13(2)(a).

2. Armed carjacking under s. 812.133(2)(a) involving the use or possession of a firearm as defined in s. 790.001.

3. Having a firearm while committing a felony under s. 790.07(2).

4. Armed burglary under s. 810.02(2)(b) involving the use or possession of a firearm as defined in s. 790.001.

5. Delinquent in possession of a firearm under s. 790.23(1)(b).

6. An attempt to commit any offense listed in this paragraph under s. 777.04.

(9) After appropriate sanctions for the offense are determined, including any minimum sanctions required by this section, the court shall develop, approve, and order a plan of probation that will contain rules, requirements, conditions, and rehabilitative programs, including the option of a day-treatment probation program, that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

Section 12. Subsections (1), (3), and (4) of section 985.435, Florida Statutes, are amended to read:

985.435 Probation ~~and postcommitment probation~~; community service.—

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, place the child in a probation program ~~or a postcommitment probation program~~. Such placement must be under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct.

(3) A probation program must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in a school or career and technical education program. The nonconsent of the child to treatment in a substance abuse treatment program in no way precludes the court from ordering such treatment. Upon the recommendation of the

department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of ~~postcommitment~~ probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

(4) A probation program must ~~may also~~ include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. The alternative consequence component must be aligned with the department's graduated response matrix as described in s. 985.438 ~~Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the department, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order~~.

Section 13. Section 985.438, Florida Statutes, is created to read:

985.438 Graduated response matrix.—

(1) The department shall create and administer a statewide plan to hold youths accountable to the terms of their court ordered probation and the terms of their conditional release. The plan must be based upon the principle that sanctions must reflect the seriousness of the violation, provide immediate accountability for violations, the assessed criminogenic needs and risks of the child, and the child's age and maturity level. The plan is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of his or her probation.

(2) The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

(a) Increased contacts.

(b) Increased drug tests.

(c) Curfew reductions.

(d) Increased community service.

(e) Additional evaluations.

(f) Addition of electronic monitoring.

(3) The graduated response matrix shall be adopted in rule by the department.

Section 14. Section 985.439, Florida Statutes, is amended to read:

985.439 Violation of probation ~~or postcommitment probation~~.—

(1)(a) This section is applicable when the court has

jurisdiction over a child on probation ~~or postcommitment probation~~, regardless of adjudication.

(b) If the conditions of the probation program ~~or the postcommitment probation program~~ are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. A child who violates the conditions of probation ~~or postcommitment probation~~ must be brought before the court if sanctions are sought.

(c) Upon receiving notice of a violation of probation from the department, the state attorney must file the violation within 5 days or provide in writing to the department and the court the reason as to why he or she is not filing.

(2) A child taken into custody under s. 985.101 for violating the conditions of probation shall be screened and detained or released based on his or her risk assessment instrument score.

(3) If the child denies violating the conditions of probation ~~or postcommitment probation~~, the court shall, upon the child's request, appoint counsel to represent the child.

(4) Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation ~~or postcommitment probation~~, the court shall enter an order revoking, modifying, or continuing probation ~~or postcommitment probation~~. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this section, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation ~~or postcommitment probation~~, the court may:

(a) Place the child in supervised release detention with electronic monitoring.

(b) If the violation of probation is technical in nature and not a new violation of law, place the child in an alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation.

~~1. Alternative consequence programs shall be established, within existing resources, at the local level in coordination with law enforcement agencies, the chief judge of the circuit, the state attorney, and the public defender.~~

~~2. Alternative consequence programs may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, a county or municipality, or another entity selected by the department.~~

~~3. Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.~~

(c) Modify or continue the child's probation program ~~or postcommitment probation program~~.

(d) Revoke probation ~~or postcommitment probation~~ and commit the child to the department.

(e) Allow the department to place a child on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

(5) Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of ~~postcommitment~~ probation, the court may order the child to submit to random testing for the purpose of detecting

and monitoring the use of alcohol or controlled substances.

Section 15. Subsection (5) is added to section 985.455, Florida Statutes, to read:

985.455 Other dispositional issues.—

(5) If the court orders revocation or suspension of a child's driver license as part of a disposition, the court may, upon finding a compelling circumstance to warrant an exception, direct the Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271.

Section 16. Subsections (2), (3), and (5) of section 985.46, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

985.46 Conditional release.—

(2) It is the intent of the Legislature that:

(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.

(b) Conditional release transition planning begins as early in the commitment process as possible.

(c) Each juvenile committed to a residential commitment program receive conditional release services ~~be assessed to determine the need for conditional release services~~ upon release from the commitment program unless the juvenile is directly released by the court.

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, supervising each juvenile on conditional release when ~~assessing each juvenile placed in a residential commitment~~

~~program to determine the need for conditional release services upon release from the program, supervising the juvenile when~~ released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a residential commitment program as a component of conditional release.

(5) Conditional release supervision shall contain, at a minimum, the following conditions:

(a) ~~(5)~~ Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1) and (2)(a) ~~is mandatory for juvenile justice youth on conditional release or postcommitment probation status~~. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in an educational program or career and technical education course of study. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce development or other career or technical education or attend a community college or a university while in the program~~, subject to available funding~~.

(b) A curfew.

(c) A prohibition on contact with victims, co-defendants, or known gang members.

(d) A prohibition on use of controlled substances.

(e) A prohibition on possession of firearms.

(6) A youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438. A youth who fails to move into compliance shall be recommitted to a residential facility.

Section 17. Paragraph (c) of subsection (1) of section 985.48, Florida Statutes, is amended to read:

985.48 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(c) Providing intensive ~~postcommitment~~ supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

Section 18. Paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is amended to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

(6)(a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a private

correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, ~~postcommitment probation,~~ residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this subparagraph and shall provide the photograph to the department.

Section 19. Subsection (11) of section 985.601, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(11) The department shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the department to any youth who has been adjudicated or had adjudication withheld for any offense involving the use or possession of a firearm.

Section 20. Section 985.711, Florida Statutes, is amended to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention

facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

3. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.

6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

7. Any currency or coin given or transmitted, or intended

to be given or transmitted, to any youth in any juvenile detention facility or commitment program.

8. Any cigarettes, as defined in s. 210.01(1) or tobacco products, as defined in s. 210.25, given, or intended to be given, to any youth in a juvenile detention facility or commitment program.

(b) A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(c) A juvenile offender or any person, while upon the grounds of a juvenile detention facility or commitment program, may not be in actual or constructive possession of any article or thing declared to be contraband under this section, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(2) ~~(a) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)1. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)5. or subparagraph (1)(a)6. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(c) In all other cases,~~ A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 21. Paragraph (c) of subsection (2) of section 1002.221, Florida Statutes, is amended to read:

1002.221 K-12 education records; public records exemption.—

(2)

(c) In accordance with the FERPA and the federal regulations issued pursuant to the FERPA, an agency or institution, as defined in s. 1002.22, may release a student's education records without written consent of the student or parent to parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies. Information provided pursuant to an interagency agreement may be used for proceedings initiated under chapter 984 or chapter 985 ~~in furtherance of an interagency agreement is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceeding before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile~~.

Section 22. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed

the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a prearrest delinquency ~~civil~~ citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(2).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 23. Paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is amended to read:

985.11 Fingerprinting and photographing.—

(1)

(b) Unless the child is issued a prearrest delinquency ~~civil~~ citation ~~or is participating in a similar diversion~~

~~program~~ pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(2).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and

these records and all copies thereof must be marked "Juvenile Confidential." These records are not available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 24. Paragraph (n) of subsection (2) of section 1006.07, Florida Statutes, is amended to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to

all teachers, school personnel, students, and parents, at the beginning of every school year. Each code shall be organized and written in language that is understandable to students and parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(n) Criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a prearrest delinquency citation ~~civil citation or similar prearrest diversion~~ program as an alternative to expulsion or arrest. All prearrest delinquency citation ~~civil citation or similar prearrest diversion~~ programs must comply with s. 985.12.

Section 25. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

FP
Committee

1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIMINAL DEF LAWYERS Phone (407) 435-3194

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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2/22/24
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Fiscal Policy
Committee

SB 1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chancer Teel

Phone 850 717 2716

Address 2737 Centerview Dr.
Street

Email Chancer.teel@fldjj.gov

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:
FL Dept. of Juvenile Justice

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

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Meeting Date

fiscal policy
Committee

12TH
SB [redacted]
Bill Number or Topic

Amendment Barcode (if applicable)

Name Libby Guzzo

Phone 850 245 [redacted] 0155

Address PL-01 CAPITOL
Street

Email libbyguzzo@myfloridalegal.com

TLH 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: office of attorney general

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

Fiscal Policy
Committee

1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive
Street

Email mdunagan@flsheriffs.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 Sheriffs 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. 2020-2022JointRules.pdf (flsenate.gov)

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Fiscal Policy
Committee

SB 1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name Christian Minor

Phone (321)223-4232

Address 1445 Spruce Ave
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: Florida Juvenile Justice Association

☐ 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)

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2/29/2024
Meeting Date

FSCD
Committee

1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name Molly Hudson for Volusia Sheriff's Office Phone

Address 123 W. Indiana Email mhudson@volusiasheriff.gov
Street

DeLand FL. 32720
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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/2024
Meeting Date

Fiscal Policy
Committee

1234 - Juvenile Justice
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roy Miller

Phone

Address 4216 Burning Tree
Street

Email

Jax FL 32223
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:

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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 Committee on Fiscal Policy

BILL:	CS/SB 1278
INTRODUCER:	Appropriations Committee on Criminal and Civil Justice; and Senator Martin
SUBJECT:	Department of Corrections
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	**Favorable**
2.	Atchley	Harkness	ACJ	**Fav/CS**
3.	Wyant	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1278 amends s. 944.31, F.S., to authorize the Office of the Inspector General (OIG) law enforcement officers to conduct any criminal investigations involving matters over which the Department of Corrections (DOC) has jurisdiction at contractor-operated correctional facilities. Such law enforcement officers may arrest, with or without a warrant, any prisoner, visitor, or staff member, including a contract employee, subcontractor, or volunteer of any state correctional institution and contractor-operated correctional facilities, for any violation of criminal laws of the state involving matters over which the DOC has jurisdiction.

The bill amends s. 957.04, F.S., to broaden methods of solicitation of contracts for the operation of contractor-operated correctional facilities to include competitive solicitation as provided in ch. 287, F.S. The bill specifies that contracts entered into under ch. 957, F.S., are not exempt from the requirements of ch. 287, F.S. However, if there is a conflict, the provisions of ch. 957, F.S., control.

The bill clarifies contracts entered into under this chapter for the operation of contractor-operated correctional facilities are not considered to be an "outsource" as defined in s. 287.012, F.S.

The bill amends s. 957.07, F.S., to eliminate the Prison Per Diem Workgroup and allow for the DOC's procurement process to include competitive solicitation.

The bill amends s. 957.12, F.S., to clarify that a bidder or potential bidder may have written contact with the procurement office. Additionally, language is removed that permits contact in a noticed meeting.

The bill amends s. 957.15, F.S., to remove language prohibiting the DOC from having authority over funds appropriated for the operation, maintenance, and lease-purchase of contractor-operated correctional facilities.

The bill removes language in multiple sections of law relating to *request for proposals* and replaces it with *competitive solicitation.*

The bill does not have a fiscal impact on the DOC. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

As of October 1, 2023, all powers, duties, functions, records, personnel, associated administrative support, positions, property, administrative authority, and administrative rules relating to private correctional facilities as defined in s. 944.710(3), F.S.,[1] were transferred from the Department of Management Services to the Department of Corrections.[2]

Solicitations of Contracts

Section 957.04, F.S., outlines requirements of contracts entered for the operation of private correctional facilities. Contracts must be negotiated with the most qualified firm. A contract for private correctional services may not be entered into by the DOC unless the DOC determines the contractor has:[3]

- The qualifications, experience, and management personnel necessary to carry out the terms of the contract;
- The ability to expedite the siting, design, and construction of correctional facilities; and
- The ability to comply with applicable laws, court orders, and national correctional standards.

Additionally, a contract entered into for the operation of a private correctional facility must:

- Indemnify the state and the DOC against any and all liability;[4]
- Require the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract;[5]
- Require the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards;[6]

[1] "Private correctional facility" means any facility, which is not operated by the DOC, for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the DOC. Section 944.710, F.S.
[2] Chapter 2023-268, L.O.F.
[3] Section 957.04(1)(a), F.S.
[4] Section 957.04(1(b), F.S.
[5] Section 957.04(1)(c), F.S.
[6] Section 957.04(1)(d), F.S.

- Establish operations standards for correctional facilities subject to the contract;[7]
- Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities;[8]
- Require the selection and appointment of a full-time contract monitor appointed and supervised by the DOC;[9] and
- Be for a period of 3 years and may be renewed for successive 2-year periods thereafter.[10]

Procurements

Section 957.07, F.S., prohibits the DOC from entering into a contract or series of contracts unless the DOC determines that the contract or series of contracts in the total for the facility will result in cost savings to the state of at least seven percent over the public provision of a similar facility. Such cost savings, determined and certified by the Auditor General, must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the DOC. The DOC calculates all of the cost components that determine the inmate per diem, including administrative costs, in correctional facilities that are substantially similar and operated by the DOC.[11] The DOC is required to provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report is provided to the Auditor General in sufficient time to be certified to be included in the request for proposals.[12]

The Prison Per-Diem Workgroup must develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and staff of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup.[13] When developing the consensus per diem rates, the workgroup must:[14]

- Use data provided by the DOC from the most recent fiscal year to determine per diem cost for the following:
  - Custody and control;
  - Health services;
  - Substance abuse programs; and
  - Educational programs
- Include the costs of departmental, regional, institutional, and program administration and any other fixed costs of the DOC;
- Calculate average per diem rates for the adult male, youthful offender male, and female offender populations; and
- Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

[7] Section 957.04(1)(e), F.S.
[8] Section 957.04(1)(f), F.S.
[9] Section 957.04(1)(g), F.S.
[10] Section 957.04(1)(h), F.S.
[11] Section 957.07(1), F.S.
[12] Section 957.07(4), F.S.
[13] Section 957.07(5)(a), F.S.
[14] Section 957.07(5)(b), F.S.

The consensus per diem rates may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the seven percent savings required.[15]

Section 957.12, F.S., prohibits a bidder or potential bidder from having any contact with any member or employee of or consultant to the DOC regarding a request for proposal, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced, unless such contract is in writing or in a meeting for which notice was provided in the Florida Administrative Register.

Section 957.15, F.S., requires the request for appropriation of funds to make payments of the contracts entered into by the DOC for the operation, maintenance, and lease-purchase of the private correctional facilities must be included in its budget request to the Legislature as a separately identified item. After an appropriation is made to the DOC for private correctional facilities, the DOC has no authority other than to pay the appropriate private vendor the amounts certified for payment.

Arrest Authority

Currently under s. 944.31, F.S., the OIG has the duty of inspecting the penal and correctional systems of the state and are responsible for criminal and administrative investigations of matters relating to the DOC. The secretary of the DOC may designate persons within the OIG as law enforcement officers. Such officers must be certified pursuant to s. 943.1395, F.S., and must have a minimum of 3 years' experience as an inspector in the OIG's office or as a law enforcement officer.

Office of the Inspector General law enforcement inspectors have the authority to:
- Conduct any criminal investigation that occurs on property owned or leased by the DOC;
- Arrest, with or without a warrant, inmates and visitors of state correctional institutions for felonies committed on the DOC's owned or leased property;
- Arrest offenders who have escaped or absconded from custody; and
- Arrest, with or without a warrant, the DOC staff including any contract employee for felony violations listed under chs. 944 and 893, F.S.

The arrested person is surrendered to the sheriff of the county with a formal complaint.

According to the DOC's analysis, the OIG law enforcement inspectors lack the authority to arrest individuals who have committed a misdemeanor in their presence without a warrant. Warrantless misdemeanor arrests are currently handled by the local law enforcement agency with jurisdiction.[16]

[15] Section 957.07(5)(c), F.S.
[16] *See* DOC, *2024 Legislative Bill Analysis SB 1278,* (on file with the Senate committee on Criminal Justice).

III. Effect of Proposed Changes:

The bill amends s. 944.31, F.S., to authorize the Office of the Inspector General (OIG) law enforcement officers to conduct any criminal investigations involving matters over which the DOC has jurisdiction at contractor-operated correctional facilities. Such law enforcement officers may arrest, with or without a warrant, any prisoner, visitor, or staff member, including a contract employee, subcontractor or volunteer of any state correctional institution and contractor-operated correctional facilities, for any violation of criminal laws of the state involving matters over which the DOC has jurisdiction.

The bill amends s. 957.04, F.S., to broaden methods of solicitation of contracts for the operation of contractor-operated correctional facilities beyond requests for proposal to include all methods provided for in ch. 287, F.S. Any competitive solicitation is available to all vendors, and includes the time and date for receipt of bids, proposals, or replies of the public opening, and must include all contractual terms and conditions. The following are competitive solicitation processes:[17]

- Invitation to bid, which is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specification defining the commodities required.[18]
- Request for proposals, which is used when the purposes and uses for which the commodity or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables.[19]
- Invitation to negotiate, which is used by an agency which is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors which the agency may negotiate with to receive the best value.[20]

The bill specifies that contracts entered into under ch. 957, F.S., are not exempt from the requirements of ch. 287, F.S. However, if there is a conflict, the provisions of ch. 957, F.S., control.

The bill clarifies contracts entered into under this chapter for the operation of contractor-operated correctional facilities are not considered to be an "outsource" as defined in s. 287.012, F.S.[21]

The bill amends s. 957.07, F.S., to eliminate the Prison Per Diem Workgroup and allow for the DOC's procurement process to include competitive solicitation.

The bill amends s. 957.12, F.S., to clarify that a bidder or potential bidder may have written contact with the procurement office. Additionally, language is removed that permits contact in a noticed meeting.

[17] Section 287.057(1), F.S
[18] Section 287.057(1)(a), F.S.
[19] Section 287.057(1)(b), F.S.
[20] Section 287.057(1)(c), F.S.
[21] "Outsource" means the process of contracting with a vendor to provide a service, in whole or part, or an activity while the state agency retains the responsibility and accountability for the service or activity and there is a transfer of management responsibility for the delivery of resources and the performance of those resources. Section 287.012, F.S.

The bill amends s. 957.15, F.S., to remove language prohibiting the DOC from having authority over funds appropriated for the operation, maintenance, and lease-purchase of contractor-operated correctional facilities.

The bill removes language in multiple sections of law relating to *request for proposals* and replaces it with *competitive solicitation*.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

While the bill broadens the authority of the OIG officers, it does not have a fiscal impact on the DOC. This bill may have a positive indeterminate impact on county detention beds due to OIG officers having the authority to make arrests for misdemeanor offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 944.31, 957.04, 957.07, 957.12, and 957.15.

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 Criminal and Civil Justice on February 8, 2024:
The committee substitute replaces the term "private" correctional facility with "contracted-operated" correctional facility.

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 Appropriations Committee on Criminal and Civil Justice; and Senator Martin

604-03141-24 20241278c1

A bill to be entitled

An act relating to Department of Corrections; amending s. 944.31, F.S.; providing additional authority for law enforcement officers of the office of the inspector general concerning department and contractor-operated correctional facilities; amending s. 957.04, F.S.; providing that correctional privatization contracts are not exempt from specified state contracting provisions unless otherwise specified; providing construction; conforming provisions to changes made by the act; amending s. 944.710, F.S.; renaming the term "private correctional facility" as "contractor-operated correctional facility"; renaming the term "private correctional officer" as "contractor-employed correctional officer"; conforming provisions to changes made by the act; amending s. 957.07, F.S.; revising terminology; deleting provisions concerning development of consensus per diem rates by the Prison Per-Diem Workgroup; conforming a provision to changes made by the act; amending s. 957.12, F.S.; revising provisions concerning contact with the department by specified persons; conforming a provision to changes made by the act; amending s. 957.15, F.S.; deleting a provision concerning department control over certain funds appropriated for contractor-operated correctional facilities; conforming a provision to changes made by the act; amending ss. 330.41, 553.865, 633.218, 775.21, 775.261, 784.078, 800.09, 943.0435, 943.13,

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604-03141-24 20241278c1

943.325, 944.105, 944.151, 944.17, 944.35, 944.40, 944.605, 944.606, 944.607, 944.608, 944.609, 944.7031, 944.714, 944.715, 944.716, 944.717, 944.718, 944.719, 944.72, 944.801, 944.803, 945.10, 945.215, 945.6041, 946.5025, 946.503, 951.062, 951.063, 957.05, 957.06, 957.08, 957.09, 957.13, 957.14, 960.001, 985.481, and 985.4815, 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 944.31, Florida Statutes, is amended to read:

944.31 Inspector general; inspectors; power and duties.—

(1) The inspector general shall be responsible for prison inspection and investigation, internal affairs investigations, and management reviews. The office of the inspector general shall be charged with the duty of inspecting the penal and correctional systems of the state.

(2) The office of the inspector general shall inspect each correctional institution or any place in which state prisoners are housed, worked, or kept within the state, with reference to its physical conditions, cleanliness, sanitation, safety, and comfort; the quality and supply of all bedding; the quality, quantity, and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution.

(3) The office of inspector general shall see that all the rules and regulations issued by the department are strictly

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observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general shall coordinate and supervise the work of inspectors throughout the state.

(4) The inspector general and inspectors may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation.

(5)(a) The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections.

(b) The secretary may designate persons within the office of the inspector general as law enforcement officers to conduct any criminal investigation that occurs on property owned or leased by the department or involves matters over which the department has jurisdiction. All criminal investigations, involving matters over which the department has jurisdiction at contractor-operated correctional facilities, as defined in s. 944.710, may be conducted by the law enforcement officers of the office of the inspector general.

(c) A person designated as a law enforcement officer must be certified pursuant to s. 943.1395 and must have a minimum of 3 years' experience as an inspector in the inspector general's office or as a law enforcement officer.

(d) The department shall maintain a memorandum of understanding with the Department of Law Enforcement for the notification and investigation of mutually agreed-upon predicate events that shall include, but are not limited to, suspicious

deaths and organized criminal activity.

(e) During investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation and persons designated as law enforcement officers under this section shall have the authority to arrest, with or without a warrant, any prisoner of or visitor to a state correctional institution for a violation of the criminal laws of the state. Law enforcement officers under this section shall have the authority to arrest, with or without a warrant, any prisoner of or visitor to any state correctional institution, as defined in s. 944.02, including all contractor-operated correctional facilities, for any violation of the criminal laws of the state involving matters over which the department has jurisdiction, ~~involving an offense classified as a felony that occurs on property owned or leased by the department~~ and may arrest offenders who have escaped or absconded from custody.

(f) Persons designated as law enforcement officers have the authority to arrest with or without a warrant a staff member of the department, including any contract employee, subcontractor, or volunteer, for a violation of the criminal laws of the state that occurs ~~involving an offense classified as a felony under this chapter or chapter 893~~ on property owned or leased by the department, or any contractor-operated correctional facility staff member, contract employee, subcontractor, or volunteer, for a violation of the criminal laws of the state involving matters over which the department has jurisdiction at any contractor-operated correctional facility. A person designated as a law enforcement officer under this section may make arrests

of persons against whom arrest warrants have been issued, including arrests of offenders who have escaped or absconded from custody. The arrested person shall be surrendered without delay to the sheriff of the county in which the arrest is made, with a formal complaint subsequently made against her or him in accordance with law.

Section 2. Section 944.710, Florida Statutes, is amended to read:

944.710 Definitions of terms relating to contractor-operated ~~private operation of~~ state correctional facilities and s. 944.105.—As used with respect to contractor-operated ~~private operation of~~ state correctional facilities and s. 944.105, the term:

(1) "Bidder" means any individual, partnership, corporation, or unincorporated association that submits a proposal with the department to construct, lease, or operate a contractor-operated ~~private~~ correctional facility.

(2) "Department" means the Department of Corrections.

(4) ~~(3)~~ "Contractor-operated ~~private~~ correctional facility" means any facility, which is not operated by the department, for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the department.

(3) ~~(4)~~ "Contractor-employed ~~Private~~ correctional officer" means any full-time or part-time employee of a private vendor whose primary responsibility is the supervision, protection, care, and control of prisoners within a contractor-operated ~~private~~ correctional facility.

(5) "Private vendor" means any individual, partnership, corporation, or unincorporated association bound by contract

with the department to construct, lease, or operate a contractor-operated ~~private~~ correctional facility.

Section 3. Subsections (1), (2), and (3) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of contractor-operated ~~private~~ correctional facilities shall maximize the cost savings of such facilities and ~~shall~~:

(a) Unless otherwise specified herein, is not exempt from chapter 287, including the competitive solicitation requirements thereof. However, to the extent of a direct conflict between this chapter and chapter 287, this chapter shall control. Contracts entered into under this chapter for the operation of contractor-operated correctional facilities are not considered to be outsourced as defined in s. 287.012. The specific outsourcing requirements in s. 287.0571 are not required under this section.

(b) ~~(a)~~ Be executed ~~negotiated~~ with the contractor ~~firm~~ found most qualified. However, a contract for contractor-operated ~~private~~ correctional services may not be entered into by the department unless the department determines that the contractor has demonstrated that it has:

1. The qualifications, experience, and management personnel necessary to carry out the terms of the contract.

2. The ability to expedite the siting, design, and construction of correctional facilities.

3. The ability to comply with applicable laws, court orders, and national correctional standards.

(c) ~~(b)~~ Indemnify the state and the department, including

their officials and agents, against any and all liability, including, but not limited to, civil rights liability. Proof of satisfactory insurance is required in an amount to be determined by the department.

(d) ~~(c)~~ Require that the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract. Compliance with amendments to the accreditation standards of the association is required upon the approval of such amendments by the department.

(e) ~~(d)~~ Require that the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards and the requirements of all applicable court orders and state law.

(f) ~~(e)~~ Establish operations standards for correctional facilities subject to the contract. However, if the department and the contractor disagree with an operations standard, the contractor may propose to waive any rule, policy, or procedure of the department related to the operations standards of correctional facilities which is inconsistent with the mission of the contractor to establish cost-effective, contractor-operated ~~privately operated~~ correctional facilities. The department shall be responsible for considering all requests ~~proposals~~ from the contractor to waive any rule, policy, or procedure and shall render a final decision granting or denying such request.

(g) ~~(f)~~ Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities. The work and education

programs must be designed to reduce recidivism, and include opportunities to participate in such work programs as authorized pursuant to s. 946.523.

(h) ~~(g)~~ Require the selection and appointment of a full-time contract monitor. The contract monitor shall be appointed and supervised by the department. The contractor is required to reimburse the department for the salary and expenses of the contract monitor. It is the obligation of the contractor to provide suitable office space for the contract monitor at the correctional facility. The contract monitor shall have unlimited access to the correctional facility.

(i) ~~(h)~~ Be for a period of 3 years and may be renewed for successive 2-year periods thereafter. However, the state is not obligated for any payments to the contractor beyond current annual appropriations.

(2) Each contract entered into for the design and construction of a contractor-operated ~~private~~ correctional facility or juvenile commitment facility must include:

(a) Notwithstanding any provision of chapter 255 to the contrary, a specific provision authorizing the use of tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods. Pursuant to s. 255.25, approval is hereby provided for the lease-purchase of up to two contractor-operated ~~private~~ correctional facilities and any other facility authorized by the General Appropriations Act.

(b) A specific provision requiring the design and construction of the proposed facilities to meet the applicable standards of the American Correctional Association and the

requirements of all applicable court orders and state law.

(c) A specific provision requiring the contractor, and not the department, to obtain the financing required to design and construct the contractor-operated ~~private~~ correctional facility or juvenile commitment facility built under this chapter.

(d) A specific provision stating that the state is not obligated for any payments that exceed the amount of the current annual appropriation.

(3)(a) Each contract for the designing, financing, acquiring, leasing, constructing, and operating of a contractor-operated ~~private~~ correctional facility shall be subject to ss. 255.2502 and 255.2503.

(b) Each contract for the designing, financing, acquiring, leasing, and constructing of a contractor-operated ~~private~~ juvenile commitment facility shall be subject to ss. 255.2502 and 255.2503.

Section 4. Subsections (4) and (5) of section 957.07, Florida Statutes, are amended to read:

957.07 Cost-saving requirements.—

(4) The department shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the contractor-operated ~~private~~ correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified to be included in the competitive solicitation ~~request for proposals~~.

~~(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by~~

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~~the Legislature. The Office of Program Policy Analysis and Government Accountability and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.~~

~~(b) When developing the consensus per diem rates, the workgroup must:~~

~~1. Use data provided by the department from the most recent fiscal year to determine per diem costs for the following activities:~~

~~a. Custody and control;~~

~~b. Health services;~~

~~c. Substance abuse programs; and~~

~~d. Educational programs;~~

~~2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;~~

~~3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and~~

~~4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.~~

~~(c) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the 7 percent savings required of private prisons by this chapter.~~

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~~(d) If a private vendor chooses not to renew the contract at the appropriated level, the department shall terminate the contract as provided in s. 957.14.~~

Section 5. Section 957.12, Florida Statutes, is amended to read:

957.12 Prohibition on contact.—Except in writing to the procurement office or as provided in the solicitation documents, a bidder or potential bidder is not permitted to have any contact with any member or employee of or consultant to the department regarding a competitive solicitation ~~request for proposal~~, a proposal, or the evaluation or selection process from the time a request for proposals for a contractor-operated ~~private~~ correctional facility is issued until the time a notification of intent to award is announced~~, except if such contact is in writing or in a meeting for which notice was provided in the Florida Administrative Register~~.

Section 6. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and lease-purchase of contractor-operated ~~private~~ correctional facilities.—The request for appropriation of funds to make payments pursuant to contracts entered into by the department for the operation, maintenance, and lease-purchase of the contractor-operated ~~private~~ correctional facilities authorized by this chapter shall be included in its budget request to the Legislature as a separately identified item. ~~After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such~~

~~appropriation to the appropriate private vendor such amounts as are certified for payment by the department.~~

Section 7. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended to read:

330.41 Unmanned Aircraft Systems Act.—

(2) DEFINITIONS.—As used in this act, the term:

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

1. A power generation or transmission facility, substation, switching station, or electrical control center.

2. A chemical or rubber manufacturing or storage facility.

3. A water intake structure, water treatment facility, wastewater treatment plant, or pump station.

4. A mining facility.

5. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.

6. A liquid natural gas or propane gas terminal or storage facility.

7. Any portion of an aboveground oil or gas pipeline.

8. A refinery.

9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

10. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

11. A seaport as listed in s. 311.09(1), which need not be completely enclosed by a fence or other physical barrier and need not be marked with a sign or signs indicating that entry is forbidden.

12. An inland port or other facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport.

13. An airport as defined in s. 330.27.

14. A spaceport territory as defined in s. 331.303(18).

15. A military installation as defined in 10 U.S.C. s. 2801(c)(4) and an armory as defined in s. 250.01.

16. A dam as defined in s. 373.403(1) or other structures, such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways.

17. A state correctional institution as defined in s. 944.02 or a contractor-operated ~~private~~ correctional facility authorized under chapter 957.

18. A secure detention center or facility as defined in s. 985.03, or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility as those terms are described in s. 985.03(44).

19. A county detention facility as defined in s. 951.23.

20. A critical infrastructure facility as defined in s. 692.201.

Section 8. Paragraph (b) of subsection (3) of section 553.865, Florida Statutes, is amended to read:

553.865 Private spaces.—

(3) As used in this section, the term:

(b) "Correctional institution" means any state correctional

institution as defined in s. 944.02 or contractor-operated ~~private~~ correctional facility as defined in s. 944.710.

Section 9. Paragraph (e) of subsection (1) of section 633.218, Florida Statutes, is amended to read:

633.218 Inspections of state buildings and premises; tests of firesafety equipment; building plans to be approved.—

(1)

(e) For purposes of this section:

1.a. The term "high-hazard occupancy" means any building or structure:

(I) That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property;

(II) At which persons receive educational instruction;

(III) At which persons reside, excluding private dwellings; or

(IV) Containing three or more floor levels.

b. As used in this subparagraph, the phrase "building or structure":

(I) Includes, but is not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.

(II) Does not include any residential condominium where the declaration of condominium or the bylaws provide that the rental of units shall not be permitted for less than 90 days.

2. The term "state-owned building" includes contractor-

operated ~~private~~ correctional facilities as defined under s. 944.710 ~~s. 944.710(3)~~.

Section 10. Paragraph (e) of subsection (2), paragraphs (b) and (e) of subsection (6), and paragraph (g) of subsection (10) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

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

(e) "Conviction" means 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. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, contractor-operated ~~private~~ correctional facility, or local detention facility.

(6) REGISTRATION.—

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a contractor-operated ~~private~~ correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual

predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a contractor-operated ~~private~~ correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change that occurs after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1. in any of the following information related to the sexual predator must be reported as provided in paragraphs (g), (i), and (j): permanent, temporary, or transient residence; name; vehicles owned; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home and cellular telephone numbers; employment information; and change in status at an institution of higher education. When a sexual predator registers with the sheriff's office, the sheriff shall take a

photograph, a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(10) PENALTIES.—

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the

custody of a state correctional facility, a contractor-operated ~~private~~ correctional facility, a local jail, or a federal correctional facility.

Section 11. Paragraph (a) of subsection (3) and paragraph (a) of subsection (4) of section 775.261, Florida Statutes, are amended to read:

775.261 The Florida Career Offender Registration Act.—

(3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

(a) A career offender released on or after July 1, 2002, from a sanction imposed in this state must register as required under subsection (4) and is subject to community and public notification as provided under subsection (5). For purposes of this section, a sanction imposed in this state includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, contractor-operated ~~private~~ correctional facility, or local detention facility, and:

1. The career offender has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph; or

2. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(4) REGISTRATION.—

(a) A career offender must register with the department by providing the following information to the department, or to the sheriff's office in the county in which the career offender establishes or maintains a permanent or temporary residence, within 2 working days after establishing permanent or temporary

residence in this state or within 2 working days after being released from the custody, control, or supervision of the Department of Corrections or from the custody of a contractor-operated ~~private~~ correctional facility:

1. Name, social security number, age, race, gender, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence within the state or out of state, including a rural route address or a post office box, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the career offender. A career offender may not provide a post office box in lieu of a physical residential address. If the career offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the career offender shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a career offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the career offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Any other information determined necessary by the department, including criminal and corrections records;

nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

Section 12. Subsection (1) of section 784.078, Florida Statutes, is amended to read:

784.078 Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.—

(1) As used in this section, the term "facility" means a state correctional institution defined in s. 944.02(8); a contractor-operated ~~private~~ correctional facility defined in s. 944.710 or under chapter 957; a county, municipal, or regional jail or other detention facility of local government under chapter 950 or chapter 951; or a secure facility operated and maintained by the Department of Corrections or the Department of Juvenile Justice.

Section 13. Subsection (1) of section 800.09, Florida Statutes, is amended to read:

800.09 Lewd or lascivious exhibition in the presence of an employee.—

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

(a) "Employee" means:

1. Any person employed by or performing contractual services for a public or private entity operating a state correctional institution or contractor-operated ~~private~~ correctional facility;

2. Any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional work programs under part II of chapter 946;

3. Any person who is a parole examiner with the Florida

Commission on Offender Review; or

4. Any person employed at or performing contractual services for a county detention facility.

(b) "Facility" means a state correctional institution as defined in s. 944.02, a contractor-operated ~~private~~ correctional facility as defined in s. 944.710, or a county detention facility as defined in s. 951.23.

Section 14. Paragraphs (b) and (h) of subsection (1) and paragraph (a) of subsection (2) of section 943.0435, Florida Statutes, are amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, contractor-operated ~~private~~ correctional facility, or local detention facility.

(h)1. "Sexual offender" means a person who meets the

criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-sub-subparagraph or at least one offense listed in this sub-sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from a sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) and does not otherwise meet the criteria for registration as a sexual offender under chapter 944 or chapter 985. For purposes of this sub-sub-subparagraph, a sanction imposed in this state or in any other jurisdiction means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, contractor-operated ~~private~~ correctional facility, or

local detention facility. If no sanction is imposed, the person is deemed to be released upon conviction;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed

in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals;

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals; or

(V) Any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense

involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(2) Upon initial registration, a sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a contractor-operated ~~private~~ correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a contractor-operated ~~private~~ correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and any change in status at an institution of higher education after the sexual

offender reports in person at the sheriff's office must be reported in the manner provided in subsections (4), (7), and (8).

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

Section 15. Subsections (5) and (8) of section 943.13, Florida Statutes, are amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections or to a county commission shall:

(5) Have documentation of his or her processed fingerprints on file with the employing agency or, if a contractor-employed ~~private~~ correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Criminal Justice Standards and Training Commission. The department shall retain and enter into the

statewide automated biometric identification system authorized by s. 943.05 all fingerprints submitted to the department as required by this section. Thereafter, the fingerprints shall be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051. The department shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system pursuant to this section and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the department for processing and retention.

(8) Execute and submit to the employing agency or, if a contractor-employed ~~private~~ correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall require the applicant to disclose any pending investigation by a local, state, or federal agency or entity for criminal, civil, or administrative wrongdoing and whether the applicant separated or resigned from previous criminal justice employment while he or she was under investigation. The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

Section 16. Paragraph (g) of subsection (2) of section

943.325, Florida Statutes, is amended to read:

943.325 DNA database.—

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

(g) "Qualifying offender" means any person, including juveniles and adults, who is:

1.a. Committed to a county jail;

b. Committed to or under the supervision of the Department of Corrections, including persons incarcerated in a contractor-operated ~~private~~ correctional institution operated under contract pursuant to s. 944.105;

c. Committed to or under the supervision of the Department of Juvenile Justice;

d. Transferred to this state under the Interstate Compact on Juveniles, part XIII of chapter 985; or

e. Accepted under Article IV of the Interstate Corrections Compact, part III of chapter 941; and who is:

2.a. Convicted of any felony offense or attempted felony offense in this state or of a similar offense in another jurisdiction;

b. Convicted of a misdemeanor violation of s. 784.048, s. 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an offense that was found, pursuant to s. 874.04, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03;

c. Arrested for any felony offense or attempted felony offense in this state; or

d. In the custody of a law enforcement agency and is subject to an immigration detainer issued by a federal

immigration agency.

Section 17. Subsections (4), (5), and (7) of section 944.105, Florida Statutes, are amended to read:

944.105 Contractual arrangements with contractor-operated ~~private~~ entities for operation and maintenance of correctional facilities and supervision of inmates.—

(4) A contractor-employed ~~private~~ correctional officer may use force only while on the grounds of a facility, while transporting inmates, and while pursuing escapees from a facility. A contractor-employed ~~private~~ correctional officer may use nondeadly force in the following situations:

(a) To prevent the commission of a felony or a misdemeanor, including escape.

(b) To defend oneself or others against physical assault.

(c) To prevent serious damage to property.

(d) To enforce institutional regulations and orders.

(e) To prevent or quell a riot.

Contractor-employed ~~Private~~ correctional officers may carry and use firearms and may use deadly force only as a last resort, and then only to prevent an act that could result in death or serious bodily injury to oneself or to another person.

(5) Contractor-employed ~~Private~~ correctional officers shall be trained in the use of force and the use of firearms and shall be trained at the contractor-operated ~~private~~ firm's expense, at the facilities that train correctional officers employed by the department.

(7) The department shall require the certification of contractor-employed ~~private~~ correctional officers at the private

vendor's expense under s. 943.1395, and all such officers must meet the minimum qualifications established in s. 943.13. All other employees of the private vendor that perform their duties at the contractor-operated ~~private~~ correctional facility shall receive, at a minimum, the same quality and quantity of training as that required by the state for employees of state-operated correctional facilities. All training expenses shall be the responsibility of the private vendor. The department shall be the contributor and recipient of all criminal background information necessary for certification by the Criminal Justice Standards and Training Commission.

Section 18. Subsections (1), (2), (3), and (4) of section 944.151, Florida Statutes, are amended to read:

944.151 Safe operation and security of correctional institutions and facilities.—It is the intent of the Legislature that the Department of Corrections shall be responsible for the safe operation and security of the correctional institutions and facilities. The safe operation and security of the state's correctional institutions and facilities are critical to ensure public safety and the safety of department employees and offenders, and to contain violent and chronic offenders until offenders are otherwise released from the department's custody pursuant to law. The Secretary of Corrections shall, at a minimum:

(1) Appoint appropriate department staff to a safety and security review committee that shall evaluate new safety and security technology, review and discuss current issues impacting state and contractor-operated ~~private~~ correctional institutions and facilities, and review and discuss other issues as requested

by department management.

(2) Direct appropriate department staff to establish a periodic schedule for the physical inspection of buildings and structures of each state and contractor-operated ~~private~~ correctional institution and facility to determine safety and security deficiencies. In scheduling the inspections, priority shall be given to older institutions and facilities; institutions and facilities that house a large proportion of violent offenders; institutions and facilities that have experienced a significant number of inappropriate incidents of use of force on inmates, assaults on employees, or inmate sexual abuse; and institutions and facilities that have experienced a significant number of escapes or escape attempts in the past.

(3) Direct appropriate department staff to conduct or cause to be conducted announced and unannounced comprehensive security audits of all state and contractor-operated ~~private~~ correctional institutions and facilities. Priority shall be given to those institutions and facilities that have experienced a significant number of inappropriate incidents of use of force on inmates, assaults on employees, or sexual abuse. At a minimum, the audit must include an evaluation of the physical plant, landscaping, fencing, security alarms and perimeter lighting, and confinement, arsenal, key and lock, and entrance and exit policies. The evaluation of the physical plant policies must include the identification of blind spots or areas where staff or inmates may be isolated and the deployment of video monitoring systems and other appropriate monitoring technologies in such spots or areas. Each correctional institution and facility shall be audited at least annually. The secretary shall

annually report the audit findings to the Governor and the Legislature.

(4) Direct appropriate department staff to investigate and evaluate the usefulness and dependability of existing safety and security technology at state and contractor-operated ~~private~~ correctional institutions and facilities, investigate and evaluate new available safety and security technology, and make periodic written recommendations to the secretary on the discontinuation or purchase of various safety and security devices.

Section 19. Paragraph (b) of subsection (3) of section 944.17, Florida Statutes, is amended to read:

944.17 Commitments and classification; transfers.—

(3)

(b) Notwithstanding paragraph (a), any prisoner incarcerated in the state correctional system or contractor-operated ~~private~~ correctional facility operated pursuant to chapter 957 who is convicted in circuit or county court of a crime committed during that incarceration shall serve the sentence imposed for that crime within the state correctional system regardless of the length of sentence or classification of the offense.

Section 20. Paragraph (b) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(b)1. As used in this paragraph, the term:

a. “Female genitals” includes the labia minora, labia

majora, clitoris, vulva, hymen, and vagina.

b. "Contractor-operated ~~Private~~ correctional facility" has the same meaning as in s. 944.710.

c. "Sexual misconduct" means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

d. "Volunteer" means a person registered with the department or a contractor-operated ~~private~~ correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

2. Any employee of the department or a contractor-operated ~~private~~ correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the department or a contractor-operated ~~private~~ correctional facility who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee, volunteer, or employee of a contractor or subcontractor of the department or any employee, volunteer, or employee of a contractor or subcontractor of a contractor-operated ~~private~~

correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

Section 21. Section 944.40, Florida Statutes, is amended to read:

944.40 Escapes; penalty.—Any prisoner confined in, or released on furlough from, any prison, jail, contractor-operated ~~private~~ correctional facility, road camp, or other penal institution, whether operated by the state, a county, or a municipality, or operated under a contract with the state, a county, or a municipality, working upon the public roads, or being transported to or from a place of confinement who escapes or attempts to escape from such confinement commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The punishment of imprisonment imposed under this section shall run consecutive to any former sentence imposed upon any prisoner.

Section 22. Subsections (1) and (2) of section 944.605, Florida Statutes, are amended to read:

944.605 Inmate release; notification; identification card.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a contractor-operated ~~private~~ correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole

under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, the state attorney or the Department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. Upon request, within 30 days after an inmate is approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified

that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(2) Within 60 days before the anticipated release of an inmate under subsection (1), a digitized photograph of the inmate to be released shall be made by the Department of Corrections or a contractor-operated ~~private~~ correctional facility, whichever has custody of the inmate. If a contractor-operated ~~private~~ correctional facility makes the digitized photograph, this photograph shall be provided to the Department of Corrections. Additionally, the digitized photograph, whether made by the Department of Corrections or a contractor-operated ~~private~~ correctional facility, shall be placed in the inmate's file. The Department of Corrections shall make the digitized photograph available electronically to the Department of Law Enforcement as soon as the digitized photograph is in the department's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center. The department shall provide a copy of the digitized photograph to a local law enforcement agency upon request.

Section 23. Paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 944.606, Florida Statutes, are amended to read:

944.606 Sexual offenders; notification upon release.—

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

(a) "Convicted" means there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited

to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine; probation; community control; parole; conditional release; control release; or incarceration in a state prison, federal prison, contractor-operated ~~private~~ correctional facility, or local detention facility.

(3)(a) The department shall provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department shall provide: the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; tattoos or other identifying marks; address of any planned permanent residence or temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any known future temporary residence within the state or out of state; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints, palm prints, and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; all electronic mail addresses and all Internet identifiers required to be provided

pursuant to s. 943.0435(4)(e); employment information, if known, provided pursuant to s. 943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); information about any professional licenses the offender has, if known; and passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a contractor-operated ~~private~~ correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the Department of Corrections and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

Section 24. Paragraphs (b) and (f) of subsection (1), paragraph (g) of subsection (6), and subsection (12) of section 944.607, Florida Statutes, are amended to read:

944.607 Notification to Department of Law Enforcement of

information on sexual offenders.—

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

(b) "Conviction" means 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. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine; probation; community control; parole; conditional release; control release; or incarceration in a state prison, federal prison, contractor-operated ~~private~~ correctional facility, or local detention facility.

(f) "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a contractor-operated ~~private~~ correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.

847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this subparagraph or at least one offense listed in this subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

(6) The information provided to the Department of Law Enforcement must include:

(g) A digitized photograph of the sexual offender which must have been taken within 60 days before the offender is released from the custody of the department or a contractor-operated ~~private~~ correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the

Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a contractor-operated ~~private~~ correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual offender is under the department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

(12) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another

person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply if the sexual offender is incarcerated in or is in the custody of a state correctional facility, a contractor-operated ~~private~~ correctional facility, a local jail, or a federal correctional facility.

Section 25. Subsection (1) and paragraph (e) of subsection (5) of section 944.608, Florida Statutes, are amended to read:

944.608 Notification to Department of Law Enforcement of information on career offenders.—

(1) As used in this section, the term "career offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody or control of, or under the supervision of, a contractor-operated ~~private~~ correctional facility, and who is designated as a habitual violent felony offender, a violent career criminal, or a three-time violent felony offender under s. 775.084 or as a prison releasee reoffender under s. 775.082(9).

(5) The information provided to the Department of Law Enforcement must include:

(e) A digitized photograph of the career offender, which must have been taken within 60 days before the career offender is released from the custody of the department or a contractor-

operated ~~private~~ correctional facility or within 60 days after the onset of the department's supervision of any career offender who is on probation, community control, conditional release, parole, provisional release, or control release. If the career offender is in the custody or control of, or under the supervision of, a contractor-operated ~~private~~ correctional facility, the facility shall take a digitized photograph of the career offender within the time period provided in this paragraph and shall provide the photograph to the department.

Section 26. Subsection (1) and paragraph (a) of subsection (3) of section 944.609, Florida Statutes, are amended to read:

944.609 Career offenders; notification upon release.—

(1) As used in this section, the term "career offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody or control of, or under the supervision of a contractor-operated ~~private~~ correctional facility, who is designated as a habitual violent felony offender, a violent career criminal, or a three-time violent felony offender under s. 775.084 or as a prison releasee reoffender under s. 775.082(9).

(3)(a) The department must provide information regarding any career offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department must provide the career offender's name, any change in the career offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the career offender is released; the career offender's social security number, race, gender, date of birth, height, weight, and hair and eye color;

date and county of sentence and each crime for which the career offender was sentenced; a copy of the career offender's fingerprints and a digitized photograph taken within 60 days before release; the date of release of the career offender; and the career offender's intended residence address, if known. The department shall notify the Department of Law Enforcement if the career offender escapes, absconds, or dies. If the career offender is in the custody of a contractor-operated ~~private~~ correctional facility, the facility shall take the digitized photograph of the career offender within 60 days before the career offender's release and provide this photograph to the Department of Corrections and also place it in the career offender's file. If the career offender is in the custody of a local jail, the custodian of the local jail shall notify the Department of Law Enforcement of the career offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. which the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records and nonprivileged personnel and treatment records, when available.

Section 27. Section 944.7031, Florida Statutes, is amended to read:

944.7031 Eligible inmates released from contractor-operated ~~private~~ correctional facilities.—

(1) It is the intent of the Legislature that state inmates nearing release from a contractor-operated ~~private~~ correctional facility managed under chapter 957 are eligible for assistance

under ss. 944.701-944.708, and all laws that provide for or mandate transition assistance services to inmates nearing release also apply to inmates who reside in contractor-operated ~~private~~ correctional facilities.

(2) To assist an inmate nearing release from a contractor-operated ~~private~~ correctional facility, the department and the transition assistance specialist shall coordinate with a designated staff person at each contractor-operated ~~private~~ correctional facility to ensure that a state inmate released from the contractor-operated ~~private~~ correctional facility is informed of and provided with the same level of transition assistance services that are provided by the department for an inmate in a state correctional facility. Any inmate released from a contractor-operated ~~private~~ correctional facility shall also have equal access to placement consideration in a contracted substance abuse transition housing program, including those programs that have a faith-based component.

Section 28. Section 944.714, Florida Statutes, is amended to read:

944.714 Quality assurance and standards of operation.—

(1) The level and quality of programs provided by a private vendor at a contractor-operated ~~private~~ correctional facility must be at least equal to programs provided at a correctional facility operated by the department that houses similar types of inmates and must be at a cost that provides the state with a substantial savings, as determined by a private accounting firm selected by the Department of Corrections.

(2) All contractor-employed ~~private~~ correctional officers employed by a private vendor must be certified, at the private

vendor's expense, as having met the minimum qualifications established for correctional officers under s. 943.13.

(3) Pursuant to the terms of the contract, a private vendor shall design, construct, and operate a contractor-operated ~~private~~ correctional facility in accordance with the standards established by the American Correctional Association and approved by the department at the time of the contract. In addition, a contractor-operated ~~private~~ correctional facility shall meet any higher standard mandated in the full or partial settlement of any litigation challenging the constitutional conditions of confinement to which the department is a named defendant. The standards required under a contract for operating a contractor-operated ~~private~~ correctional facility may be higher than the standards required for accreditation by the American Correctional Association. A private vendor shall comply with all federal and state constitutional requirements, federal, state, and local laws, department rules, and all court orders.

Section 29. Section 944.715, Florida Statutes, is amended to read:

944.715 Delegation of authority.—

(1) A private vendor shall incarcerate all inmates assigned to the contractor-operated ~~private~~ correctional facility by the department and as specified in the contract. The department may not exceed the maximum occupancy designated for the facility in the contract.

(2) Inmates incarcerated in a contractor-operated ~~private correctional~~ facility are in the legal custody of the department. A private vendor may not award gain-time or release credits, determine inmate eligibility for furlough or work

release, calculate inmate release dates, approve inmate transfers, place inmates in less restrictive custody than that ordered by the department or approve inmate work assignments. A private vendor may not benefit financially from the labor of inmates except to the extent authorized under chapter 946.

Section 30. Section 944.716, Florida Statutes, is amended to read:

944.716 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume control of a contractor-operated ~~private~~ correctional facility upon termination of the contract. The department may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the contractor-operated ~~private~~ correctional facility. A plan shall also be provided by a private vendor for the purchase and assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 31. Subsection (1) of section 944.717, Florida Statutes, is amended to read:

944.717 Conflicts of interest.—

(1) An employee of the department or any governmental entity that exercises any functions or responsibilities in the review or approval of a contractor-operated ~~private~~ correctional facility contract or the operation of a contractor-operated ~~private~~ correctional facility, or a member of the immediate family of any such person, may not solicit or accept, directly or indirectly, any personal benefit or promise of a benefit from a bidder or private vendor.

Section 32. Subsection (1) of section 944.718, Florida Statutes, is amended to read:

944.718 Withdrawal of request for proposals.—

(1) When soliciting proposals for the construction, lease, or operation of a contractor-operated ~~private~~ correctional facility, the department may reserve the right to withdraw the request for proposals at any time and for any reason. Receipt of proposal materials by the department or submission of a proposal to the department does not confer any rights upon the proposer or obligations upon the department.

Section 33. Paragraphs (a) and (f) of subsection (1), subsection (3), and paragraph (b) of subsection (5) of section 944.719, Florida Statutes, are amended to read:

944.719 Adoption of rules, monitoring, and reporting.—

(1) The department shall adopt rules pursuant to chapter 120 specifying criteria for contractual arrangements and standards for the operation of correctional facilities by private vendors. Such rules shall define:

(a) Various categories of contractor-operated ~~private~~ correctional facilities.

(f) The characteristics of inmates to be incarcerated in contractor-operated ~~private~~ correctional facilities.

(3) The private vendor shall provide a work area at the contractor-operated ~~private~~ correctional facility for use by the contract monitor appointed by the department and shall provide the monitor with access to all data, reports, and other materials that the monitor, the Auditor General, and the Office of Program Policy Analysis and Government Accountability determine are necessary to carry out monitoring and auditing responsibilities.

(5) The Office of Program Policy Analysis and Government Accountability shall conduct a performance audit, including a review of the annual financial audit of the private entity and shall deliver a report to the Legislature by February 1 of the third year following any contract awarded by the department for the operation of a correctional facility by a private vendor.

(b) In preparing the report, the office shall consider, in addition to other factors it determines are significant:

1. The extent to which the private vendor and the department have complied with the terms of the contract and ss. 944.710-944.719.

2. The wages and benefits that are provided to the staff of the contractor-operated ~~private~~ correctional facility as compared to wages and benefits provided to employees of the department performing comparable tasks.

Section 34. Subsection (1) of section 944.72, Florida Statutes, is amended to read:

944.72 Contractor-operated ~~Privately Operated~~ Institutions Inmate Welfare Trust Fund.—

(1) There is hereby created in the Department of Corrections the Contractor-operated ~~Privately Operated~~ Institutions Inmate Welfare Trust Fund. The purpose of the trust fund shall be the benefit and welfare of inmates incarcerated in contractor-operated ~~private~~ correctional facilities under contract with the department pursuant to this chapter or chapter 957. Moneys shall be deposited in the trust fund and expenditures made from the trust fund as provided in s. 945.215.

Section 35. Subsection (9) of section 944.801, Florida Statutes, is amended to read:

944.801 Education for state prisoners.—

(9) Notwithstanding s. 120.81(3), all inmates under 22 years of age who qualify for special educational services and programs pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. ss. 1400 et seq., and who request a due process hearing as provided by that act shall be entitled to such hearing before the Division of Administrative Hearings. Administrative law judges shall not be required to travel to state or contractor-operated ~~private~~ correctional institutions and facilities in order to conduct these hearings.

Section 36. Subsections (1) and (3) of section 944.803, Florida Statutes, are amended to read:

944.803 Faith- and character-based programs.—

(1) The Legislature finds and declares that faith- and character-based programs offered in state and contractor-operated ~~private~~ correctional institutions and facilities have the potential to facilitate inmate institutional adjustment, help inmates assume personal responsibility, and reduce recidivism.

(3) It is the intent of the Legislature that the department and the private vendors operating contractor-operated ~~private~~ correctional facilities continuously:

(a) Measure recidivism rates for inmates who have participated in faith- and character-based programs.

(b) Increase the number of volunteers who minister to inmates from various faith-based and secular institutions in the community.

(c) Develop community linkages with secular institutions as well as churches, synagogues, mosques, and other faith-based institutions to assist inmates in their release back into the community.

Section 37. Paragraphs (a) and (b) of subsection (2) of section 945.10, Florida Statutes, are amended to read:

945.10 Confidential information.—

(2) The records and information specified in paragraphs (1)(a)-(i) may be released as follows unless expressly prohibited by federal law:

(a) Information specified in paragraphs (1)(b), (d), and (f) to the Executive Office of the Governor, the Legislature, the Florida Commission on Offender Review, the Department of Children and Families, a contractor-operated ~~private~~ correctional facility or program that operates under a contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph need not be in writing.

(b) Information specified in paragraphs (1)(c), (e), and (i) to the Executive Office of the Governor, the Legislature, the Florida Commission on Offender Review, the Department of

Children and Families, a contractor-operated ~~private~~ correctional facility or program that operates under contract, the Department of Legal Affairs, a state attorney, the court, or a law enforcement agency. A request for records or information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

Records and information released under this subsection remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution when held by the receiving person or entity.

Section 38. Subsection (3) of section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(3) CONTRACTOR-OPERATED ~~PRIVATELY OPERATED~~ INSTITUTIONS INMATE WELFARE TRUST FUND; CONTRACTOR-OPERATED ~~PRIVATE~~ CORRECTIONAL FACILITIES.—

(a) For purposes of this subsection, contractor-operated ~~privately operated~~ institutions or contractor-operated ~~private~~ correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at contractor-operated ~~private~~ correctional facilities shall be deposited in the Contractor-Operated ~~Privately Operated~~ Institutions Inmate Welfare Trust Fund.

2. Funds in the Contractor-Operated ~~Privately Operated~~

Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The department shall annually compile a report that documents Contractor-Operated ~~Privately Operated~~ Institutions Inmate Welfare Trust Fund receipts and expenditures at each contractor-operated ~~private~~ correctional facility. This report must specifically identify receipt sources and expenditures. The department shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

Section 39. Subsections (2) and (3) of section 945.6041, Florida Statutes, are amended to read:

945.6041 Inmate medical services.—

(2) Compensation to a health care provider to provide inmate medical services may not exceed 110 percent of the Medicare allowable rate if the health care provider does not have a contract to provide services with the department or the contractor-operated ~~private~~ correctional facility, as defined in s. 944.710, which houses the inmate. However, compensation to a health care provider may not exceed 125 percent of the Medicare allowable rate if:

(a) The health care provider does not have a contract to provide services with the department or the contractor-operated ~~private~~ correctional facility, as defined in s. 944.710, which houses the inmate; and

(b) The health care provider reported a negative operating margin for the previous year to the Agency for Health Care

Administration through hospital-audited financial data.

(3) Compensation to an entity to provide emergency medical transportation services for inmates may not exceed 110 percent of the Medicare allowable rate if the entity does not have a contract with the department or a contractor-operated ~~private~~ correctional facility, as defined in s. 944.710, to provide the services.

Section 40. Section 946.5025, Florida Statutes, is amended to read:

946.5025 Authorization of corporation to enter into contracts.—The corporation established under this part may enter into contracts to operate correctional work programs with any county or municipal authority that operates a correctional facility or with a contractor authorized under chapter 944 or chapter 957 to operate a contractor-operated ~~private~~ correctional facility. The corporation has the same powers, privileges, and immunities in carrying out such contracts as it has under this chapter.

Section 41. Subsections (5) and (6) of section 946.503, Florida Statutes, are amended to read:

946.503 Definitions to be used with respect to correctional work programs.—As used in this part, the term:

(5) "Inmate" means any person incarcerated within any state, county, municipal, or contractor-operated ~~private~~ correctional facility.

(6) "Contractor-operated ~~Private~~ correctional facility" means a facility authorized by chapter 944 or chapter 957.

Section 42. Subsection (6) of section 951.062, Florida Statutes, is amended to read:

951.062 Contractual arrangements for operation and maintenance of county detention facilities.—

(6) Contractor-employed ~~Private~~ correctional officers responsible for supervising inmates within the facility shall meet the requirements necessary for certification by the Criminal Justice Standards and Training Commission pursuant to s. 943.1395. However, expenses for such training shall be the responsibility of the private entity.

Section 43. Section 951.063, Florida Statutes, is amended to read:

951.063 Contractor-operated ~~privately operated~~ county correctional facilities.—Each contractor-employed ~~private~~ correctional officer employed by a private entity under contract to a county commission must be certified as a correctional officer under s. 943.1395 and must meet the minimum qualifications established in s. 943.13. The county shall provide to the Criminal Justice Standards and Training Commission all necessary fingerprints for Florida Department of Law Enforcement and Federal Bureau of Investigation background checks. The Criminal Justice Standards and Training Commission shall advise the county as to those employees whose certification has been denied or revoked. Neither the county nor the private entity shall be the direct recipient of criminal records.

Section 44. Section 957.05, Florida Statutes, is amended to read:

957.05 Requirements for contractors operating contractor-operated ~~private~~ correctional facilities.—

(1) Each contractor entering into a contract under this

chapter is liable in tort with respect to the care and custody of inmates under its supervision and for any breach of contract. Sovereign immunity may not be raised by a contractor, or the insurer of that contractor on the contractor's behalf, as a defense in any action arising out of the performance of any contract entered into under this chapter or as a defense in tort, or any other application, with respect to the care and custody of inmates under the contractor's supervision and for any breach of contract.

(2)(a) The training requirements, including inservice training requirements, for employees of a contractor that assumes the responsibility for the operation and maintenance of a contractor-operated ~~private~~ correctional facility must meet or exceed the requirements for similar employees of the department or the training requirements mandated for accreditation by the American Correctional Association, whichever of those requirements are the more demanding. All employee training expenses are the responsibility of the contractor.

(b) Employees of a contractor who are responsible for the supervision of inmates shall have the same legal authority to rely on nondeadly and deadly force as do similar employees of the department.

(3) Any contractor or person employed by a contractor operating a correctional or detention facility pursuant to a contract executed under this chapter shall be exempt from the requirements of chapter 493, relating to licensure of private investigators and security officers.

Section 45. Subsection (2) of section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The contractor and the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a contractor-operated ~~private~~ correctional facility. The department and the contractor must comply with the cooperative agreement.

Section 46. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department shall transfer and assign prisoners to each contractor-operated ~~private~~ correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract. The prisoners transferred by the department shall represent a cross-section of the general inmate population, based on the grade of custody or the offense of conviction, at the most comparable facility operated by the department.

Section 47. Subsection (1) of section 957.09, Florida Statutes, is amended to read:

957.09 Applicability of chapter to other provisions of law.—

(1)(a) Any offense that if committed at a state correctional facility would be a crime is a crime if committed

by or with regard to inmates at contractor-operated ~~private~~ correctional facilities operated pursuant to a contract entered into under this chapter.

(b) All laws relating to commutation of sentences, release and parole eligibility, and the award of sentence credits apply to inmates incarcerated in a contractor-operated ~~private~~ correctional facility operated pursuant to a contract entered into under this chapter.

Section 48. Section 957.13, Florida Statutes, is amended to read:

957.13 Background checks.—

(1) The Florida Department of Law Enforcement may accept fingerprints of individuals who apply for employment at a contractor-operated ~~private~~ correctional facility and who are required to have background checks under the provisions of this chapter.

(2) The Florida Department of Law Enforcement may, to the extent provided for by federal law, provide for the exchange of state, multistate, and federal criminal history records of individuals who apply for employment at a contractor-operated ~~private~~ correctional facility for the purpose of conducting background checks as required by law or contract.

Section 49. Section 957.14, Florida Statutes, is amended to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a contractor-operated ~~private~~ correctional facility upon termination of the contract. The department may

terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the contractor-operated ~~private~~ correctional facility. A plan shall also be provided by a private vendor for the purchase and temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 50. Paragraph (p) of subsection (1) of section 960.001, Florida Statutes, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement s. 16(b), Art. I of

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

the State Constitution and to achieve the following objectives:

(p) *Information concerning escape from a state correctional institution, county jail, juvenile detention facility, or residential commitment facility.*—In any case where an offender escapes from a state correctional institution, contractor-operated ~~private~~ correctional facility, county jail, juvenile detention facility, or residential commitment facility, the institution of confinement shall immediately notify the state attorney of the jurisdiction where the criminal charge or petition for delinquency arose and the judge who imposed the sentence of incarceration. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relatives of a homicide victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge or petition for delinquency arose. The sheriff shall offer assistance upon request. When an escaped offender is subsequently captured or is captured and returned to the institution of confinement, the institution of confinement shall again immediately notify the appropriate state attorney and sentencing judge pursuant to this section.

Section 51. Paragraph (a) of subsection (3) of section 985.481, Florida Statutes, is amended to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(3)(a) The department shall provide information regarding any sexual offender who is being released after serving a period of residential commitment under the department for any offense, as follows:

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

1. The department shall provide the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; tattoos or other identifying marks; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; address of any planned permanent residence or temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any known future temporary residence within the state or out of state; date and county of disposition and each crime for which there was a disposition; a copy of the offender's fingerprints, palm prints, and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); information about any professional licenses the offender has, if known; and passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a contractor-operated ~~private~~ correctional facility, the facility shall take the digitized

photograph of the sexual offender within 60 days before the sexual offender's release and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this subparagraph and any information specified in subparagraph 2. which the Department of Law Enforcement requests.

2. The department may provide any other information considered necessary, including criminal and delinquency records, when available.

Section 52. Paragraph (h) of subsection (1), paragraph (a) of subsection (6), and subsection (12) of section 985.4815, Florida Statutes, are amended to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

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

(h) "Sexual offender" means a person who is in the care or custody or under the jurisdiction or supervision of the department or is in the custody of a contractor-operated ~~private~~ correctional facility and who:

1. Has been adjudicated delinquent as provided in s. 943.0435(1)(h)1.d.; or

2. Establishes or maintains a residence in this state and has not been designated as a sexual predator by a court of this state but has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender

designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender.

(6)(a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual

offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a contractor-operated ~~private~~ correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, postcommitment probation, residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a contractor-operated ~~private~~ correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this subparagraph and shall provide the photograph to the department.

(12) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her

noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section and, if known, the whereabouts of the sexual offender;

(b) Harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the sexual offender;

(c) Conceals, attempts to conceal, or assists another person in concealing or attempting to conceal the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply if the sexual offender is incarcerated in or is in the custody of a state correctional facility, a contractor-operated ~~private~~ correctional facility, a local jail, or a federal correctional facility.

Section 53. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/2024
Meeting Date

Fiscal Policy
Committee

SB 1278
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jake Felder

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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:
Florida Department of Corrections

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	SB 1324
INTRODUCER:	Senator Ingoglia
SUBJECT:	Driving Without a Valid Driver License
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Shutes	Yeatman	FP	**Favorable**

I. Summary:

SB 1324 establishes revised penalties related to the offense of driving without a valid driver license. Specifically, any person who drives any motor vehicle upon a highway in this state without a valid driver license commits:

- For a first offense, a misdemeanor of the second degree.
- For a second offense, a misdemeanor of the first degree.
- For a third or subsequent offense, a misdemeanor of the first degree and is subject to a minimum of 10 days in jail as ordered by the court.

This bill stipulates that the foregoing penalties do not apply to violations of s. 316.212, F.S., related to the operation of golf carts on roadways.

The bill takes effect July 1, 2024.

II. Present Situation:

Requirement to Be Licensed

Section 322.03, F.S., provides that a person may not operate a motor vehicle in the state without being licensed pursuant to ch. 322, F.S. However, the following individuals are exempt from obtaining a Florida driver license:

- Any employee of the United States Government, while operating a noncommercial motor vehicle owned by or leased to the United States Government and being operated on official business.
- Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.
- A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or

country operating a motor vehicle of the type for which a Class E driver license is required in this state, if the nonresident's license is not invalid under s. 322.033, F.S., relating to proof of the licensee's lawful presence in the United States.

- A nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or country operating a motor vehicle, other than a commercial motor vehicle, in this state, if the nonresident's license is not invalid under s. 322.033, F.S., relating to proof of the licensee's lawful presence in the United States.
- A person 18 years of age or older operating a golf cart, which is operated in accordance with s. 316.212, F.S.

Section 322.29, F.S., provides that any violation of ch. 322 F.S., unless otherwise specified is punishable as a misdemeanor of the second degree. However, a person charged under s. 322.03, F.S., may not be convicted if, prior to or at a court or hearing appearance, the person is able to produce a driver license valid at the time of arrest.[1]

Driving While License Suspended, Revoked, Cancelled or Disqualified

Except as provided in s. 322.34(2), F.S., any person whose driver license or driving privilege has been canceled, suspended, or revoked, except a "habitual traffic offender", who drives a vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked is guilty of a moving violation, punishable as provided in ch. 318, F.S.[2]

Section 322.34(2), F.S., sets out penalties for driving while a driver license is suspended, revoked, canceled or disqualified, or who does not have a driver license but is under suspension or revocation status as defined in s. 322.01(42), F.S., who, *knowing* of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives a motor vehicle in the state.[3] These penalties include:

- A second degree misdemeanor, upon a first conviction;
- A first degree misdemeanor, upon a second or subsequent conviction, except as provided below, and, for a third or subsequent conviction, a minimum of 10 days in jail;
- A third degree felony, upon a third or subsequent conviction if the current violation or the most recent prior violation is related to driving while license canceled, suspended, revoke, or suspension or revocation equivalent status resulting from a violation of: driving under the influence, refusal to submit to a urine, breath-alcohol, or blood alcohol test, a traffic offense causing death or serious bodily injury, or fleeing or eluding.

The element of knowledge is satisfied if the person has been previously cited as provided in s. 322.34(1), F.S.; or the person admits to knowledge of the cancellation, suspension, or revocation, or suspension or revocation equivalent status; or the person received notice as provided in s. 322.34(4), F.S. There is a rebuttable presumption that the knowledge requirement is satisfied if a

[1] Section 320.03(6), F.S.
[2] Section 322.34(1), F.S.
[3] "Suspension or revocation equivalent status" is a designation for a person who does not have a driver license or driving privilege but would qualify for suspension or revocation of his or her driver license or driving privilege if licensed. The Department of Highway Safety and Motor Vehicles may designate a person as having suspension or revocation equivalent status in the same manner as it is authorized to suspend or revoke a driver license or driving privilege by law.

judgment or order as provided in s. 322.23(4), F.S., appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.[4]

Any judgment or order rendered by a court or adjudicatory body or any uniform traffic citation that cancels, suspends, or revokes a person's driver license or places a person under suspension or revocation equivalent status must contain a provision notifying the person that his or her driver license has been canceled, suspended, or revoked, or of such suspension or revocation equivalent status.[5]

Driver License Requirements - Operation of Golf Carts

As previously noted, persons 18 years of age or older operating a golf cart in accordance with s. 316.212, F.S., are exempt from the requirement to obtain a driver license.[6] Section 316.212, F.S., sets out various operational and equipment requirements that are applicable to golf carts. In terms of driver licensing, this section provides that a golf cart may not be operated on public roads or streets by a person:

- Who is under 18 years of age unless he or she possesses a valid learner's driver license or valid driver license, or
- Who is 18 years of age or older unless he or she possesses a valid form of government-issued photographic identification.

III. Effect of Proposed Changes:

This bill amends s. 322.03, F.S., to provide, that if any person operates any motor vehicle upon a highway, without a valid driver license, a person commits: for the first offense, a misdemeanor of the second degree; for the second offense, a misdemeanor of the first degree; and for a third or subsequent offense, a misdemeanor of the first degree, and is subject to a minimum of 10 days in jail as ordered by the court.

The bill provides that the penalties established in the bill do not apply to violations of s. 316.212, F.S., related to the operation of golf carts on certain roads.

The bill includes various conforming and technical provisions.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[4] Section 322.34(2), F.S.
[5] Section 322.34(4), F.S.
[6] Section 320.04(1)(e), F.S.

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:

Individuals operating motor vehicles in Florida without the required driver's license will be subject to enhanced penalties.

C. Government Sector Impact:

The bill creates new misdemeanor offenses which may have a positive indeterminate county jail bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.03, 322.15, and 322.291.

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 Ingoglia

11-01227B-24 20241324__

A bill to be entitled

An act relating to driving without a valid driver license; amending s. 322.03, F.S.; providing criminal penalties for the offense of driving without a valid driver license; requiring the court to sentence an offender to a specified minimum jail sentence upon a third or subsequent conviction for the offense; providing applicability; making technical changes; amending ss. 322.15 and 322.291, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 322.03, Florida Statutes, is amended to read:

322.03 Drivers must be licensed; penalties.—

(1)(a) Except as otherwise authorized in this chapter, a person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver license issued under this chapter.

(b) A person who violates paragraph (a) commits:

1. For the first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. For the second offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. For a third or subsequent offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the court shall order the person to serve a minimum period of 10 days in jail.

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

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The penalties provided in paragraph (b) do not apply to violations of s. 316.212.

(2)(a) A person who drives a commercial motor vehicle may not receive a driver license unless and until he or she surrenders to the department all driver licenses in his or her possession issued to him or her by any other jurisdiction or makes an affidavit that he or she does not possess a driver license. Any such person who fails to surrender such licenses commits a noncriminal infraction, punishable as a moving violation as set forth in chapter 318. Any such person who makes a false affidavit concerning such licenses commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All surrendered licenses may be returned by the department to the issuing jurisdiction together with information that the licensee is now licensed in a new jurisdiction or may be destroyed by the department, which shall notify the issuing jurisdiction of such destruction. A person may not have more than one valid driver license at any time.

(3)~~(2)~~ Prior to issuing a driver license, the department shall require any person who has been convicted two or more times of a violation of s. 316.193 or of a substantially similar alcohol-related or drug-related offense outside this state within the preceding 5 years, or who has been convicted of three or more such offenses within the preceding 10 years, to present proof of successful completion of or enrollment in a department-approved substance abuse education course. If the person fails to complete such education course within 90 days after issuance,

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

the department shall cancel the license. Further, prior to issuing the driver license the department shall require such person to present proof of financial responsibility as provided in s. 324.031. For the purposes of this paragraph, a previous conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 shall be considered a previous conviction for violation of s. 316.193.

(4)(a) ~~(3)(a)~~ The department may not issue a commercial driver license to any person who is not a resident of this state.

(b) A resident of this state who is required by the laws of this state to possess a commercial driver license may not operate a commercial motor vehicle in this state unless he or she possesses a valid commercial driver license issued by this state. Except as provided in paragraph (c), any person who violates this paragraph commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person whose commercial driver license has been expired for a period of 30 days or less and who drives a commercial motor vehicle within this state commits ~~is guilty of~~ a nonmoving violation, punishable as provided in s. 318.18.

(5) ~~(4)~~ A person may not operate a motorcycle unless he or she holds a driver license that authorizes such operation, subject to the appropriate restrictions and endorsements. A person may operate an autocycle, as defined in s. 316.003, without a motorcycle endorsement.

(6) ~~(5)~~ It is a violation of this section for any person whose driver license has been expired for more than 6 months to

operate a motor vehicle on the highways of this state.

(7) ~~(6)~~ A person who is charged with a violation of this section, other than a violation of ~~paragraph (a)~~ of subsection (2) ~~(1)~~, may not be convicted if, prior to or at the time of his or her court or hearing appearance, the person produces in court or to the clerk of the court in which the charge is pending a driver license issued to him or her and valid at the time of his or her arrest. The clerk of the court is authorized to dismiss such case at any time prior to the defendant's appearance in court. The clerk of the court may assess a fee of $5 for dismissing the case under this subsection.

Section 2. Subsection (3) of section 322.15, Florida Statutes, is amended to read:

322.15 License to be carried and exhibited on demand; fingerprint to be imprinted upon a citation.—

(3) In relation to violations of subsection (1) or s. 322.03(6) ~~s. 322.03(5)~~, persons who cannot supply proof of a valid driver license for the reason that the license was suspended for failure to comply with that citation shall be issued a suspension clearance by the clerk of the court for that citation upon payment of the applicable penalty and fee for that citation. If proof of a valid driver license is not provided to the clerk of the court within 30 days, the person's driver license shall again be suspended for failure to comply.

Section 3. Section 322.291, Florida Statutes, is amended to read:

322.291 Driver improvement schools or DUI programs; required in certain suspension and revocation cases.—Except as provided in s. 322.03(3) ~~s. 322.03(2)~~, any person:

(1) Whose driving privilege has been revoked:

(a) Upon conviction for:

1. Driving, or being in actual physical control of, any vehicle while under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, in violation of s. 316.193;

2. Driving with an unlawful blood- or breath-alcohol level;

3. Manslaughter resulting from the operation of a motor vehicle;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle crash resulting in the death or personal injury of another;

5. Reckless driving; or

(b) As a habitual offender;

(c) Upon direction of the court, if the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the revocation of the licensee's driving privilege; or

(2) Whose license was suspended under the point system, was suspended for driving with an unlawful blood-alcohol level of 0.10 percent or higher before January 1, 1994, was suspended for driving with an unlawful blood-alcohol level of 0.08 percent or higher after December 31, 1993, was suspended for a violation of s. 316.193(1), or was suspended for refusing to submit to a lawful breath, blood, or urine test as provided in s. 322.2615

shall, before the driving privilege may be reinstated, present to the department proof of enrollment in a department-approved advanced driver improvement course operating pursuant to s.

318.1451 or a substance abuse education course conducted by a DUI program licensed pursuant to s. 322.292, which shall include a psychosocial evaluation and treatment, if referred. Additionally, for a third or subsequent violation of requirements for installation of an ignition interlock device, a person must complete treatment as determined by a licensed treatment agency following a referral by a DUI program and have the duration of the ignition interlock device requirement extended by at least 1 month up to the time period required to complete treatment. If the person fails to complete such course or evaluation within 90 days after reinstatement, or subsequently fails to complete treatment, if referred, the DUI program shall notify the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the expiration of the suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege upon verification from the DUI program that the offender has completed the education course and evaluation requirement and has reentered and is currently participating in treatment. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program.

Section 4. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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02/22/24
Meeting Date

Fiscal Policy
Committee

SB 1324
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon (Cow-ray-Lee)

Phone 9548818595

Address 1103 Washington Ave
Street

Email aurelie.colon-larraori@splcactionfund.org

Montgomery AL
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:
SPLC Action Fund

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1324
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio 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:
Six Action

☐ 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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2/22/24
Meeting Date

Senate Fiscal
Committee

SB 1324
Bill Number or Topic

Amendment Barcode (if applicable)

Name YAREZIZ MENDEZ-ZAMORA Phone

Address Email

Street

City State Zip 33025

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: FLIC

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1352
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; and Senator Bradley
SUBJECT:	Juvenile Justice
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	**Favorable**
2.	Atchley	Harkness	ACJ	**Fav/CS**
3.	Parker	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1352 amends s. 985.03, F.S., to remove "minimum-risk nonresidential" as a restrictiveness level for committed youth. The bill changes the term "nonsecure residential" to "moderate-risk," and removes reference to juvenile correctional facilities and juvenile prisons from the definition of "maximum-risk residential." The bill makes corresponding changes by:

- Amending ss. 985.039 and 985.455, F.S., to remove a reference to minimum-risk nonresidential restrictiveness level.
- Amending ss. 330.41, 985.27, and 985.441, F.S., to reference a moderate risk residential facility rather than a nonsecure residential facility.
- Amending ss. 553.865, 943.0515, and 985.465, F.S., to replace the terms juvenile correctional facility or juvenile prison with the term maximum-risk residential facility.

The bill amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist (EOA).

The bill amends ss. 985.02, 985.03, 985.126, 985.17, and 985.601, F.S., to replace the terms gender and gender-specific, with sex and sex-specific, respectively.

The bill amends s. 985.115, F.S., to provide that a juvenile assessment center may not be considered a facility that can receive a child who: is suffering from a serious physical condition that requires a medical diagnosis or treatment; is mentally ill as defined in s. 394.463(1), F.S.; or is intoxicated and has threatened or attempted physical harm to him or herself or another.

The bill amends s. 985.26, F.S., to provide that transitions from secure detention care and supervised release detention care be initiated upon the court's own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision.

The bill amends s. 985.601, F.S., to authorize the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

- Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
- Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
- Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

The bill amends s. 985.619, F.S., permitting the Florida Scholars Academy board of trustees to review and approve an annual academic calendar to provide educational services to youth.

The bill amends s. 985.664, F.S., to remove current language relating to juvenile justice circuit advisory boards' duties, responsibilities, reporting, and other requirements. The bill requires that each judicial circuit in this state have a juvenile justice circuit advisory board, that must work with the chief probation officer of the circuit to use data to inform policy and practice which improves the juvenile justice continuum.

The bill lowers the minimum number of members that sit on the board from 16 to 14, and provides that each member must be approved by the chief probation officer of the circuit, rather than the Secretary of the DJJ. The bill decreases the maximum number of board members who may be representatives from the community from 5 to 3.

Additionally, the bill provides that the chief probation officer in each circuit must serve as the chair of the board for that circuit.

The bill amends s. 790.22, F.S., to remove the provision permitting the juvenile justice circuit advisory board to establish certain community service programs and provides the DJJ must establish such programs.

The bill removes reference to the juvenile justice circuit advisory board in ss. 938.17, 948.51, and 985.668, F.S. The bill further amends s. 985.668, F.S., to provide that the chief probation officer must submit specified proposals to the secretary of the DJJ.

The bill amends s. 985.676, F.S., to revise the required contents of a grant proposal that applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.01, F.S., to include the Florida Scholars Academy in the definition of "juvenile justice education programs or schools."

The bill amends s. 1003.51, F.S., to revise requirements for the State Board of Education rules. Such rules must articulate expectations for effective education programs for students in the DJJ, and must establish policies and standards for certain education programs. The bill revises the requirements for such rules by:

- Removing the requirement that the rules provide assessment procedures for prevention, day treatment, and residential programs.
- Requiring the rules to provide recommended instructional programs, using course delivery models aligned to the state academic standards.
- Requiring the rules provide accountability measures and school improvement requirements as public alternative schools for juvenile justice education programs.
- Removing the requirement that the rules provide a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory.

The Department of Education (DOE) in partnership with the DJJ, the district school boards, and providers must develop and implement requirements for contracts and cooperative agreements. The bill adds the following to the list of minimum contract requirements:

- Accountability requirements and corrective action plans, if needed; and
- Administration of the federal strengthening career and technical education for the 21st century act.

Additionally, the bill requires the DOE, in partnership with the DJJ and the district school board to maintain specified records, including a Section 504 plan, or behavioral plan, if applicable.

The bill removes accountability measures, and requires the DOE to issue an alternative school improvement rating for prevention and day treatment prevention juvenile justice education programs.

The bill amends s. 1003.52, F.S., to remove reference to residential programs, and provide that the section applies only to detention, prevention, or day treatment. Additionally, the bill removes the requirement that the Coordinators for Juvenile Justice Education Programs report on the departments' participation in implementing a joint accountability, program performance, and program improvement process.

The bill removes provisions relating to career and professional education (CAPE)[1] and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill replaces references to CAPE with career and technical education. The bill requires each district school board to select appropriate academic and career assessments to be administered at the time of program entry and exit for the purpose of developing goals for education transition plans, progress monitoring plans, individual education plans, and federal reporting.

The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill adds that such agreement must include:

- Strategies for correcting any deficiencies found through the alternative school improvement rating and student performance measures; and
- Career and academic assessments selected by the district.

The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill amends s. 1001.42, F.S., to make conforming changes by removing the requirement that the DJJ report on the elements specified in s. 1003.52(17), F.S.

The bill does not have a fiscal impact on the DJJ. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

The Department of Juvenile Justice Continuum

Section 985.601, F.S., provides for administering the juvenile justice continuum. The DJJ is authorized to plan, develop, and coordinate comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.[2]

The department is also authorized to develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placements for all children under its care, and that uses a system of case management to facilitate each child being appropriately assessed, provided with services, and placed in a program that meets the child's needs.[3]

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[1] Section 1003.52(5), F.S., states, prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.

[2] Section 985.601(1), F.S.

[3] Section 985.601(2), F.S.

Circuit Advisory Boards

Section 985.664, F.S., authorizes the establishment of Juvenile Justice Circuit Advisory Boards.[4] The Circuit Advisory Boards serve as advisors to the DJJ according to their statutory responsibilities. Members of the boards work closely with Delinquency Prevention Specialists and DJJ staff to plan for services that meet the identified needs of juveniles and families within the local community. The Juvenile Justice Circuit Advisory Boards are vehicles for collaboration. Through the Circuit Advisory Boards, the department promotes community partnerships to increase public safety. Boards primarily focus on juvenile delinquency prevention programs and services such as mentoring, teen courts, civil citation, partnership programs, after school programs and public forums to increase communication between youth and law enforcement.[5]

Florida Scholars Academy

Section 985.619, F.S., creates the Florida Scholars Academy within the DJJ developing a single-uniform education system overseen by the DJJ to provide educational opportunities to students in the DJJ residential commitment programs.[6] The Florida Scholars Academy serves as a national model with a focus on improving outcomes for youth through individualized educational pathways. The Florida Scholars Academy helps youth in DJJ care attain a high school or high school equivalency diploma, industry-recognized credentials, and enroll in a postsecondary program of study at a Florida college, university, or technical college.[7]

Requirements for juvenile justice education are specified in s. 1003.52, F.S. Section 1003.52, F.S., designates the Florida Department of Education as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Additionally, s. 1003.52, F.S., stipulates that the "district school board of the county in which the juvenile justice prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services."[8]

Section 1003.52(5), F.S., states: Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide Career and Professional Education (CAPE) courses that lead to preapprentice certifications and industry certifications.[9]

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[4] Section 985.664, F.S.
[5] Department of Juvenile Justice, Juvenile Justice Circuit Advisory Boards Prevent Juvenile Crime, available at https://www.djj.state.fl.us/content/download/21162/file/circuit-advisory-board-brochure-3.pdf (last visited on January 22, 2024).
[6] Section 985.619(2), F.S.
[7] Florida Department of Justice, *Governor Ron DeSantis Signs Legislation Creating First-of-its-Kind Education System for Juvenile Justice-Involved Youth* available at https://www.djj.state.fl.us/news/press-releases/2023/governor-ron-desantis-signs-legislation-creating-first-of-its-kind-education-system-for-juvenile-justice-involved-youth (last visited on January 26, 2024).
[8] Section 1003.52, F.S.
[9] Section 1003.52(5), F.S.

County Delinquency Prevention

The sheriff's office of the county must be a partner in a written agreement with the DJJ to participate in a juvenile assessment center or with the district school board to participate in a suspension program.[10] A sheriff's office that receives proceeds pursuant to s. 939.185, F.S., shall account for all funds annually by August 1 in a written report to the juvenile justice circuit advisory board if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.[11]

Community Corrections Assistance to Counties or County Consortiums

A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26, F.S.,[12] and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the juvenile justice circuit advisory board established under s. 985.664, F.S., in order to include programs and services for juveniles in the plan.[13]

Juvenile Assessment Centers

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.[14] The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.[15] Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center (JAC).[16] The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic need and risks.[17] Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.[18]

[10] Section 938.17(1), F.S.
[11] Section 938.17(4), F.S.
[12] Section 951.26(1), F.S., provides that each board of county commissioners shall establish a county public safety coordinating council for the county or shall join with a consortium of one or more other counties to establish a public safety coordinating council for the geographic area represented by the member counties.
[13] Section 948.51(2), F.S.
[14] A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at http://www.djj.state.fl.us/services/probation (last visited January 22, 2024).
[15] Section 985.145(1), F.S.
[16] Section 985.135(4), F.S.
[17] Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.
[18] Section 985.25(1), F.S.

A Juvenile Assessment Center (JAC) is a facility where law enforcement may release a child taken into custody for them to be screened after arrest. Youth may not be released to a JAC:

- If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.[19]
- If the child is believed to be mentally ill as defined in s. 394.463(1), F.S., to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455, F.S., for examination under s. 394.463, F.S.[20]
- If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.[21]

Secure Detention Transfer

The court is not prohibited from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child's safety, appearance in court, or compliance with a court order.[22]

Restrictiveness Levels

The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate.[23]

According to the DJJ, "Minimum-risk nonresidential" is an option the court can utilize when they want to commit a youth but have them stay in the community and attend a program 5 days a week for services. This type of program is better accomplished through probation instead of commitment. Operationally, this definition causes issues because in all other areas of law a youth who is committed to the department is removed from the community and housed in a secure facility. This level of commitment blurs the lines between community probation and traditional commitment. There is other statutory language that allows for these programs and for a court to utilize them, but it instead keeps the youth on probation instead of commitment.[24]

Chapter 985, F.S., and other sections of statute that reference juvenile justice residential restrictiveness levels use various out-of-date and misleading definitions. This includes the term "nonsecure residential" to describe a facility in which youth are securely housed with both staff and hardware security provided. Additionally, the term "maximum-risk residential" is used

[19] Section 985.115(2)(c), F.S.
[20] Section 985.115(2)(d), F.S.
[21] Section 985.115(2)(e), F.S.
[22] Section 985.26(2)(a)3., F.S.
[23] Section 985.02(4)(a), F.S.
[24] Department of Juvenile Justice, 2024 Agency Legislative Bill Analysis on SB 1352, pg. 2 (on file with the Senate Committee on Criminal Justice).

interchangeably with "juvenile prison" and "juvenile correctional facility" without proper cross references. In practice, the department and stakeholders refer to these programs as "maximum-risk." Further, the department provides housing, treatment services, etc. for youth based on their sex, which is currently not a defined term.[25]

Emergency 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 methylnaltrexone, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.[26]

Section 381.887, F.S., provides that the purpose of the section is to provide for the prescribing, ordering, and dispensing of 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 nonpatient-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:

[25] *Id*.
[26] National Library of Medicine, *Opioid Antagonists*, 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 on January 22, 2024).

- 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.[27]
- 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 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.[28]

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.[29]

III. Effect of Proposed Changes:

This bill amends s. 985.03, F.S., to remove "minimum-risk nonresidential" as a restrictiveness level for committed youth. The bill changes the term "nonsecure residential" to "moderate-risk," and removes reference to juvenile correctional facilities and juvenile prisons from the definition of "maximum-risk residential." The bill makes corresponding changes by:

- Amending ss. 985.039 and 985.455, F.S., to remove a reference to minimum-risk nonresidential restrictiveness level.
- Amending ss. 330.41, 985.27, and 985.441, F.S., to reference a moderate risk residential facility rather than a nonsecure residential facility.
- Amending ss. 553.865, 943.0515, and 985.465, F.S., to replace the terms juvenile correctional facility or juvenile prison with the term maximum-risk residential facility.

The bill amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist (EOA).

[27] Section 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.
[28] Section 768.13(2)(a), F.S.
[29] Section 768.13(b)1., F.S.

The bill amends ss. 985.02, 985.03, 985.126, 985.17, and 985.601, F.S., to replace the terms gender and gender-specific, with sex and sex-specific, respectively.

The bill amends s. 985.115, F.S., to provide that a juvenile assessment center may not be considered a facility that can receive a child who: is suffering from a serious physical condition that requires a medical diagnosis or treatment; is mentally ill as defined in s. 394.463(1), F.S.; or is intoxicated and has threatened or attempted physical harm to him or herself or another.

The bill amends s. 985.26, F.S., to provide that transitions from secure detention care and supervised release detention care be initiated upon the court's own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision.

The bill amends s. 985.601, F.S., to authorize the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

- Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
- Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
- Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

The bill amends s. 985.619, F.S., permitting the Florida Scholars Academy board of trustees to review and approve an annual academic calendar to provide educational services to youth.

The bill amends s. 985.664, F.S., to remove current language relating to juvenile justice circuit advisory boards' duties, responsibilities, reporting, and other requirements. The bill requires that each judicial circuit in this state have a juvenile justice circuit advisory board, that must work with the chief probation officer of the circuit to use data to inform policy and practice which improves the juvenile justice continuum.

The bill lowers the minimum number of members that sit on the board from 16 to 14, and provides that each member must be approved by the chief probation officer of the circuit, rather than the Secretary of the DJJ. The bill decreases the maximum number of board members who may be representatives from the community from 5 to 3.

Additionally, the bill provides that the chief probation officer in each circuit must serve as the chair of the board for that circuit.

The bill amends s. 790.22, F.S., to remove the provision permitting the juvenile justice circuit advisory board to establish certain community service programs and provides the DJJ must establish such programs.

The bill removes reference to the juvenile justice circuit advisory board in ss. 938.17, 948.51, and 985.668, F.S. The bill further amends s. 985.668, F.S., to provide that the chief probation officer must submit specified proposals to the secretary of the DJJ.

The bill amends s. 985.676, F.S., to revise the required contents of a grant proposal that applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.01, F.S., to include the Florida Scholars Academy in the definition of "juvenile justice education programs or schools."

The bill amends s. 1003.51, F.S., to revise requirements for the State Board of Education rules. Such rules must articulate expectations for effective education programs for students in the DJJ, and must establish policies and standards for certain education programs. The bill revises the requirements for such rules by:

- Removing the requirement that the rules provide assessment procedures for prevention, day treatment, and residential programs.
- Requiring the rules to provide recommended instructional programs, using course delivery models aligned to the state academic standards.
- Requiring the rules provide accountability measures and school improvement requirements as public alternative schools for juvenile justice education programs.
- Removing the requirement that the rules provide a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory.

The Department of Education (DOE) in partnership with the DJJ, the district school boards, and providers must develop and implement requirements for contracts and cooperative agreements. The bill adds the following to the list of minimum contract requirements:

- Accountability requirements and corrective action plans, if needed; and
- Administration of the federal strengthening career and technical education for the 21st century act.

Additionally, the bill requires the DOE, in partnership with the DJJ and the district school board to maintain specified records, including a Section 504 plan, or behavioral plan, if applicable.

The bill removes accountability measures, and requires the DOE to issue an alternative school improvement rating for prevention and day treatment prevention juvenile justice education programs.

The bill amends s. 1003.52, F.S., to remove reference to residential programs, and provide that the section applies only to detention, prevention, or day treatment. Additionally, the bill removes the requirement that the Coordinators for Juvenile Justice Education Programs report on the departments' participation in implementing a joint accountability, program performance, and program improvement process.

The bill removes provisions relating to career and professional education (CAPE)[30] and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill replaces references to CAPE with career and technical education. The bill requires each district school board to select appropriate academic and career assessments to be administered at the time of program entry and exit for the purpose of developing goals for education transition plans, progress monitoring plans, individual education plans, and federal reporting.

The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill adds that such agreement must include:

- Strategies for correcting any deficiencies found through the alternative school improvement rating and student performance measures; and
- Career and academic assessments selected by the district.

The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill amends s. 1001.42, F.S., to make conforming changes by removing the requirement that the DJJ report on the elements specified in s. 1003.52(17), F.S.

The bill reenacts s. 985.721, s. 985.25(1), s. 985.255(3), s. 985.475(2)(h), and s. 985.565(4)(b), F.S.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[30] Section 1003.52(5), F.S., states, prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.

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:

This bill does not have a fiscal impact on state or local governments.[31]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.887, 790.22, 938.17, 948.51, 985.02, 985.03, 985.115, 985.126, 985.17, 985.26, 985.27, 985.441, 985.465, 985.601, 985.619, 985.664, 985.676, 1003.01, 1003.51, 1003.52, 330.41, 553.865, 1001.42, 985.721, 985.25, 985.255, 985.475, and 985.565.

[31] Department of Juvenile Justice, *2024 Agency Legislative Bill Analysis, SB 1352*, January 12, 2024.

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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Removes provisions relating to the policies and standards for educational programs except residential programs, restructures language, and makes technical changes.

CS by Appropriations Committee on Criminal and Civil Justice on February 8, 2024:
The committee substitute:

- Clarifies educational components needed to conform with the creation of the Florida Scholars Academy.
- Provides accountability measures for juvenile justice education programs to include detention, prevention, and day programs.
- Permits the use of course delivery models aligned to the state academic standards.
- Permits the Florida Scholars Academy board of trustees to review and approve an annual academic calendar to provide educational services.
- Makes conforming changes to education statutes to include current operational practices and terminology.

B. Amendments:

None.

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	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended to read:

330.41 Unmanned Aircraft Systems Act.—

(2) DEFINITIONS.—As used in this act, the term:

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical

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barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

1. A power generation or transmission facility, substation, switching station, or electrical control center.

2. A chemical or rubber manufacturing or storage facility.

3. A water intake structure, water treatment facility, wastewater treatment plant, or pump station.

4. A mining facility.

5. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.

6. A liquid natural gas or propane gas terminal or storage facility.

7. Any portion of an aboveground oil or gas pipeline.

8. A refinery.

9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

10. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

11. A seaport as listed in s. 311.09(1), which need not be completely enclosed by a fence or other physical barrier and need not be marked with a sign or signs indicating that entry is forbidden.

12. An inland port or other facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport.

13. An airport as defined in s. 330.27.

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14. A spaceport territory as defined in s. 331.303(18).

15. A military installation as defined in 10 U.S.C. s. 2801(c)(4) and an armory as defined in s. 250.01.

16. A dam as defined in s. 373.403(1) or other structures, such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways.

17. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.

18. A secure detention center or facility as defined in s. 985.03, or a moderate-risk ~~nonsecure~~ residential facility, a high-risk residential facility, or a maximum-risk residential facility as those terms are described in s. 985.03(44).

19. A county detention facility as defined in s. 951.23.

20. A critical infrastructure facility as defined in s. 692.201.

Section 2. Paragraph (d) is added to subsection (4) of section 381.887, Florida Statutes, to read:

381.887 Emergency treatment for suspected opioid overdose.—

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of administering an emergency opioid antagonist:

(d) Personnel of the Department of Juvenile Justice and of any contracted provider with direct contact with youth authorized under chapters 984 and 985.

Section 3. Paragraphs (c) and (j) of subsection (3), paragraph (a) of subsection (10), and paragraph (f) of

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subsection (12) of section 553.865, Florida Statutes, are amended to read:

553.865 Private spaces.—

(3) As used in this section, the term:

(c) "Covered entity" means any:

1. Correctional institution;

2. Detention facility;

3. Educational institution;

4. Maximum risk residential facility ~~Juvenile correctional facility or juvenile prison~~ as described in s. 985.465, any detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and any facility used for a residential program as described in s. 985.03(44) ~~985.03(44)(b), (c), or (d)~~; or

5. Public building.

(j) "Public building" means a building comfort-conditioned for occupancy which is owned or leased by the state, a state agency, or a political subdivision. The term does not include a correctional institution, a detention facility, an educational institution, a maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or any facility used for a residential program as described in s. 985.03(44) ~~985.03(44)(b), (c), or (d)~~.

(10)(a) Each maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ as described in s. 985.465, each detention center or facility designated by the

Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and each facility used for a residential program as described in s. 985.03(44) ~~985.03(44)(b), (c), or (d)~~ shall establish disciplinary procedures for any juvenile as defined in s. 985.03(7) who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex in such maximum risk residential facility ~~juvenile correctional facility, juvenile prison~~, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by delinquency program staff, detention staff, or residential program staff.

(12) A covered entity that is:

(f) A maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or a facility used for a residential program as described in s. 985.03(44) ~~985.03(44)(b), (c), or (d)~~ shall submit documentation to the Department of Juvenile Justice regarding compliance with subsections (4) and (5), as applicable, within 1 year after being established or, if such institution or facility was established before July 1, 2023, no later than April 1, 2024.

Section 4. Paragraph (c) of subsection (4) of section 790.22, Florida Statutes, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(4)

(c) The ~~juvenile justice circuit advisory boards or the~~ Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The ~~boards or~~ department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

Section 5. Subsection (4) of section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention; juvenile assessment centers and school board suspension programs.—

(4) A sheriff's office that receives proceeds pursuant to s. 939.185 shall account for all funds annually by August 1 in a written report to the Department of Juvenile Justice ~~juvenile justice circuit advisory board~~ if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Section 6. Subsection (1) of section 943.0515, Florida Statutes, is amended to read:

943.0515 Retention of criminal history records of minors.—

(1)(a) The Criminal Justice Information Program shall retain the criminal history record of a minor who is classified as a serious or habitual juvenile offender or committed to a maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ under chapter 985 for 5 years after the date the offender reaches 21 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph

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(2)(a) or paragraph (2)(b).

(b)1. If the minor is not classified as a serious or habitual juvenile offender or committed to a maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ under chapter 985, the program shall retain the minor's criminal history record for 2 years after the date the minor reaches 19 years of age, at which time the record shall be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

2. A minor described in subparagraph 1. may apply to the department to have his or her criminal history record expunged before the minor reaches 21 years of age. To be eligible for expunction under this subparagraph, the minor must be 18 years of age or older and less than 21 years of age and have not been charged by the state attorney with or found to have committed any criminal offense within the 5-year period before the application date. The only offenses eligible to be expunged under this subparagraph are those that the minor committed before the minor reached 18 years of age. A criminal history record expunged under this subparagraph requires the approval of the state attorney for each circuit in which an offense specified in the criminal history record occurred. A minor seeking to expunge a criminal history record under this subparagraph shall apply to the department for expunction in the manner prescribed by rule. An application for expunction under this subparagraph shall include:

a. A processing fee of $75 to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

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b. A full set of fingerprints of the applicant taken by a law enforcement agency for purposes of identity verification.

c. A sworn, written statement from the minor seeking relief that he or she is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application to expunge pertains and that he or she has not been charged with or found to have committed a criminal offense, in any jurisdiction of the state or within the United States, within the 5-year period before the application date. A person who knowingly provides false information on the sworn statement required by this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. A minor who applies, but who is not approved for early expunction in accordance with subparagraph 2., shall have his or her criminal history record expunged at age 21 if eligible under subparagraph 1.

Section 7. Subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community

corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the Department of Juvenile Justice ~~juvenile justice circuit advisory board established under s. 985.664~~ in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (5). The plan for a county or county consortium must cover at least a 5-year period and must include:

(a) A description of programs offered for the job placement and treatment of offenders in the community.

(b) A specification of community-based intermediate sentencing options to be offered and the types and number of offenders to be included in each program.

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with low total sentencing scores pursuant to the

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Criminal Punishment Code.

(d) Specific evidence of the population status of all programs which are part of the plan, which evidence establishes that such programs do not include offenders who otherwise would have been on a less intensive form of community supervision.

(e) The assessment of population status by the public safety coordinating council of all correctional facilities owned or contracted for by the county or by each county within the consortium.

(f) The assessment of bed space that is available for substance abuse intervention and treatment programs and the assessment of offenders in need of treatment who are committed to each correctional facility owned or contracted for by the county or by each county within the consortium.

(g) A description of program costs and sources of funds for each community corrections program, including community corrections funds, loans, state assistance, and other financial assistance.

Section 8. Paragraph (h) of subsection (1) and subsection (7) of section 985.02, Florida Statutes, are amended to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(h) Sex-specific ~~Gender-specific~~ programming and sex-specific ~~gender-specific~~ program models and services that comprehensively address the needs of either sex ~~a targeted gender group~~.

(7) SEX-SPECIFIC ~~GENDER-SPECIFIC~~ PROGRAMMING.—

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(a) The Legislature finds that the needs of children served by the juvenile justice system are sex-specific ~~gender-specific~~. A sex-specific ~~gender-specific~~ approach is one in which programs, services, and treatments comprehensively address the unique developmental needs of either sex ~~a targeted gender group~~ under the care of the department. Young women and men have different pathways to delinquency, display different patterns of offending, and respond differently to interventions, treatment, and services.

(b) Sex-specific ~~Gender-specific~~ interventions focus on the differences between young females' and young males' social roles and responsibilities, access to and use of resources, history of trauma, and reasons for interaction with the juvenile justice system. Sex-specific ~~Gender-specific~~ programs increase the effectiveness of programs by making interventions more appropriate to the specific needs of young women and men and ensuring that these programs do not unknowingly create, maintain, or reinforce sex ~~gender~~ roles or relations that may be damaging.

Section 9. Subsections (46) through (54) of section 985.03, Florida Statutes, are renumbered as subsections (47) through (55), respectively, subsections (14) and (44) and present subsection (50) are amended, and a new subsection (46) is added to that section, to read:

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

(14) "Day treatment" means a nonresidential, community-based program designed to provide therapeutic intervention to youth who are served by the department or~~,~~ placed on probation or conditional release~~, or committed to the minimum-risk~~

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~~nonresidential level~~. A day treatment program may provide educational and career and technical education services and shall provide case management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth's compliance with, and facilitation of a youth's completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and sex-specific ~~gender-specific~~ programs.

(44) "Restrictiveness level" means the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.601(10) and 985.721 apply to children placed in programs at any residential commitment level. The restrictiveness levels of commitment are as follows:

~~(a) *Minimum-risk nonresidential.*—Programs or program models at this commitment level work with youth who remain in the community and participate at least 5 days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, that are sexual offenses, or that would be life felonies or first degree felonies if committed by an adult may not be committed to a program at this level.~~

(a)~~(b)~~ Moderate-risk ~~*Nonsecure*~~ *residential.*—Programs or

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program models at this commitment level are residential but may allow youth to have supervised access to the community. Facilities at this commitment level are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

(b) ~~(c)~~ *High-risk residential.*—Programs or program models at this commitment level are residential and do not allow youth to have access to the community, except that temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a career and technical education program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter

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fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy, except that youth may be housed together during prerelease transition.

(c) ~~(d)~~ *Maximum-risk residential.* ~~Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons.~~ The programs at this commitment level are long-term residential and do not allow youth to have access to the community. Facilities at this commitment level are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment

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level shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Facilities at this commitment level shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.

(46) "Sex" has the same meaning as provided in s. 553.865(3).

(51) ~~(50)~~ "Temporary release" means the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk ~~nonsecure~~ residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility.

Section 10. Paragraph (a) of subsection (1) of section 985.039, Florida Statutes, is amended to read:

985.039 Cost of supervision; cost of care.—

(1) Except as provided in subsection (3) or subsection (4):

(a) When any child is placed into supervised release detention, probation, or other supervision status with the department~~, or is committed to the minimum-risk nonresidential restrictiveness level~~, the court shall order the parent of such child to pay to the department a fee for the cost of the

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supervision of such child in the amount of $1 per day for each day that the child is in such status.

Section 11. Paragraph (f) of subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

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

(f) If available, to a juvenile assessment center equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child under this section with a copy of the assessment. A juvenile assessment center may not be considered a facility that can receive a child under paragraph (c), paragraph (d), or paragraph (e).

Section 12. Paragraphs (a) and (b) of subsection (3) and subsection (4) of section 985.126, Florida Statutes, are amended to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(3)(a) ~~Beginning October 1, 2018,~~ Each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, sex ~~gender~~, and age of that minor.

2. The offense committed, including the specific law establishing the offense.

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with

the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) ~~Beginning October 1, 2018,~~ Each law enforcement agency shall submit to the department data that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(4) ~~Beginning January 1, 2019,~~ The department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, sex ~~gender~~, age, and offense committed.

Section 13. Paragraph (a) of subsection (3) of section 985.17, Florida Statutes, is amended to read:

985.17 Prevention services.—

(3) The department's prevention services for youth at risk of becoming delinquent should:

(a) Focus on preventing initial or further involvement of such youth in the juvenile justice system by including services

such as literacy services, sex-specific ~~gender-specific~~ programming, recreational services, and after-school services, and should include targeted services to troubled, truant, ungovernable, abused, trafficked, or runaway youth. To decrease the likelihood that a youth will commit a delinquent act, the department should use mentoring and may provide specialized services addressing the strengthening of families, job training, and substance abuse.

Section 14. Paragraph (a) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)(a)1. A court may order a child to be placed on supervised release detention care for any time period until an adjudicatory hearing is completed. However, if a child has served 60 days on supervised release detention care, the court must conduct a hearing within 15 days after the 60th day, to determine the need for continued supervised release detention care. At the hearing, and upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may order the child to remain on supervised release detention care until the adjudicatory hearing is completed.

2. Except as provided in paragraph (b) or paragraph (c), a child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.

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3. This section does not prohibit a court from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child's safety, appearance in court, or compliance with a court order. Such transition may be initiated upon the court's own motion, or upon motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision. Each period of secure detention care or supervised release detention care counts toward the time limitations in this subsection whether served consecutively or nonconsecutively.

Section 15. Section 985.27, Florida Statutes, is amended to read:

985.27 Postdisposition detention while awaiting residential commitment placement.—The court must place all children who are adjudicated and awaiting placement in a moderate-risk ~~nonsecure~~, high-risk, or maximum-risk residential commitment program in secure detention care until the placement or commitment is accomplished.

Section 16. Subsection (2) of section 985.441, Florida Statutes, is amended to read:

985.441 Commitment.—

(2) Notwithstanding subsection (1), the court having jurisdiction over an adjudicated delinquent child whose offense is a misdemeanor, or a child who is currently on probation for a misdemeanor, may not commit the child for any misdemeanor offense or any probation violation that is technical in nature

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and not a new violation of law ~~at a restrictiveness level other than minimum-risk nonresidential~~. However, the court may commit such child to a moderate-risk ~~nonsecure~~ residential placement if:

(a) The child has previously been adjudicated or had adjudication withheld for a felony offense;

(b) The child has previously been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months;

(c) The child is before the court for disposition for a violation of s. 800.03, s. 806.031, or s. 828.12; or

(d) The court finds by a preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement. Such finding must be in writing.

Section 17. Subsection (3) of section 985.455, Florida Statutes, is amended to read:

985.455 Other dispositional issues.—

(3) Any commitment of a delinquent child to the department must be for an indeterminate period of time, which may include periods of temporary release; however, the period of time may not exceed the maximum term of imprisonment that an adult may serve for the same offense~~, except that the duration of a minimum-risk nonresidential commitment for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months~~. The duration of the child's placement in a commitment program of any restrictiveness level shall be based on objective performance-based treatment planning. The child's

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treatment plan progress and adjustment-related issues shall be reported to the court quarterly, unless the court requests monthly reports. If the child is under the jurisdiction of a dependency court, the court may receive and consider any information provided by the Guardian Ad Litem Program or the child's attorney ad litem, if appointed. The child's length of stay in a commitment program may be extended if the child fails to comply with or participate in treatment activities. The child's length of stay in the program shall not be extended for purposes of sanction or punishment. Any temporary release from such program must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. The child's treatment plan progress and adjustment-related issues must be communicated to the court at the time the department requests the court to consider releasing the child from the commitment program. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

Section 18. Section 985.465, Florida Statutes, is amended to read:

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985.465 Maximum-risk residential facilities ~~Juvenile correctional facilities or juvenile prison~~.—A maximum risk residential facility ~~juvenile correctional facility or juvenile prison~~ is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age or until the jurisdiction of the court expires. Each child committed to this level must meet one of the following criteria:

(1) The child is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

(a) Arson;

(b) Sexual battery;

(c) Robbery;

(d) Kidnapping;

(e) Aggravated child abuse;

(f) Aggravated assault;

(g) Aggravated stalking;

(h) Murder;

(i) Manslaughter;

(j) Unlawful throwing, placing, or discharging of a destructive device or bomb;

(k) Armed burglary;

(l) Aggravated battery;

(m) Carjacking;

(n) Home-invasion robbery;

(o) Burglary with an assault or battery;

(p) Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or

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(q) Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) The child is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.

(3) The child is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(4) The child is at least 13 years of age at the time of the disposition for the current offense, the child is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 19. Paragraph (a) of subsection (3) of section 985.601, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(3)(a) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, trauma-informed care, individual and family counseling, family engagement resources and programs, sex-specific ~~gender-specific~~ programming, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes,

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community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, mother-infant programs, and environmental programs. The department may pay expenses in support of innovative programs and activities that address identified needs and the well-being of children in the department's care or under its supervision, subject to the requirements of chapters 215, 216, and 287. Each program shall place particular emphasis on reintegration and conditional release for all children in the program.

(12) The department may use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for all of the following purposes:

(a) Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.

(b) Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.

(c) Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

Section 20. Paragraph (b) of subsection (4) of section 985.619, Florida Statutes, is amended to read:

985.619 Florida Scholars Academy.—

(4) GOVERNING BODY; POWERS AND DUTIES.—

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(b) The board of trustees shall have the following powers and duties:

1. Meet at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

2. Be responsible for the Florida Scholars Academy's development of an education delivery system that is cost-effective, high-quality, educationally sound, and capable of sustaining an effective delivery system.

3.a. Identify appropriate performance measures and standards based on student achievement which reflect the school's statutory mission and priorities, and implement an accountability system approved by the State Board of Education for the school by the 2024-2025 school year which includes an assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access to career opportunities.

b. For the 2024-2025 school year, the results of the accountability system must serve as an informative baseline for the academy as it works to improve performance in future years.

4. Administer and maintain the educational programs of the Florida Scholars Academy in accordance with law and department rules, in consultation with the State Board of Education.

5. With the approval of the secretary of the department or his or her designee, determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel, in alignment with the Florida Scholars Academy's provider contracts.

6. The employment of all Florida Scholars Academy

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administrative and instructional personnel are subject to rejection for cause by the secretary of the department or his or her designee and are subject to policies established by the board of trustees.

7. Provide for the content and custody of student records in compliance with s. 1002.22.

8. Maintain the financial records and accounts of the Florida Scholars Academy in compliance with rules adopted by the State Board of Education for the uniform system of financial records and accounts for the schools of this state.

9. Is a body corporate with all the powers of a body corporate and may exercise such authority as is needed for the proper operation and improvement of the Florida Scholars Academy. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and State Board of Education rules related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida Scholars Academy.

10. Notwithstanding any rule to the contrary, review and approve an annual academic calendar to provide educational services to youth for a school year composed of 250 days or 1,250 hours of instruction for students enrolled in a traditional K-12 education pathway, distributed over 12 months. The board of trustees may decrease the minimum number of days for instruction by up to 20 days or 100 hours for teacher planning.

Section 21. Section 985.664, Florida Statutes, is amended

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to read:

985.664 Juvenile justice circuit advisory boards.—

(1) Each circuit shall have a juvenile justice circuit advisory board. The board shall work with the chief probation officer of the circuit to use data to inform policy and practice which improves the juvenile justice continuum.

~~(1) There is authorized a juvenile justice circuit advisory board to be established in each of the 20 judicial circuits. Except in single-county circuits, each juvenile justice circuit advisory board shall have a county organization representing each of the counties in the circuit. The county organization shall report directly to the juvenile justice circuit advisory board on the juvenile justice needs of the county. The purpose of each juvenile justice circuit advisory board is to provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency~~.

~~(2) The duties and responsibilities of a juvenile justice circuit advisory board include, but are not limited to:~~

~~(a) Developing a comprehensive plan for the circuit. The initial circuit plan shall be submitted to the department no later than December 31, 2014, and no later than June 30 every 3 years thereafter. The department shall prescribe a format and content requirements for the submission of the comprehensive plan.~~

~~(b) Participating in the facilitation of interagency~~

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~~cooperation and information sharing.~~

~~(c) Providing recommendations for public or private grants to be administered by one of the community partners that support one or more components of the comprehensive circuit plan.~~

~~(d) Providing recommendations to the department in the evaluation of prevention and early intervention grant programs, including the Community Juvenile Justice Partnership Grant program established in s. 985.676 and proceeds from the Invest in Children license plate annual use fees.~~

~~(e) Providing an annual report to the department describing the board's activities. The department shall prescribe a format and content requirements for submission of annual reports. The annual report must be submitted to the department no later than August 1 of each year.~~

(2)~~(3)~~ Each juvenile justice circuit advisory board shall have a minimum of 14 ~~16~~ members. The membership of each board must reflect:

(a) The circuit's geography and population distribution.

(b) Diversity in the judicial circuit.

(3)~~(4)~~ Each member of the juvenile justice circuit advisory board must be approved by the chief probation officer of the circuit ~~Secretary of Juvenile Justice~~, except those members listed in paragraphs (a), (b), (c), (e), (f), (g), and (h). Each ~~The~~ juvenile justice circuit advisory board ~~boards established under subsection (1)~~ must include as members:

(a) The state attorney or his or her designee.

(b) The public defender or his or her designee.

(c) The chief judge or his or her designee.

(d) A representative of the corresponding circuit or

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regional entity of the Department of Children and Families.

(e) The sheriff or the sheriff's designee from each county in the circuit.

(f) A police chief or his or her designee from each county in the circuit.

(g) A county commissioner or his or her designee from each county in the circuit.

(h) The superintendent of each school district in the circuit or his or her designee.

(i) A representative from the workforce organization of each county in the circuit.

(j) A representative of the business community.

(k) A youth representative who has had an experience with the juvenile justice system and is not older than 21 years of age.

(l) A representative of the faith community.

(m) A health services representative who specializes in mental health care, victim-service programs, or victims of crimes.

(n) A parent or family member of a youth who has been involved with the juvenile justice system.

(o) Up to three ~~five~~ representatives from the community. ~~any of the following who are not otherwise represented in this subsection:~~

~~1. Community leaders.~~

~~2. Youth-serving coalitions.~~

(4) The chief probation officer in each circuit shall serve as the chair of the juvenile justice circuit advisory board for that circuit.

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~~(5) When a vacancy in the office of the chair occurs, the juvenile justice circuit advisory board shall appoint a new chair, who must meet the board membership requirements in subsection (4). The chair shall appoint members to vacant seats within 45 days after the vacancy and submit the appointments to the department for approval. The chair shall serve at the pleasure of the Secretary of Juvenile Justice~~.

~~(6) A member may not serve more than three consecutive 2-year terms, except those members listed in paragraphs (4)(a), (b), (c), (e), (f), (g), and (h). A former member who has not served on the juvenile justice circuit advisory board for 2 years is eligible to serve on the juvenile justice circuit advisory board again.~~

~~(7) At least half of the voting members of the juvenile justice circuit advisory board constitutes a quorum. A quorum must be present in order for the board to vote on a measure or position.~~

~~(8) In order for a juvenile justice circuit advisory board measure or position to pass, it must receive more than 50 percent of the vote.~~

~~(9) Each juvenile justice circuit advisory board must provide for the establishment of an executive committee of not more than 10 members. The duties and authority of the executive committee must be addressed in the bylaws.~~

~~(10) Each juvenile justice circuit advisory board shall have bylaws. The department shall prescribe a format and content requirements for the bylaws. All bylaws must be approved by the department. The bylaws shall address at least the following issues: election or appointment of officers; filling of vacant~~

~~positions; meeting attendance requirements; and the establishment and duties of an executive committee.~~

~~(11) Members of juvenile justice circuit advisory boards are subject to part III of chapter 112.~~

Section 22. Paragraph (a) of subsection (1) of section 985.668, Florida Statutes, is amended to read:

985.668 Innovation zones.—The department shall encourage each of the juvenile justice circuit boards to propose at least one innovation zone within the circuit for the purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a circuit, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(1)(a) The chief probation officer in each circuit ~~juvenile justice circuit board~~ shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

Section 23. Subsections (1) and (2) of section 985.676,

Florida Statutes, are amended to read:

985.676 Community juvenile justice partnership grants.—

(1) GRANTS; CRITERIA.—

(a) In order to encourage the development of a circuit juvenile justice plan ~~and the development and implementation of circuit interagency agreements under s. 985.664~~, the community juvenile justice partnership grant program is established and shall be administered by the department.

(b) In awarding these grants, the department shall consider applications that at a minimum provide for the following:

1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying;

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, the enhancement of school safety, and other delinquency early-intervention and diversion services;

3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas having the highest number of youths from 10 to 17 years of age priority for selection;

4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

5. The validity and cost-effectiveness of the program; and

6. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

(c) In addition, the department may consider the following criteria in awarding grants:

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1. The circuit juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the circuit plan, including a list of individuals, groups, and public and private entities that participated in the development of the plan.

2. The diversity of community entities participating in the development of the circuit juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.

4. The number of students or youths to be served by the grant and the criteria by which they will be selected.

5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.

(2) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

~~1. A letter from the chair of the juvenile justice circuit board confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the board.~~

1.~~2.~~ A rationale and description of the program and the services to be provided, including goals and objectives.

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2.~~3.~~ A method for identification of the juveniles most likely to be involved in the juvenile justice system who will be the focus of the program.

3.~~4.~~ Provisions for the participation of parents and guardians in the program.

4.~~5.~~ Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

5.~~6.~~ An evaluation component to measure the effectiveness of the program in accordance with s. 985.632.

6.~~7.~~ A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

7.~~8.~~ The necessary program staff.

(b) The department shall consider the recommendations of community stakeholders ~~the juvenile justice circuit advisory board~~ as to the priority that should be given to proposals submitted by entities within a circuit in awarding such grants.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

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(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department and~~,~~ the circuit juvenile justice manager,~~ and the juvenile justice circuit advisory board,~~ by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with s. 985.632. Each entity is also subject to a financial audit and a performance audit.

(f) The department may establish rules and policy provisions necessary to implement this section.

Section 24. Paragraph (c) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(c) *Public disclosure.*—The district school board shall

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provide information regarding the performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing educational services to students in Department of Juvenile Justice programs~~, and for those schools, report on the elements specified in s. 1003.52(17)~~. Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without high school equivalency examinations, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 25. Paragraph (a) of subsection (14) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(14)(a) "Juvenile justice education programs or schools" means programs or schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year composed of 250 days of instruction, or the equivalent expressed in hours as specified in State Board of Education rule, distributed over 12 months. If the period of operation is expressed in hours, the State Board of Education must review the calculation annually. ~~The use of the equivalent expressed in hours is only applicable to nonresidential programs. At the request of the provider,~~ A district school board, including an educational entity under s. 985.619, may decrease the minimum number of days of instruction by ~~up to 10 days for teacher planning for residential programs and~~ up to 20

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days or equivalent hours as specified in the State Board of Education rule for teacher planning ~~for nonresidential programs~~, subject to the approval of the Department of Juvenile Justice and the Department of Education.

Section 26. Subsections (2) through (5) of section 1003.51, Florida Statutes, are amended to read:

1003.51 Other public educational services.—

(2) The State Board of Education shall adopt rules articulating expectations for effective education programs for students in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice prevention, day treatment, residential, and detention programs. The rules ~~rule~~ shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, CareerSource Florida, Inc., district school boards, and providers of education services to students in Department of Juvenile Justice programs.

(c) Academic expectations.

(d) Career expectations.

(e) Education transition planning and services.

(f) Service delivery options available to district school boards, including direct service and contracting.

(g) Assessment procedures that~~, which:~~

~~1. For prevention , day treatment, and residential programs, include appropriate academic and career assessments~~

~~administered at program entry and exit that are selected by the Department of Education in partnership with representatives from the Department of Juvenile Justice, district school boards, and education providers. Assessments must be completed within the first 10 school days after a student's entry into the program.~~

~~2.~~ provide for determination of the areas of academic need and strategies for appropriate intervention and instruction for each student in a detention facility within 5 school days after the student's entry into the program and administer a research-based assessment that will assist the student in determining his or her educational and career options and goals within 22 school days after the student's entry into the program.

The results of these assessments, together with a portfolio depicting the student's academic and career accomplishments, shall be included in the discharge packet assembled for each student.

(h) Recommended instructional programs, using course delivery models aligned to the state academic standards. Options may include direct instruction, blended learning under s. 1011.61(1), or district virtual instruction programs, virtual charter schools, Florida Virtual School, virtual course offerings, and district franchises of Florida Virtual School pursuant to ss. 1002.33, 1002.37, 1002.45, 1002.455, 1003.498, and 1011.62(1), and credit recovery course procedures, including, but not limited to:

1. Secondary education.

2. High school equivalency examination preparation.

3. Postsecondary education.

4. Career and technical ~~professional~~ education ~~(CAPE)~~.

5. Job preparation.

6. Virtual education that:

a. Provides competency-based instruction that addresses the unique academic needs of the student through delivery by an entity accredited by a Department of Education-approved accrediting body ~~AdvancED or the Southern Association of Colleges and Schools~~.

b. Confers certifications and diplomas.

c. Issues credit that articulates with and transcripts that are recognized by secondary schools.

d. Allows the student to continue to access and progress through the program once the student leaves the juvenile justice system.

(i) Funding requirements, which must provide that at least 95 percent of the FEFP funds generated by students in Department of Juvenile Justice programs or in an education program for juveniles under s. 985.19 must be spent on instructional costs for those students. Department of Juvenile Justice education programs are entitled to 100 percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs. Such funds must be spent on appropriate categoricals, such as instructional materials and public school technology for those students.

(j) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures for consistent instruction and qualified staff year-round. Qualifications shall include those for instructors of career and technical education ~~CAPE~~ courses, standardized across the state,

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and shall be based on state certification, local school district approval, and industry-recognized certifications as identified on the Master Credentials ~~CAPE Industry Certification Funding~~ List. Procedures for the use of noncertified instructional personnel who possess expert knowledge or experience in their fields of instruction shall be established.

(k) Transition services, including the roles and responsibilities of appropriate personnel in the juvenile justice education program, the school district in which ~~where~~ the student will reenter, provider organizations, and the Department of Juvenile Justice.

(l) Procedures and timeframe for transfer of education records when a student enters and leaves a Department of Juvenile Justice education program.

(m) The requirement that each district school board maintain an academic transcript for each student enrolled in a juvenile justice education program that delineates each course completed by the student as provided by the State Course Code Directory.

(n) The requirement that each district school board make available and transmit a copy of a student's transcript in the discharge packet when the student exits a juvenile justice education program.

(o) Contract requirements.

(p) Accountability and school improvement requirements as public alternative schools pursuant to ss. 1008.31, 1008.34, 1008.341, and 1008.345

~~(p) Performance expectations for providers and district school boards, including student performance measures by type of~~

~~program, education program performance ratings, school improvement, and corrective action plans for low-performing programs~~.

(q) The role and responsibility of the district school board in securing workforce development funds.

~~(r) A series of graduated sanctions for district school boards whose educational programs in Department of Juvenile Justice programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice program is performing below minimum standards and, after 6 months, is still performing below minimum standards.~~

(s) Curriculum, school ~~guidance~~ counseling, transition, and education services expectations, including curriculum flexibility for detention centers operated by the Department of Juvenile Justice.

(t) Other aspects of program operations.

(3) The Department of Education in partnership with the Department of Juvenile Justice, the district school boards, and providers shall:

(a) Develop and implement requirements for contracts and cooperative agreements regarding the delivery of appropriate education services to students in Department of Juvenile Justice education programs. The minimum contract requirements shall include, but are not limited to, payment structure and amounts;

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access to district services; contract management provisions; data reporting requirements, including reporting of full-time equivalent student membership; accountability requirements and corrective action plans, if needed; administration of federal programs such as Title I, exceptional student education, and the federal Strengthening Career and Technical Education for the 21st Century Act ~~Carl D. Perkins Career and Technical Education Act of 2006~~; and the policy and standards included in subsection (2).

(b) Develop and implement procedures for transitioning students into and out of Department of Juvenile Justice education programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Maintain standardized required content of education records to be included as part of a student's commitment record and procedures for securing the student's records. The education records shall include, but not be limited to, the following:

1. A copy of the student's individual educational plan, Section 504 plan, or behavioral plan, if applicable.

2. A copy of the student's individualized progress monitoring plan.

3. A copy of the student's individualized transition plan.

4. Data on student performance on assessments taken according to s. 1008.22.

5. A copy of the student's permanent cumulative record.

6. A copy of the student's academic transcript.

7. A portfolio reflecting the student's academic accomplishments and industry certification earned, when age appropriate, while in the Department of Juvenile Justice

program.

(d) Establish the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a juvenile justice education program.

(4) Each district school board shall:

(a) Notify students in juvenile justice education programs who attain the age of 16 years of the law regarding compulsory school attendance and make available the option of enrolling in an education program to attain a Florida high school diploma by taking the high school equivalency examination before release from the program. The Department of Education shall assist juvenile justice education programs with becoming high school equivalency examination centers.

(b) Respond to requests for student education records received from another district school board or a juvenile justice education program within 3 ~~5~~ working days after receiving the request.

(c) Provide access to courses offered pursuant to ss. 1002.37, 1002.45, 1002.455, and 1003.498. School districts and providers may enter into cooperative agreements for the provision of curriculum associated with courses offered pursuant to s. 1003.498 to enable providers to offer such courses.

(d) Complete the assessment process required by subsection (2).

(e) Monitor compliance with contracts for education programs for students in juvenile justice prevention, day treatment, ~~residential,~~ and detention programs.

(5) The Department of Education shall issue an alternative

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school improvement rating for prevention and day treatment prevention juvenile justice education programs, pursuant to s. 1008.341 ~~establish and operate, either directly or indirectly through a contract, a mechanism to provide accountability measures that annually assesses and evaluates all juvenile justice education programs using student performance data and program performance ratings by type of program and shall provide technical assistance and related research to district school boards and juvenile justice education providers. The Department of Education, with input from the Department of Juvenile Justice, school districts, and education providers, shall develop annual recommendations for system and school improvement~~.

Section 27. Section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, local workforce development boards, ~~and local youth councils,~~ educational contract providers, and juvenile justice providers, whether state operated or contracted.

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(b) Collecting information on the academic, career and technical ~~professional~~ education ~~(CAPE)~~, and transition performance of students in juvenile justice programs and reporting on the results.

(c) Developing academic and career and technical education ~~CAPE~~ protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.

~~(d) Implementing a joint accountability, program performance, and program improvement process.~~

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency's role regarding educational program accountability, technical assistance, training, and coordination of services.

(2) Students participating in Department of Juvenile Justice education programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive education programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the

juvenile justice education prevention, day treatment, ~~residential,~~ or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.

(a) All contracts between a district school board desiring to contract directly with juvenile justice education programs to provide academic instruction for students in such programs must be in writing and reviewed by the Department of Juvenile Justice. Unless both parties agree to an extension of time, the district school board and the juvenile justice education program shall negotiate and execute a new or renewal contract within 40 days after the district school board provides the proposal to the juvenile justice education program. The Department of Education shall provide mediation services for any disputes relating to this paragraph.

(b) District school boards shall satisfy invoices issued by juvenile justice education programs within 15 working days after receipt. If a district school board does not timely issue a warrant for payment, it must pay to the juvenile justice education program interest at a rate of 1 percent per month, calculated on a daily basis, on the unpaid balance until such time as a warrant is issued for the invoice and accrued interest amount. The district school board may not delay payment to a juvenile justice education program of any portion of funds owed pending the district’s receipt of local funds.

(c) The district school board shall make provisions for each student to participate in basic career and technical education~~, CAPE,~~ and exceptional student programs, as

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appropriate. Students served in Department of Juvenile Justice education programs shall have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. Students participating in high school equivalency examination preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the high school equivalency examination exit option for all juvenile justice education programs, except for residential programs operated under s. 985.619.

(d) The district school board shall select appropriate academic and career assessments to be administered at the time of program entry and exit for the purpose of developing goals for education transition plans, progress monitoring plans, individual education plans, as applicable, and federal reporting, as applicable

~~(d) The Department of Education, with the assistance of the school districts and juvenile justice education providers, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The Department of Education and the Department of Juvenile Justice shall jointly review the effectiveness of this assessment and implement changes as necessary~~.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School

programming in juvenile justice detention, prevention, or day treatment~~, and residential~~ programs shall be made available by the local school district during the juvenile justice school year, as provided in s. 1003.01(14). In addition, students in juvenile justice education programs shall have access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. The Department of Education and the school districts shall adopt policies necessary to provide such access.

(5) The educational program shall provide instruction based on each student's individualized transition plan, assessed educational needs, and the education programs available in the school district in which the student will return. Depending on the student's needs, educational programming may consist of remedial courses, academic courses required for grade advancement, career and technical education ~~CAPE courses~~, high school equivalency examination preparation, or exceptional student education curricula and related services which support the transition goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. ~~Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications. If the duration~~

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~~of a program is less than 40 days, the educational component may be limited to tutorial remediation activities, career employability skills instruction, education counseling, and transition services that prepare students for a return to school, the community, and their home settings based on the students' needs.~~

(6) Participation in the program by students of compulsory school-attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the high school equivalency examination and attain a Florida high school diploma before release from a juvenile justice education program. A student who has received a high school diploma or its equivalent and is not employed shall participate in workforce development ~~or other CAPE education~~ or Florida College System institution or university courses while in the program, subject to available funding.

(7) An individualized progress monitoring plan shall be developed for all students ~~not classified as exceptional education students~~ upon entry in a juvenile justice education program and upon reentry in the school district. These plans shall address academic, literacy, and career and technical skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice education

program as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student's academic record in the discharge packet when the student exits the program.

(9) Each district school board shall make provisions for high school level students to earn credits toward high school graduation while in ~~residential and nonresidential~~ juvenile justice detention, prevention, or day treatment ~~education~~ programs. Provisions must be made for the transfer of credits and partial credits earned.

(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student's stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student's family, and the Department of Juvenile Justice ~~personnel for committed students~~.

(a) Transition planning must begin upon a student's placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student's assessed educational needs and postrelease education plans.

2. Services to be provided during the program stay and services to be implemented upon release, including, but not

limited to, continuing education in secondary school, career and technical education ~~CAPE programs~~, postsecondary education, or employment, based on the student's needs.

3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as members of the local Department of Juvenile Justice reentry teams. The school district, upon return of a student from a juvenile justice education program, must consider the individual needs and circumstances of the student and the transition plan recommendations when reenrolling a student in a public school. A local school district may not maintain a standardized policy for all students returning from a juvenile justice program but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

(11) The district school board shall recruit and train teachers who are ~~interested,~~ qualified~~, or experienced~~ in educating students in juvenile justice programs. Students in

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juvenile justice programs shall be provided a wide range of education programs and opportunities, including instructional materials ~~textbooks~~, technology, instructional support, and resources commensurate with resources provided to students in public schools, including instructional materials ~~textbooks~~ and access to technology. If the district school board operates a juvenile justice education program at a juvenile justice facility, the district school board, in consultation with the director of the juvenile justice facility, shall select the instructional personnel assigned to that program. The Secretary of Juvenile Justice or the director of a juvenile justice program may request that the performance of a teacher assigned by the district to a juvenile justice education program be reviewed by the district and that the teacher be reassigned based upon an evaluation conducted pursuant to s. 1012.34 or for inappropriate behavior. Juvenile justice education programs shall have access to the substitute teacher pool used by the district school board.

(12) District school boards may contract with a private provider for the provision of education programs to students placed in juvenile justice detention, prevention, or day treatment programs with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The district school board's planning and budgeting process shall include the needs of Department of Juvenile Justice education programs in the district school board's plan for expenditures for state categorical and federal funds.

(13)(a) Eligible students enrolled in juvenile justice

detention, prevention, or day treatment education programs shall be funded the same as students enrolled in traditional public schools funded in the Florida Education Finance Program and as specified in s. 1011.62 and the General Appropriations Act.

(b) Juvenile justice education programs to receive the appropriate FEFP funding for Department of Juvenile Justice education programs shall include those operated through a contract with the Department of Juvenile Justice.

(c) Consistent with the rules of the State Board of Education, district school boards shall request an alternative FTE survey for Department of Juvenile Justice education programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice education programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

(14) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to students in juvenile justice detention, prevention, or day treatment programs under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:

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(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with students referred to juvenile justice education programs.

(i) Transition plans for students moving into and out of juvenile justice education programs.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the alternative school improvement rating ~~accountability and evaluation system~~ and student performance measures.

(n) Career and academic assessments selected by the district pursuant to paragraph (3)(d).

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(15) Nothing in this section or in a cooperative agreement requires the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

~~(16) The Department of Education, in consultation with the Department of Juvenile Justice, district school boards, and providers, shall adopt rules establishing:~~

~~(a) Objective and measurable student performance measures to evaluate a student's educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice education programs, taking into consideration the student's length of stay in the program. Performance measures shall include outcomes that relate to student achievement of career education goals, acquisition of employability skills, receipt of a high school diploma or its equivalent, grade advancement, and the number of CAPE industry certifications earned.~~

~~(b) A performance rating system to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The performance rating shall be primarily based on data regarding student performance as described in paragraph (a).~~

~~(c) The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.~~

~~(d) The Department of Education, in partnership with the Department of Juvenile Justice, shall develop a comprehensive accountability and program improvement process. The~~

~~accountability and program improvement process shall be based on student performance measures by type of program and shall rate education program performance. The accountability system shall identify and recognize high-performing education programs. The Department of Education, in partnership with the Department of Juvenile Justice, shall identify low-performing programs. Low-performing education programs shall receive an onsite program evaluation from the Department of Juvenile Justice. School improvement, technical assistance, or the reassignment of the program shall be based, in part, on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or the programs shall be reassigned.~~

~~(17) The department, in collaboration with the Department of Juvenile Justice, shall collect data and report on commitment, day treatment, prevention, and detention programs. The report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1 of each year. The report must include, at a minimum:~~

~~(a) The number and percentage of students who:~~

~~1. Return to an alternative school, middle school, or high school upon release and the attendance rate of such students before and after participation in juvenile justice education programs.~~

~~2. Receive a standard high school diploma or a high school equivalency diploma.~~

~~3. Receive industry certification.~~

~~4. Enroll in a postsecondary educational institution.~~

~~5. Complete a juvenile justice education program without~~

~~reoffending.~~

~~6. Reoffend within 1 year after completion of a day treatment or residential commitment program.~~

~~7. Remain employed 1 year after completion of a day treatment or residential commitment program.~~

~~8. Demonstrate learning gains pursuant to paragraph (3)(d).~~

~~(b) The following cost data for each juvenile justice education program:~~

~~1. The amount of funding provided by district school boards to juvenile justice programs and the amount retained for administration, including documenting the purposes of such expenses.~~

~~2. The status of the development of cooperative agreements.~~

~~3. Recommendations for system improvement.~~

~~4. Information on the identification of, and services provided to, exceptional students, to determine whether these students are properly reported for funding and are appropriately served.~~

(16) ~~(18)~~ The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing detention facilities shall be provided by the Department of Juvenile Justice.

(17) ~~(19)~~ When additional facilities are required for juvenile justice detention, prevention, or day treatment programs, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board

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property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the district school board and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by State Board of Education rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(18) ~~(20)~~ The parent of an exceptional student shall have the due process rights provided for in this chapter.

(19) ~~(21)~~ The State Board of Education shall adopt rules necessary to implement this section. Such rules must require the minimum amount of paperwork and reporting.

~~(22) The Department of Juvenile Justice and the Department of Education, in consultation with CareerSource Florida, Inc., the statewide Workforce Development Youth Council, district school boards, Florida College System institutions, providers, and others, shall jointly develop a multiagency plan for CAPE which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.~~

Section 28. For the purpose of incorporating the amendment made by this act to section 985.115, Florida Statutes, in a

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reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be

released by the department in accordance with ss. 985.115 and 985.13.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 29. For the purpose of incorporating the amendment made by this act to section 985.27, Florida Statutes, in a reference thereto, subsection (3) of section 985.255, Florida Statutes, is reenacted to read:

985.255 Detention criteria; detention hearing.—

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall use the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall use the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement.

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(c) Except as provided in s. 790.22(8) or s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child's initial detention placement.

Section 30. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (h) of subsection (2) of section 985.475, Florida Statutes, is reenacted to read:

985.475 Juvenile sexual offenders.—

(2) Following a delinquency adjudicatory hearing under s. 985.35, the court may on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender. When the court determines that a juvenile has no history of a

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recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

(h) If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual offender is failing to make satisfactory progress in treatment, the court may revoke the community-based treatment alternative and order commitment to the department under s. 985.441.

Section 31. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is reenacted to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(b) *Juvenile sanctions.*—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency may not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation

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previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

1. Place the child in a probation program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before discharge. Failure of the court to timely respond to the department’s notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 32. For the purpose of incorporating the amendment made by this act to section 985.03, Florida Statutes, in a

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reference thereto, section 985.721, Florida Statutes, is reenacted to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(44), maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 33. This act shall take effect July 1, 2024.

========== 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 juvenile justice; amending s. 330.41, F.S.; conforming provisions to changes made by the act; amending s. 381.887, F.S.; authorizing certain employees of Department of Juvenile Justice and contracted providers to possess and administer

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opioid antagonists; providing immunity from liability for administration; amending ss. 553.865, 790.22, 938.17, 943.0515, and 948.51, F.S.; conforming provisions to changes made by the act; amending s. 985.02, F.S.; replacing the term "gender-specific" with "sex-specific"; conforming provisions; amending s. 985.03, F.S.; eliminating the minimum-risk nonresidential restrictiveness level; redesignating the nonsecure residential restrictiveness level as the "moderate-risk residential level"; revising the components of the maximum-risk residential restrictiveness level; defining "sex"; amending s. 985.039, F.S.; conforming provisions to changes made by the act; amending s. 985.115, F.S.; providing that juvenile assessment centers are not facilities that are permitted to receive certain children; amending ss. 985.126 and 985.17, F.S.; conforming provisions to changes made by the act; amending s. 985.26, F.S.; revising provisions concerning transitioning a child to and from secure detention care and supervised release detention care; amending ss. 985.27, 985.441, and 985.455, F.S.; conforming provisions to changes made by the act; amending s. 985.465, F.S.; replacing the term "juvenile correctional facility or juvenile prison" with "maximum-risk residential facilities"; amending s. 985.601, F.S.; authorizing the purchase of certain materials; amending s. 985.619, F.S.; providing the board of trustees of the Florida Scholars Academy the power and duty to review and

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approve an annual academic calendar; authorizing the board of trustees to decrease the minimum number of days for instruction; amending s. 985.664, F.S.; substantially revising provisions relating to juvenile justice circuit advisory boards; amending ss. 985.668, 985.676, and 1001.42, F.S.; conforming provisions to changes made by the act; amending s. 1003.01, F.S.; revising the definition of the term "juvenile justice education programs or schools"; amending s. 1003.51, F.S.; revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs; revising requirements for the Department of Education, in partnership with the Department of Juvenile Justice, district school boards, and education providers, to develop and implement certain contract requirements and to maintain standardized required content of education records; revising district school board requirements; revising departmental requirements relating to juvenile justice education programs; amending s. 1003.52, F.S.; revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing certain protocols; deleting provisions relating to career and professional education (CAPE); requiring district school boards to select appropriate academic and career assessments to be administered at the time of program entry and exit; deleting provisions related to requiring residential juvenile justice education

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programs to provide certain CAPE courses; requiring each district school board to make provisions for high school level students to earn credits toward high school graduation while in juvenile justice detention, prevention, or day treatment programs; authorizing district school boards to contract with private providers for education programs for students in such programs; requiring each district school board to negotiate a cooperative agreement with the department on the delivery of educational services to students in such programs; revising requirements for such agreements; deleting provisions requiring the Department of Education, in consultation with the Department of Juvenile Justice, to adopt rules and collect data and report on certain programs; deleting a provision requiring that specified entities jointly develop a multiagency plan for CAPE; conforming provisions to changes made by the act; reenacting ss. 985.25(1), 985.255(3), 985.475(2)(h), 985.565(4)(b), and 985.721, F.S., relating to detention intakes, detention criteria and detention hearings, juvenile sexual offenders, juvenile sanctions, and escapes from secure detention or residential commitment facilities, respectively, to incorporate the amendments made by the act; providing an effective date.

By the Appropriations Committee on Criminal and Civil Justice; and Senator Bradley

604-03135-24 20241352c1

A bill to be entitled

An act relating to juvenile justice; amending s. 381.887, F.S.; authorizing personnel of the Department of Juvenile Justice and of certain contracted providers to possess, store, and administer emergency opioid antagonists and providing immunity from civil or criminal liability for such personnel; amending s. 790.22, F.S.; deleting a provision requiring the juvenile justice circuit advisory board to establish certain community service programs; amending s. 938.17, F.S.; requiring sheriffs' offices to submit an annual report regarding certain received proceeds to the department, rather than the juvenile justice circuit advisory board; amending s. 948.51, F.S.; requiring the public safety coordinating council to cooperate with the department, rather than the juvenile justice circuit advisory board, to prepare a comprehensive public safety plan; amending s. 985.02, F.S.; revising the legislative intent for the juvenile justice system relating to general protections for children and sex-specific, rather than gender-specific, programming; amending s. 985.03, F.S.; revising definitions and defining the term "sex"; amending s. 985.115, F.S.; prohibiting juvenile assessment centers from being considered facilities that can receive children under specified circumstances; amending s. 985.126, F.S.; revising the information a diversion program is required to report about each minor from his or her gender to his or her

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604-03135-24 20241352c1

sex; requiring the department to compile and semiannually publish certain data in a format that is searchable by sex rather than by gender; amending s. 985.17, F.S.; revising the programming focus for the department's prevention services for youth at risk of becoming delinquent to include sex-specific services rather than gender-specific services; amending s. 985.26, F.S.; authorizing that transitions from secure detention care and supervised release detention care be initiated upon a court's own motion or upon a motion from the child or the state; amending s. 985.27, F.S.; revising the required court placement in secure detention for children who are adjudicated and awaiting placement in a moderate-risk, rather than nonsecure, residential commitment program; reenacting and amending s. 985.441, F.S.; authorizing a court to commit certain children to a moderate-risk, rather than nonsecure, residential placement under certain circumstances; amending s. 985.465, F.S.; revising the physically secure residential commitment program to send specified children to maximum-risk residential facilities rather than juvenile correctional facilities or prisons; amending s. 985.601, F.S.; revising certain required programs for rehabilitative treatment to include sex-specific programming rather than gender-specific programming; authorizing the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of

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the state for specified purposes; amending s. 985.619, F.S.; providing the board of trustees of the Florida Scholars Academy the power and duty to review and approve an annual academic calendar; authorizing the board of trustees to decrease the minimum number of days for instruction; amending s. 985.664, F.S.; requiring, rather than authorizing, each judicial circuit to have a juvenile justice circuit advisory board; requiring the juvenile justice circuit advisory board to work with the chief probation officer of the circuit to use data to inform policy and practices that better improve the juvenile justice continuum; deleting provisions relating to the juvenile justice circuit advisory board's purpose, duties, and responsibilities; decreasing the minimum number of members that each juvenile justice circuit advisory board is required to have; requiring that each member of the juvenile justice circuit advisory board be approved by the chief probation officer of the circuit, rather than the Secretary of Juvenile Justice; requiring the chief probation officer in each circuit to serve as the chair of the juvenile justice circuit advisory board for that circuit; deleting provisions relating to board membership and vacancies; deleting provisions relating to quorums and the passing of measures; deleting provisions requiring the establishment of executive committees and having bylaws; amending s. 985.676, F.S.; revising the required contents of a grant proposal applicants must

submit to be considered for funding from an annual community juvenile justice partnership grant; requiring the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisory board, as to certain priorities; deleting the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report; conforming a provision to changes made by the act; amending s. 1003.01, F.S.; revising the definition of the term "juvenile justice education programs or schools"; amending s. 1003.51, F.S.; revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs; revising requirements for the Department of Education, in partnership with the Department of Juvenile Justice, the district school boards, and education providers, to develop and implements certain contract requirements and to maintain standardized required content of education records; revising district school board requirements; revising departmental requirements relating to juvenile justice education programs; amending s. 1003.52, F.S.; revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing certain protocols; deleting provisions relating to career and professional education (CAPE); requiring district school boards to select appropriate academic and

career assessments to be administered at the time of program entry and exit; deleting provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses; requiring each district school board to make provisions for high school level students to earn credits toward high school graduation while in juvenile justice detention, prevention, or day treatment programs; authorizing district school boards to contract with private providers for the provision of education programs to students placed in such programs; requiring each district school board to negotiate a cooperative agreement with the department on the delivery of educational services to students in such programs; revising requirements for such agreements; deleting provisions requiring the Department of Education, in consultation with the Department of Juvenile Justice, to adopt rules and collect data and report on certain programs; deleting a provision requiring that specified entities jointly develop a multiagency plan for CAPE; conforming provisions to changes made by the act; amending s. 330.41, F.S.; conforming a provision to changes made by the act; amending s. 553.865, F.S.; conforming cross-references and provisions to changes made by the act; amending s. 1001.42, F.S.; conforming a provision to changes made by the act; reenacting s. 985.721, F.S., relating to escapes from secure detention or residential commitment facilities, to incorporate the amendment made to s. 985.03, F.S., in

a reference thereto; reenacting s. 985.25(1), F.S., relating to detention intakes, to incorporate the amendment made to s. 985.115, F.S., in a reference thereto; reenacting s. 985.255(3), F.S., relating to detention criteria and detention hearings, to incorporate the amendment made to s. 985.27, F.S., in a reference thereto; reenacting ss. 985.475(2)(h) and 985.565(4)(b), F.S., relating to juvenile sexual offenders and juvenile sanctions, respectively, to incorporate the amendment made to s. 985.441, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (4) of section 381.887, Florida Statutes, is amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of 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 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.

(d) Personnel of the Department of Juvenile Justice and of any contracted provider with direct contact with youth authorized under chapter 984 or chapter 985.

Section 2. Subsection (4) of section 790.22, Florida Statutes, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours

together with the child.

(c) The ~~juvenile justice circuit advisory boards or the~~ Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

Section 3. Subsection (4) of section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention; juvenile assessment centers and school board suspension programs.—

(4) A sheriff's office that receives proceeds pursuant to s. 939.185 shall account for all funds annually by August 1 in a written report to the Department of Juvenile Justice ~~juvenile justice circuit advisory board~~ if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Section 4. Subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the Department of Juvenile Justice ~~juvenile justice circuit advisory board established under s. 985.664~~ in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (5). The plan for a county or county consortium must cover at least a 5-year period and must include:

(a) A description of programs offered for the job placement and treatment of offenders in the community.

(b) A specification of community-based intermediate sentencing options to be offered and the types and number of offenders to be included in each program.

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with low total sentencing scores pursuant to the Criminal Punishment Code.

(d) Specific evidence of the population status of all programs which are part of the plan, which evidence establishes that such programs do not include offenders who otherwise would have been on a less intensive form of community supervision.

(e) The assessment of population status by the public safety coordinating council of all correctional facilities owned or contracted for by the county or by each county within the consortium.

(f) The assessment of bed space that is available for substance abuse intervention and treatment programs and the assessment of offenders in need of treatment who are committed to each correctional facility owned or contracted for by the county or by each county within the consortium.

(g) A description of program costs and sources of funds for each community corrections program, including community corrections funds, loans, state assistance, and other financial assistance.

Section 5. Subsections (1) and (7) of section 985.02, Florida Statutes, are amended to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to prevention programs and services.

(h) Sex-specific ~~Gender-specific~~ programming and sex-specific ~~gender-specific~~ program models and services that comprehensively address the needs of either sex ~~a targeted gender group~~.

(7) SEX-SPECIFIC ~~GENDER-SPECIFIC~~ PROGRAMMING.—

(a) The Legislature finds that the needs of children served by the juvenile justice system are sex-specific ~~gender-specific~~. A sex-specific ~~gender-specific~~ approach is one in which programs, services, and treatments comprehensively address the unique developmental needs of either sex ~~a targeted gender group~~ under the care of the department. Young women and men have different pathways to delinquency, display different patterns of offending, and respond differently to interventions, treatment, and services.

(b) Sex-specific ~~Gender-specific~~ interventions focus on the differences between young females' and young males' social roles and responsibilities, access to and use of resources, history of trauma, and reasons for interaction with the juvenile justice system. Sex-specific ~~Gender-specific~~ programs increase the effectiveness of programs by making interventions more appropriate to the specific needs of young women and men and ensuring that these programs do not unknowingly create, maintain, or reinforce sex ~~gender~~ roles or relations that may be damaging.

Section 6. Present subsections (46) through (54) of section 985.03, Florida Statutes, are redesignated as subsections (47) through (55), respectively, a new subsection (46) is added to that section, and subsections (14) and (44) and present subsection (50) of that section are amended, to read:

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

(14) "Day treatment" means a nonresidential, community-based program designed to provide therapeutic intervention to youth who are served by the department or~~,~~ placed on probation or conditional release~~, or committed to the minimum-risk nonresidential level~~. A day treatment program may provide educational and career and technical education services and shall provide case management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth's compliance with, and facilitation of a youth's completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and sex-specific

~~gender-specific~~ programs.

(44) "Restrictiveness level" means the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.601(10) and 985.721 apply to children placed in programs at any residential commitment level. The restrictiveness levels of commitment are as follows:

(a) ~~*Minimum-risk nonresidential.—Programs or program models at this commitment level work with youth who remain in the community and participate at least 5 days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, that are sexual offenses, or that would be life felonies or first degree felonies if committed by an adult may not be committed to a program at this level.*~~

~~(b)~~ *Moderate-risk* ~~*Nonsecure*~~ *residential.*—Programs or program models at this commitment level are residential but may allow youth to have supervised access to the community. Facilities at this commitment level are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately

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in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

(b) ~~(c)~~ *High-risk residential.*—Programs or program models at this commitment level are residential and do not allow youth to have access to the community, except that temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a career and technical education program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision

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in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy, except that youth may be housed together during prerelease transition.

(c) ~~(d)~~ *Maximum-risk residential.*—~~Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons.~~ The programs at this commitment level are long-term residential and do not allow youth to have access to the community. Facilities at this commitment level are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Facilities at this commitment level shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a

program at this level is prompted by a demonstrated need to protect the public.

(46) "Sex" has the same meaning as in s. 553.865.

(51) ~~(50)~~ "Temporary release" means the terms and conditions under which a child is temporarily released from a residential commitment facility or allowed home visits. If the temporary release is from a moderate-risk ~~nonsecure~~ residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility.

Section 7. Subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

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

(a) To the child's parent, guardian, or legal custodian or, if the child's parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. Prior to releasing the child to a responsible adult, other than the parent, guardian, or legal custodian, the person taking the child into custody may conduct a criminal history background check of the person to whom the child is to be released. If the person has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution, that person is not a responsible adult for the purposes of this section. The person to whom the child is released shall agree to inform the department or the person

releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, and the child shall join in the agreement.

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent.

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination under s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(f) If available, to a juvenile assessment center equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child under this section with a copy of the assessment. A juvenile assessment center may not be considered a facility that can receive a child under paragraph (c), paragraph (d), or paragraph (e).

Section 8. Subsections (3) and (4) of section 985.126, Florida Statutes, are amended to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—

(3)(a) Beginning October 1, 2018, each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, sex ~~gender~~, and age of that minor.

2. The offense committed, including the specific law establishing the offense.

3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) Beginning October 1, 2018, each law enforcement agency shall submit to the department data that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

1. The data required pursuant to paragraph (a).

2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

a. Not offered such opportunity, the reason such offer was not made.

b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth's admission into the program.

(d) The data required pursuant to paragraph (b) shall be

submitted on or with the arrest affidavit or notice to appear.

(4) Beginning January 1, 2019, the department shall compile and semiannually publish the data required by subsection (3) on the department's website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, sex ~~gender~~, age, and offense committed.

Section 9. Subsection (3) of section 985.17, Florida Statutes, is amended to read:

985.17 Prevention services.—

(3) The department's prevention services for youth at risk of becoming delinquent should:

(a) Focus on preventing initial or further involvement of such youth in the juvenile justice system by including services such as literacy services, sex-specific ~~gender-specific~~ programming, recreational services, and after-school services, and should include targeted services to troubled, truant, ungovernable, abused, trafficked, or runaway youth. To decrease the likelihood that a youth will commit a delinquent act, the department should use mentoring and may provide specialized services addressing the strengthening of families, job training, and substance abuse.

(b) Address the multiple needs of such youth in order to decrease the prevalence of disproportionate minority representation in the juvenile justice system.

Section 10. Paragraph (a) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)(a)1. A court may order a child to be placed on supervised release detention care for any time period until an

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adjudicatory hearing is completed. However, if a child has served 60 days on supervised release detention care, the court must conduct a hearing within 15 days after the 60th day, to determine the need for continued supervised release detention care. At the hearing, and upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may order the child to remain on supervised release detention care until the adjudicatory hearing is completed.

2. Except as provided in paragraph (b) or paragraph (c), a child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.

3. This section does not prohibit a court from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child's safety, appearance in court, or compliance with a court order. Such transition may be initiated upon the court's own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child's adjustment to detention supervision. Each period of secure detention care or supervised release detention care counts toward the time limitations in this subsection whether served consecutively or nonconsecutively.

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Section 11. Section 985.27, Florida Statutes, is amended to read:

985.27 Postdisposition detention while awaiting residential commitment placement.—The court must place all children who are adjudicated and awaiting placement in a moderate-risk ~~nonsecure~~, high-risk, or maximum-risk residential commitment program in secure detention care until the placement or commitment is accomplished.

Section 12. Subsection (2) of section 985.441, Florida Statutes, is amended, and paragraph (b) of subsection (1) and subsection (4) of that section are reenacted, to read:

985.441 Commitment.—

(1) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

(b) Commit the child to the department at a restrictiveness level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is not successful in the conditional release program, the department may use the transfer procedure under subsection (4).

(2) Notwithstanding subsection (1), the court having jurisdiction over an adjudicated delinquent child whose offense is a misdemeanor, or a child who is currently on probation for a

misdemeanor, may not commit the child for any misdemeanor offense or any probation violation that is technical in nature and not a new violation of law at a restrictiveness level other than minimum-risk nonresidential. However, the court may commit such child to a moderate-risk ~~nonsecure~~ residential placement if:

(a) The child has previously been adjudicated or had adjudication withheld for a felony offense;

(b) The child has previously been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months;

(c) The child is before the court for disposition for a violation of s. 800.03, s. 806.031, or s. 828.12; or

(d) The court finds by a preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement. Such finding must be in writing.

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment nonresidential conditional release program, except that the department may not transfer any child adjudicated solely for a misdemeanor to a residential program except as provided in subsection (2). The department shall notify the court that committed the child to the department and any attorney of record for the child, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness

level. If the child is under the jurisdiction of a dependency court, the department shall also provide notice to the dependency court and the Department of Children and Families, and, if appointed, the Guardian Ad Litem Program and the child's attorney ad litem. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 13. Section 985.465, Florida Statutes, is amended to read:

985.465 Maximum-risk residential ~~Juvenile correctional~~ facilities ~~or juvenile prison~~.—A maximum-risk ~~juvenile correctional~~ facility ~~or juvenile prison~~ is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age or until the jurisdiction of the court expires. Each child committed to this level must meet one of the following criteria:

(1) The child is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

(a) Arson;

(b) Sexual battery;

(c) Robbery;

(d) Kidnapping;

(e) Aggravated child abuse;

(f) Aggravated assault;

(g) Aggravated stalking;

(h) Murder;

(i) Manslaughter;

(j) Unlawful throwing, placing, or discharging of a destructive device or bomb;

(k) Armed burglary;

(l) Aggravated battery;

(m) Carjacking;

(n) Home-invasion robbery;

(o) Burglary with an assault or battery;

(p) Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or

(q) Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) The child is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.

(3) The child is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(4) The child is at least 13 years of age at the time of the disposition for the current offense, the child is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 14. Paragraph (a) of subsection (3) of section 985.601, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—

(3)(a) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, trauma-informed care, individual and family counseling, family engagement resources and programs, sex-specific ~~gender-specific~~ programming, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, mother-infant programs, and environmental programs. The department may pay expenses in support of innovative programs and activities that address identified needs and the well-being of children in the department's care or under its supervision, subject to the requirements of chapters 215, 216, and 287. Each program shall place particular emphasis on reintegration and conditional release for all children in the program.

(12) The department may use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for all of the following purposes:

(a) Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.

(b) Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida

Technology, community college campuses, or state university campuses.

(c) Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

Section 15. Paragraph (b) of subsection (4) of section 985.619, Florida Statutes, is amended to read:

985.619 Florida Scholars Academy.—

(4) GOVERNING BODY; POWERS AND DUTIES.—

(b) The board of trustees shall have the following powers and duties:

1. Meet at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

2. Be responsible for the Florida Scholars Academy's development of an education delivery system that is cost-effective, high-quality, educationally sound, and capable of sustaining an effective delivery system.

3.a. Identify appropriate performance measures and standards based on student achievement which reflect the school's statutory mission and priorities, and implement an accountability system approved by the State Board of Education for the school by the 2024-2025 school year which includes an assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access to career opportunities.

b. For the 2024-2025 school year, the results of the accountability system must serve as an informative baseline for

the academy as it works to improve performance in future years.

4. Administer and maintain the educational programs of the Florida Scholars Academy in accordance with law and department rules, in consultation with the State Board of Education.

5. With the approval of the secretary of the department or his or her designee, determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel, in alignment with the Florida Scholars Academy's provider contracts.

6. The employment of all Florida Scholars Academy administrative and instructional personnel are subject to rejection for cause by the secretary of the department or his or her designee and are subject to policies established by the board of trustees.

7. Provide for the content and custody of student records in compliance with s. 1002.22.

8. Maintain the financial records and accounts of the Florida Scholars Academy in compliance with rules adopted by the State Board of Education for the uniform system of financial records and accounts for the schools of this state.

9. Is a body corporate with all the powers of a body corporate and may exercise such authority as is needed for the proper operation and improvement of the Florida Scholars Academy. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and State Board of Education rules related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal,

efficient operation of the Florida Scholars Academy.

10. Notwithstanding any rule to the contrary, review and approve an annual academic calendar to provide educational services to youth for a school year composed of 250 days or 1,250 hours of instruction for students enrolled in a traditional K-12 education pathway, distributed over 12 months. The board of trustees may decrease the minimum number of days for instruction by up to 20 days or 100 hours for teacher planning.

Section 16. Section 985.664, Florida Statutes, is amended to read:

985.664 Juvenile justice circuit advisory boards.—

(1) Each judicial circuit in this state shall have ~~There is authorized~~ a juvenile justice circuit advisory board ~~to be established in each of the 20 judicial circuits~~. The ~~Except in single-county circuits, each~~ juvenile justice circuit advisory board shall work with the chief probation officer of the circuit to use data to inform policies and practices that better improve the juvenile justice continuum ~~have a county organization representing each of the counties in the circuit~~. ~~The county organization shall report directly to the juvenile justice circuit advisory board on the juvenile justice needs of the county. The purpose of each juvenile justice circuit advisory board is to provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida's youth who are at risk of delinquency.~~

(2) ~~The duties and responsibilities of a juvenile justice circuit advisory board include, but are not limited to:~~

~~(a) Developing a comprehensive plan for the circuit. The initial circuit plan shall be submitted to the department no later than December 31, 2014, and no later than June 30 every 3 years thereafter. The department shall prescribe a format and content requirements for the submission of the comprehensive plan.~~

~~(b) Participating in the facilitation of interagency cooperation and information sharing.~~

~~(c) Providing recommendations for public or private grants to be administered by one of the community partners that support one or more components of the comprehensive circuit plan.~~

~~(d) Providing recommendations to the department in the evaluation of prevention and early intervention grant programs, including the Community Juvenile Justice Partnership Grant program established in s. 985.676 and proceeds from the Invest in Children license plate annual use fees.~~

~~(e) Providing an annual report to the department describing the board's activities. The department shall prescribe a format and content requirements for submission of annual reports. The annual report must be submitted to the department no later than August 1 of each year.~~

~~(3)~~ Each juvenile justice circuit advisory board shall have a minimum of 14 ~~16~~ members. The membership of each board must reflect:

(a) The circuit's geography and population distribution.

(b) Diversity in the judicial circuit.

(3)~~(4)~~ Each member of the juvenile justice circuit advisory

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board must be approved by the chief probation officer of the circuit ~~Secretary of Juvenile Justice~~, except those members listed in paragraphs (a), (b), (c), (e), (f), (g), and (h). The juvenile justice circuit advisory boards established under subsection (1) must include as members:

(a) The state attorney or his or her designee.

(b) The public defender or his or her designee.

(c) The chief judge or his or her designee.

(d) A representative of the corresponding circuit or regional entity of the Department of Children and Families.

(e) The sheriff or the sheriff's designee from each county in the circuit.

(f) A police chief or his or her designee from each county in the circuit.

(g) A county commissioner or his or her designee from each county in the circuit.

(h) The superintendent of each school district in the circuit or his or her designee.

(i) A representative from the workforce organization of each county in the circuit.

(j) A representative of the business community.

(k) A youth representative who has had an experience with the juvenile justice system and is not older than 21 years of age.

(l) A representative of the faith community.

(m) A health services representative who specializes in mental health care, victim-service programs, or victims of crimes.

(n) A parent or family member of a youth who has been

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involved with the juvenile justice system.

(o) Up to three ~~five~~ representatives from ~~any of~~ the community ~~following who are not otherwise represented in this subsection:~~

~~1. Community leaders.~~

~~2. Youth-serving coalitions~~.

(4) ~~(5)~~ The chief probation officer in each circuit shall serve as the chair of the juvenile justice circuit advisory board for that circuit ~~When a vacancy in the office of the chair occurs, the juvenile justice circuit advisory board shall appoint a new chair, who must meet the board membership requirements in subsection (4). The chair shall appoint members to vacant seats within 45 days after the vacancy and submit the appointments to the department for approval. The chair shall serve at the pleasure of the Secretary of Juvenile Justice.~~

~~(6) A member may not serve more than three consecutive 2-year terms, except those members listed in paragraphs (4)(a), (b), (c), (e), (f), (g), and (h). A former member who has not served on the juvenile justice circuit advisory board for 2 years is eligible to serve on the juvenile justice circuit advisory board again.~~

~~(7) At least half of the voting members of the juvenile justice circuit advisory board constitutes a quorum. A quorum must be present in order for the board to vote on a measure or position.~~

~~(8) In order for a juvenile justice circuit advisory board measure or position to pass, it must receive more than 50 percent of the vote.~~

~~(9) Each juvenile justice circuit advisory board must~~

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~~provide for the establishment of an executive committee of not more than 10 members. The duties and authority of the executive committee must be addressed in the bylaws.~~

~~(10) Each juvenile justice circuit advisory board shall have bylaws. The department shall prescribe a format and content requirements for the bylaws. All bylaws must be approved by the department. The bylaws shall address at least the following issues: election or appointment of officers; filling of vacant positions; meeting attendance requirements; and the establishment and duties of an executive committee.~~

~~(11) Members of juvenile justice circuit advisory boards are subject to part III of chapter 112.~~

Section 17. Subsections (1) and (2) of section 985.676, Florida Statutes, are amended to read:

985.676 Community juvenile justice partnership grants.—

(1) GRANTS; CRITERIA.—

(a) In order to encourage the development of a circuit juvenile justice plan ~~and the development and implementation of circuit interagency agreements under s. 985.664~~, the community juvenile justice partnership grant program is established and shall be administered by the department.

(b) In awarding these grants, the department shall consider applications that at a minimum provide for the following:

1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying;

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, the enhancement of school safety, and other delinquency early-intervention and diversion services;

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3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas having the highest number of youths from 10 to 17 years of age priority for selection;

4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

5. The validity and cost-effectiveness of the program; and

6. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

(c) In addition, the department may consider the following criteria in awarding grants:

1. The circuit juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the circuit plan, including a list of individuals, groups, and public and private entities that participated in the development of the plan.

2. The diversity of community entities participating in the development of the circuit juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.

4. The number of students or youths to be served by the grant and the criteria by which they will be selected.

5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.

(2) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community

juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. ~~A letter from the chair of the juvenile justice circuit board confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the board.~~

~~2.~~ A rationale and description of the program and the services to be provided, including goals and objectives.

2.~~3.~~ A method for identification of the juveniles most likely to be involved in the juvenile justice system who will be the focus of the program.

3.~~4.~~ Provisions for the participation of parents and guardians in the program.

4.~~5.~~ Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

5.~~6.~~ An evaluation component to measure the effectiveness of the program in accordance with s. 985.632.

6.~~7.~~ A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the

amount of the grant.

7.~~8.~~ The necessary program staff.

(b) The department shall consider the recommendations of community stakeholders ~~the juvenile justice circuit advisory board~~ as to the priority that should be given to proposals submitted by entities within a circuit in awarding such grants.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department and~~,~~ the circuit juvenile justice manager, ~~and the juvenile justice circuit advisory board,~~ by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with s. 985.632. Each entity is also subject to a financial audit and a performance audit.

(f) The department may establish rules and policy provisions necessary to implement this section.

Section 18. Paragraph (a) of subsection (14) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

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(14)(a) "Juvenile justice education programs or schools" means programs or schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for a school year composed of 250 days of instruction, or the equivalent expressed in hours as specified in State Board of Education rule, distributed over 12 months. If the period of operation is expressed in hours, the State Board of Education must review the calculation annually. ~~The use of the equivalent expressed in hours is only applicable to nonresidential programs. At the request of the provider,~~ A district school board, including an educational entity under s. 985.619, may decrease the minimum number of days of instruction by ~~up to 10 days for teacher planning for residential programs and~~ up to 20 days or equivalent hours as specified in the State Board of Education rule for teacher planning ~~for nonresidential programs~~, subject to the approval of the Department of Juvenile Justice and the Department of Education.

Section 19. Subsections (2) through (5) of section 1003.51, Florida Statutes, are amended to read:

1003.51 Other public educational services.—

(2) The State Board of Education shall adopt rules articulating expectations for effective education programs for students in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice prevention, day treatment, ~~residential,~~ and detention programs. The rules ~~rule~~ shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure

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effective programs with measurable results.

(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, CareerSource Florida, Inc., district school boards, and providers of education services to students in Department of Juvenile Justice programs.

(c) Academic expectations.

(d) Career expectations.

(e) Education transition planning and services.

(f) Service delivery options available to district school boards, including direct service and contracting.

(g) Assessment procedures, which:

1. For prevention and~~,~~ day treatment, ~~and residential programs,~~ include appropriate academic and career assessments administered at program entry and exit that are selected by the district school board ~~Department of Education~~ in partnership with representatives from the Department of Education, the Department of Juvenile Justice, ~~district school boards,~~ and education providers. ~~Assessments must be completed within the first 10 school days after a student's entry into the program.~~

2. Provide for determination of the areas of academic need and strategies for appropriate intervention and instruction for each student in a detention facility within 5 school days after the student's entry into the program and administer a research-based assessment that will assist the student in determining his or her educational and career options and goals ~~within 22 school days after the student's entry into the program~~.

The results of these assessments, together with a portfolio depicting the student's academic and career accomplishments,

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shall be included in the discharge packet assembled for each student.

(h) Recommended instructional programs, using course delivery models aligned to the state academic standards. Options may include direct instruction, blended learning pursuant to s. 1011.61(1), or district virtual instruction programs, virtual charter schools, Florida Virtual School (FLVS), virtual course offerings, and district franchises of FLVS pursuant to ss. 1002.33, 1002.37, 1002.45, 1002.455, 1003.498, and 1011.62(1), and credit recovery course procedures including, but not limited to:

1. Secondary education.

2. High school equivalency examination preparation.

3. Postsecondary education.

4. Career and technical ~~professional~~ education ~~(CAPE)~~.

5. Job preparation.

6. Virtual education that:

a. Provides competency-based instruction that addresses the unique academic needs of the student through delivery by an entity accredited by a Department of Education-approved accrediting body ~~AdvancED or the Southern Association of Colleges and Schools~~.

b. Confers certifications and diplomas.

c. Issues credit that articulates with and transcripts that are recognized by secondary schools.

d. Allows the student to continue to access and progress through the program once the student leaves the juvenile justice system.

(i) Funding requirements, which must provide that at least

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95 percent of the FEFP funds generated by students in Department of Juvenile Justice programs or in an education program for juveniles under s. 985.19 must be spent on instructional costs for those students. Department of Juvenile Justice education programs are entitled to 100 percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs. Such funds must be spent on appropriate categoricals, such as instructional materials and public school technology for those students.

(j) Qualifications of instructional staff, procedures for the selection of instructional staff, and procedures for consistent instruction and qualified staff year-round. Qualifications shall include those for instructors of career and technical education ~~CAPE~~ courses, standardized across the state, and shall be based on state certification, local school district approval, and industry-recognized certifications as identified on the Master Credential ~~CAPE Industry Certification Funding~~ List. Procedures for the use of noncertified instructional personnel who possess expert knowledge or experience in their fields of instruction shall be established.

(k) Transition services, including the roles and responsibilities of appropriate personnel in the juvenile justice education program, the school district where the student will reenter, provider organizations, and the Department of Juvenile Justice.

(l) Procedures and timeframe for transfer of education records when a student enters and leaves a Department of Juvenile Justice education program.

(m) The requirement that each district school board

maintain an academic transcript for each student enrolled in a juvenile justice education program that delineates each course completed by the student as provided by the State Course Code Directory.

(n) The requirement that each district school board make available and transmit a copy of a student's transcript in the discharge packet when the student exits a juvenile justice education program.

(o) Contract requirements.

(p) Accountability and school improvement requirements as public alternative schools pursuant to ss. 1008.31, 1008.34, 1008.341, and 1008.345 ~~Performance expectations for providers and district school boards, including student performance measures by type of program, education program performance ratings, school improvement, and corrective action plans for low-performing programs~~.

(q) The role and responsibility of the district school board in securing workforce development funds.

(r) ~~A series of graduated sanctions for district school boards whose educational programs in Department of Juvenile Justice programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy. These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice program is performing below minimum standards and, after 6 months, is still performing below minimum standards.~~

~~(s)~~ Curriculum, school ~~guidance~~ counseling, transition, and education services expectations, including curriculum flexibility for detention centers operated by the Department of Juvenile Justice.

(s) ~~(t)~~ Other aspects of program operations.

(3) The Department of Education in partnership with the Department of Juvenile Justice, the district school boards, and providers shall:

(a) Develop and implement requirements for contracts and cooperative agreements regarding the delivery of appropriate education services to students in Department of Juvenile Justice education programs. The minimum contract requirements shall include, but are not limited to, payment structure and amounts; access to district services; contract management provisions; data reporting requirements, including reporting of full-time equivalent student membership; accountability requirements and corrective action plans, if needed; administration of federal programs such as Title I, exceptional student education, and the federal Strengthening Career and Technical Education for the 21st Century Act ~~Carl D. Perkins Career and Technical Education Act of 2006~~; and the policy and standards included in subsection (2).

(b) Develop and implement procedures for transitioning students into and out of Department of Juvenile Justice education programs. These procedures shall reflect the policy and standards adopted pursuant to subsection (2).

(c) Maintain standardized required content of education records to be included as part of a student's commitment record and procedures for securing the student's records. The education

records shall include, but not be limited to, the following:

1. A copy of the student's individual educational plan, Section 504 plan, or behavioral plan, if applicable.

2. A copy of the student's individualized progress monitoring plan.

3. A copy of the student's individualized transition plan.

4. Data on student performance on assessments taken according to s. 1008.22.

5. A copy of the student's permanent cumulative record.

6. A copy of the student's academic transcript.

7. A portfolio reflecting the student's academic accomplishments and industry certification earned, when age appropriate, while in the Department of Juvenile Justice program.

(d) Establish the roles and responsibilities of the juvenile probation officer and others involved in the withdrawal of the student from school and assignment to a juvenile justice education program.

(4) Each district school board shall:

(a) Notify students in juvenile justice education programs who attain the age of 16 years of the law regarding compulsory school attendance and make available the option of enrolling in an education program to attain a Florida high school diploma by taking the high school equivalency examination before release from the program. The Department of Education shall assist juvenile justice education programs with becoming high school equivalency examination centers.

(b) Respond to requests for student education records received from another district school board or a juvenile

justice education program within 3 ~~5~~ working days after receiving the request.

(c) Provide access to courses offered pursuant to ss. 1002.37, 1002.45, 1002.455, and 1003.498. School districts and providers may enter into cooperative agreements for the provision of curriculum associated with courses offered pursuant to s. 1003.498 to enable providers to offer such courses.

(d) Complete the assessment process required by subsection (2).

(e) Monitor compliance with contracts for education programs for students in juvenile justice prevention, day treatment, ~~residential,~~ and detention programs.

(5) The Department of Education shall issue an alternative school improvement rating for prevention and day treatment prevention juvenile justice education programs, pursuant to s. 1008.341 ~~establish and operate, either directly or indirectly through a contract, a mechanism to provide accountability measures that annually assesses and evaluates all juvenile justice education programs using student performance data and program performance ratings by type of program and shall provide technical assistance and related research to district school boards and juvenile justice education providers. The Department of Education, with input from the Department of Juvenile Justice, school districts, and education providers, shall develop annual recommendations for system and school improvement~~.

Section 20. Section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile

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

Justice programs.—

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, local workforce development boards, ~~and local youth councils,~~ educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic, career and technical ~~professional~~ education ~~(CAPE)~~, and transition performance of students in juvenile justice programs and reporting on the results.

(c) Developing academic and career and technical education ~~CAPE~~ protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.

~~(d) Implementing a joint accountability, program performance, and program improvement process.~~

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the

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

Commissioner of Education by June 30. The plan shall include, at a minimum, each agency's role regarding educational program accountability, technical assistance, training, and coordination of services.

(2) Students participating in Department of Juvenile Justice education programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive education programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the juvenile justice education prevention, day treatment, ~~residential,~~ or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.

(a) All contracts between a district school board desiring to contract directly with juvenile justice education programs to provide academic instruction for students in such programs must be in writing and reviewed by the Department of Juvenile Justice. Unless both parties agree to an extension of time, the district school board and the juvenile justice education program shall negotiate and execute a new or renewal contract within 40 days after the district school board provides the proposal to the juvenile justice education program. The Department of Education shall provide mediation services for any disputes relating to this paragraph.

(b) District school boards shall satisfy invoices issued by juvenile justice education programs within 15 working days after receipt. If a district school board does not timely issue a warrant for payment, it must pay to the juvenile justice education program interest at a rate of 1 percent per month, calculated on a daily basis, on the unpaid balance until such time as a warrant is issued for the invoice and accrued interest amount. The district school board may not delay payment to a juvenile justice education program of any portion of funds owed pending the district's receipt of local funds.

(c) The district school board shall make provisions for each student to participate in basic career and technical education~~, CAPE,~~ and exceptional student programs, as appropriate. Students served in Department of Juvenile Justice education programs shall have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. Students participating in high school equivalency examination preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the high school equivalency examination exit option for all juvenile justice education programs, except for residential programs operated under s. 985.619.

(d) The district school board shall select appropriate academic and career assessments to be administered at the time of program entry and exit for the purpose of developing goals

for education transition plans, progress monitoring plans, individual education plans, as applicable, and federal reporting, as applicable ~~The Department of Education, with the assistance of the school districts and juvenile justice education providers, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The Department of Education and the Department of Juvenile Justice shall jointly review the effectiveness of this assessment and implement changes as necessary~~.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, prevention, or day treatment~~, and residential~~ programs shall be made available by the local school district during the juvenile justice school year, as provided in s. 1003.01(14). In addition, students in juvenile justice education programs shall have access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. The Department of Education and the school districts shall adopt policies necessary to provide such access.

(5) The educational program shall provide instruction based on each student's individualized transition plan, assessed educational needs, and the education programs available in the school district in which the student will return. Depending on the student's needs, educational programming may consist of remedial courses, academic courses required for grade advancement, career and technical education ~~CAPE courses~~, high school equivalency examination preparation, or exceptional

student education curricula and related services which support the transition goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. ~~Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications. If the duration of a program is less than 40 days, the educational component may be limited to tutorial remediation activities, career employability skills instruction, education counseling, and transition services that prepare students for a return to school, the community, and their home settings based on the students' needs.~~

(6) Participation in the program by students of compulsory school-attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the high school equivalency examination and attain a Florida high school diploma before release from a juvenile justice education program. A student who has received a

high school diploma or its equivalent and is not employed shall participate in workforce development ~~or other CAPE education~~ or Florida College System institution or university courses while in the program, subject to available funding.

(7) An individualized progress monitoring plan shall be developed for all students ~~not classified as exceptional education students~~ upon entry in a juvenile justice education program and upon reentry in the school district. These plans shall address academic, literacy, and career and technical skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice education program as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student's academic record in the discharge packet when the student exits the program.

(9) Each district school board shall make provisions for high school level students to earn credits toward high school graduation while in ~~residential and nonresidential~~ juvenile justice detention, prevention, or day treatment education programs. Provisions must be made for the transfer of credits and partial credits earned.

(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student's stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in

successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student's family, and the Department of Juvenile Justice ~~personnel for committed students~~.

(a) Transition planning must begin upon a student's placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student's assessed educational needs and postrelease education plans.

2. Services to be provided during the program stay and services to be implemented upon release, including, but not limited to, continuing education in secondary school, career and technical education ~~CAPE programs~~, postsecondary education, or employment, based on the student's needs.

3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as members of the local Department of Juvenile Justice reentry teams. The school district, upon return of a student from a juvenile justice education program, must consider the individual needs and circumstances of the student and the transition plan recommendations when reenrolling a student in a public school. A

local school district may not maintain a standardized policy for all students returning from a juvenile justice program but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

(c) The Department of Education and the Department of Juvenile Justice shall provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services.

(11) The district school board shall recruit and train teachers who are ~~interested,~~ qualified~~, or experienced~~ in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of education programs and opportunities including instructional materials ~~textbooks~~, technology, instructional support, and resources commensurate with resources provided to students in public schools, including instructional materials ~~textbooks~~ and access to technology. If the district school board operates a juvenile justice education program at a juvenile justice facility, the district school board, in consultation with the director of the juvenile justice facility, shall select the instructional personnel assigned to that program. The Secretary of Juvenile Justice or the director of a juvenile justice program may request that the performance of a teacher assigned by the district to a juvenile justice education program be reviewed by the district and that the teacher be reassigned based upon an evaluation conducted pursuant to s. 1012.34 or for inappropriate behavior. Juvenile justice education programs

shall have access to the substitute teacher pool used by the district school board.

(12) District school boards may contract with a private provider for the provision of education programs to students placed in juvenile justice detention, prevention, or day treatment programs with the Department of Juvenile Justice and shall generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students. The district school board's planning and budgeting process shall include the needs of Department of Juvenile Justice education programs in the district school board's plan for expenditures for state categorical and federal funds.

(13)(a) Eligible students enrolled in juvenile justice detention, prevention, or day treatment education programs shall be funded the same as students enrolled in traditional public schools funded in the Florida Education Finance Program and as specified in s. 1011.62 and the General Appropriations Act.

(b) Juvenile justice education programs to receive the appropriate FEFP funding for Department of Juvenile Justice education programs shall include those operated through a contract with the Department of Juvenile Justice.

(c) Consistent with the rules of the State Board of Education, district school boards shall request an alternative FTE survey for Department of Juvenile Justice education programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of

Juvenile Justice education programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

(14) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to students in juvenile justice detention, prevention, or day treatment programs under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the district school board or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working

with students referred to juvenile justice education programs.

(i) Transition plans for students moving into and out of juvenile justice education programs.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the alternative school improvement rating ~~accountability and evaluation system~~ and student performance measures.

(n) Career and academic assessments selected by the district pursuant to paragraph (3)(d).

(15) Nothing in this section or in a cooperative agreement requires the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(16) ~~The Department of Education, in consultation with the Department of Juvenile Justice, district school boards, and providers, shall adopt rules establishing:~~

~~(a) Objective and measurable student performance measures to evaluate a student's educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice education programs, taking into consideration the student's length of stay in the program. Performance measures shall include outcomes that relate to student achievement of career education goals, acquisition of employability skills, receipt of a high school~~

~~diploma or its equivalent, grade advancement, and the number of CAPE industry certifications earned.~~

~~(b) A performance rating system to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The performance rating shall be primarily based on data regarding student performance as described in paragraph (a).~~

~~(c) The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.~~

~~(d) The Department of Education, in partnership with the Department of Juvenile Justice, shall develop a comprehensive accountability and program improvement process. The accountability and program improvement process shall be based on student performance measures by type of program and shall rate education program performance. The accountability system shall identify and recognize high-performing education programs. The Department of Education, in partnership with the Department of Juvenile Justice, shall identify low-performing programs. Low-performing education programs shall receive an onsite program evaluation from the Department of Juvenile Justice. School improvement, technical assistance, or the reassignment of the program shall be based, in part, on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or the programs shall be reassigned.~~

~~(17) The department, in collaboration with the Department of Juvenile Justice, shall collect data and report on commitment, day treatment, prevention, and detention programs.~~

~~The report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by February 1 of each year. The report must include, at a minimum:~~

~~(a) The number and percentage of students who:~~

~~1. Return to an alternative school, middle school, or high school upon release and the attendance rate of such students before and after participation in juvenile justice education programs.~~

~~2. Receive a standard high school diploma or a high school equivalency diploma.~~

~~3. Receive industry certification.~~

~~4. Enroll in a postsecondary educational institution.~~

~~5. Complete a juvenile justice education program without reoffending.~~

~~6. Reoffend within 1 year after completion of a day treatment or residential commitment program.~~

~~7. Remain employed 1 year after completion of a day treatment or residential commitment program.~~

~~8. Demonstrate learning gains pursuant to paragraph (3)(d).~~

~~(b) The following cost data for each juvenile justice education program:~~

~~1. The amount of funding provided by district school boards to juvenile justice programs and the amount retained for administration, including documenting the purposes of such expenses.~~

~~2. The status of the development of cooperative agreements.~~

~~3. Recommendations for system improvement.~~

~~4. Information on the identification of, and services provided to, exceptional students, to determine whether these~~

~~students are properly reported for funding and are appropriately served.~~

~~(18)~~ The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing detention facilities shall be provided by the Department of Juvenile Justice.

(17)~~(19)~~ When additional facilities are required for juvenile justice detention, prevention, or day treatment programs, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 1013.60. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the district school board and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by State Board of Education rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(18)~~(20)~~ The parent of an exceptional student shall have the due process rights provided for in this chapter.

(19)~~(21)~~ The State Board of Education shall adopt rules

necessary to implement this section. Such rules must require the minimum amount of paperwork and reporting.

~~(22) The Department of Juvenile Justice and the Department of Education, in consultation with CareerSource Florida, Inc., the statewide Workforce Development Youth Council, district school boards, Florida College System institutions, providers, and others, shall jointly develop a multiagency plan for CAPE which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.~~

Section 21. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended to read:

330.41 Unmanned Aircraft Systems Act.—

(2) DEFINITIONS.—As used in this act, the term:

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

1. A power generation or transmission facility, substation, switching station, or electrical control center.

2. A chemical or rubber manufacturing or storage facility.

3. A water intake structure, water treatment facility, wastewater treatment plant, or pump station.

4. A mining facility.

5. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.

6. A liquid natural gas or propane gas terminal or storage facility.

7. Any portion of an aboveground oil or gas pipeline.

8. A refinery.

9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

10. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

11. A seaport as listed in s. 311.09(1), which need not be completely enclosed by a fence or other physical barrier and need not be marked with a sign or signs indicating that entry is forbidden.

12. An inland port or other facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport.

13. An airport as defined in s. 330.27.

14. A spaceport territory as defined in s. 331.303(18).

15. A military installation as defined in 10 U.S.C. s. 2801(c)(4) and an armory as defined in s. 250.01.

16. A dam as defined in s. 373.403(1) or other structures, such as locks, floodgates, or dikes, which are designed to maintain or control the level of navigable waterways.

17. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.

18. A secure detention center or facility as defined in s. 985.03, or a moderate-risk ~~nonsecure~~ residential facility, a high-risk residential facility, or a maximum-risk residential

facility as those terms are described in s. 985.03(44).

19. A county detention facility as defined in s. 951.23.

20. A critical infrastructure facility as defined in s. 692.201.

Section 22. Paragraphs (c) and (j) of subsection (3), paragraph (a) of subsection (10), and paragraph (f) of subsection (12) of section 553.865, Florida Statutes, are amended to read:

553.865 Private spaces.—

(3) As used in this section, the term:

(c) "Covered entity" means any:

1. Correctional institution;

2. Detention facility;

3. Educational institution;

4. Maximum-risk residential facilities ~~Juvenile correctional facility or juvenile prison~~ as described in s. 985.465, any detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and any facility used for a residential program as described in s. 985.03(44) ~~s. 985.03(44)(b), (c), or (d)~~; or

5. Public building.

(j) "Public building" means a building comfort-conditioned for occupancy which is owned or leased by the state, a state agency, or a political subdivision. The term does not include a correctional institution, a detention facility, an educational institution, a maximum-risk residential ~~juvenile correctional~~ facility ~~or juvenile prison~~ as described in s. 985.465, a detention center or facility designated by the Department of

Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or any facility used for a residential program as described in s. 985.03(44) ~~s. 985.03(44)(b), (c), or (d)~~.

(10)(a) Each maximum-risk residential ~~juvenile correctional~~ facility ~~or juvenile prison~~ as described in s. 985.465, each detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and each facility used for a residential program as described in s. 985.03(44) ~~s. 985.03(44)(b), (c), or (d)~~ shall establish disciplinary procedures for any juvenile as defined in s. 985.03(7) who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex in such juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by delinquency program staff, detention staff, or residential program staff.

(12) A covered entity that is:

(f) A maximum-risk residential ~~juvenile correctional~~ facility ~~or juvenile prison~~ as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or a facility used for a residential program as described in s. 985.03(44) ~~s. 985.03(44)(b), (c), or (d)~~ shall submit documentation to the Department of Juvenile Justice regarding compliance with subsections (4) and (5), as applicable, within 1 year after being established or, if such institution or facility was established before July 1, 2023, no later than April 1, 2024.

Section 23. Paragraph (c) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(c) *Public disclosure.*—The district school board shall provide information regarding the performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include schools operating for the purpose of providing educational services to students in Department of Juvenile Justice programs~~,~~ ~~and for those schools, report on the elements specified in s. 1003.52(17)~~. Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without high school equivalency examinations, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 24. For the purpose of incorporating the amendment made by this act to section 985.03, Florida Statutes, in a reference thereto, section 985.721, Florida Statutes, is reenacted to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

(1) Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

(2) Any residential commitment facility described in s. 985.03(44), maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

(3) Lawful transportation to or from any such secure detention facility or residential commitment facility,

constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. For the purpose of incorporating the amendment made by this act to section 985.115, Florida Statutes, in a reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child's risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 26. For the purpose of incorporating the amendment

made by this act to section 985.27, Florida Statutes, in a reference thereto, subsection (3) of section 985.255, Florida Statutes, is reenacted to read:

985.255 Detention criteria; detention hearing.—

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall use the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall use the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement.

(c) Except as provided in s. 790.22(8) or s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an

order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child's initial detention placement.

Section 27. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (h) of subsection (2) of section 985.475, Florida Statutes, is reenacted to read:

985.475 Juvenile sexual offenders.—

(2) Following a delinquency adjudicatory hearing under s. 985.35, the court may on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender. When the court determines that a juvenile has no history of a recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

(h) If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual offender is failing to make satisfactory progress in treatment,

the court may revoke the community-based treatment alternative and order commitment to the department under s. 985.441.

Section 28. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is reenacted to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(b) *Juvenile sanctions.*—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency may not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

1. Place the child in a probation program under the

supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 29. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1352
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chancer Teel

Phone 850 717 2716

Address 2737 Centerview Dr.
Street

Email chancer.teel@fldjj.gov

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:
FL Dept. of Juvenile Justice

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 1362
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Harrell
SUBJECT:	Aviation
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Nortelus	Jerrett	ATD	**Fav/CS**
3.	Johnson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1362 addresses issues relating to aviation and advanced air mobility. The bill:

- Revises definitions for "aircraft" and "airport."
- Repeals the definition of "ultralight aircraft."
- Requires vertiports to comply with airport site approval and airport licensing or registration laws.
- Requires the Florida Department of Transportation (FDOT) to take specified steps regarding advanced air mobility, including:
  - Address certain needs in the FDOT's statewide aviation system plan and, as appropriate, in the FDOT's work program.
  - Designate a subject matter expert on advanced air mobility to serve as a resource to local jurisdictions.
  - Provide a guidebook and technical resources related to advanced air mobility to local jurisdictions.
  - Ensure that a political subdivision does not exercise its zoning or land use authority to grant an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports.
  - Conduct a review of airport hazard zone regulations and make recommendations to the Legislature.

- Requires airport land use compatibility zoning regulations to "address", rather than "consider", issues specified in statute.
- Generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.
- Adds an exception to the buffer zone to allow residential property within the buffer zone of a public-use airport meeting specified requirements.
- Reenacts various provisions to incorporate changes made by the bill.

The bill has an indeterminate, negative fiscal impact to the FDOT. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Currently, Florida law does not address vertiports or advanced air mobility.

Advanced Air Mobility

The National Aeronautics and Space Administration (NASA) defines the term "Advanced Air Mobility" (AAM) to mean "an air transportation system that moves people and cargo between places previously not served or underserved by aviation – local, regional, intraregional, urban – using revolutionary new aircraft that are only just now becoming possible."[1]

AAM is a derivative of Urban Air Mobility (UAM), which focuses on transporting cargo and passengers at low altitudes within urban and suburban areas. AAM builds upon UAM by expanding its range and potential use cases.[2]

Numerous uses for AAM are being explored, including air taxi, air cargo, and public services. Air taxi uses feature passenger transportation within and around urban and regional areas, including routes connecting city centers to airports or to neighboring city centers. Air cargo uses feature cargo transportation supporting the middle-mile of logistics, generally seen as from the cargo port to the distribution center. Public service uses, such as search and rescue, disaster relief, and air ambulance operations are all likely early use cases for electric vertical take-off and landing (eVTOL) aircraft.[3]

Federal Guidance

In 2022, the Federal Aviation Administration (FAA) issued Engineering Brief 105, providing interim, but limited, guidance on vertiport design until the FAA publishes full Advisory Circular

[1] Florida Department of Transportation (FDOT), *Advanced Air Mobility*, https://www.fdot.gov/aviation/advanced-air-mobility (last visited January 8, 2024).
[2] FDOT Advanced Air Mobility Working Group, *Report and Recommendations*, August 2023, p.2. https://www.fdot.gov/aviation/advanced-air-mobility (last visited January 12, 2024).
[3] *Id.* at 2.

on the topic.[4] Use of this design guidance is required for federally obligated airports and recommended for all other vertiport development. The engineering brief provides guidance for landing dimensions, visual aids, approach surfaces, and electric charging infrastructure, among other details, but is limited to aircraft no longer or wider than 50 feet with a pilot-on-board operating in visual meteorological conditions. The FAA's vertiport guidance is expected to evolve into a performance-based design standard as it moves forward with a full Advisory Circular, which expected in the mid-2020s.[5]

Title 14 CFR Part 77, relating to the safe, efficient use, and preservation of navigable airspace, establishes standards and notification requirements for objects affecting navigable airspace. This notification serves as the basis for:

- Evaluating the effect of the construction or alteration on operating procedures;
- Determining the potential hazardous effect of the proposed construction on air navigation;
- Identifying mitigating measures to enhance safe air navigation; and
- Charting of new objects.

Notification allows the FAA to identify potential aeronautical hazards in advance thus preventing or minimizing the adverse impacts to the safe and efficient use of navigable airspace.[6]

Florida Department of Transportation's AAM Working Group

In 2022, the Florida Department of Transportation (FDOT) established an AAM Working Group consisting of representatives of from the FAA, original equipment manufacturers, airports, local governments, the FDOT, and other industry stakeholders.[7] The working group developed various recommendations regarding AAM, included in those recommendations are:

- Designate an AAM subject matter expert within the FDOT.
- Review airport hazard regulations and update those regulations as appropriate.
- Incorporate AAM into state transportation planning documents.
- Lead a statewide education campaign for local decision makers and a public awareness campaign for the general public.

Florida Airport Licensing Law

Sections 330.27 through 330.39, F.S., contain the Florida Airport Licensing Law.[8] For purposes of the Florida Airport Licensing Law, the term:

- "Aircraft" means a powered or unpowered machine or device capable of atmospheric flight, except a parachute or other such device used primarily as safety equipment.[9]

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[4] Available at https://www.faa.gov/sites/faa.gov/files/eb-105-vertiports.pdf (last visited January 12, 2024).
[5] *Id.*
[6] Federal Aviation Administration (FAA), *Notification of Proposed Construction or Alteration on Airport Part 77*, available at https://www.faa.gov/airports/central/engineering/part77#:~:text=Federal%20Regulation%20Title%2014%20Part%2077%20establishes%20standards,effect%20of%20the%20proposed%20construction%20on%20air%20navigation (last visited February 8, 2024).
[7] *Supra* note 2 at 1.
[8] Section 330.39, F.S.
[9] Section 330.27(1), F.S.

- "Airport" means an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, including appurtenant areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use.[10]
- "Ultralight aircraft" means any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.[11]

Airport Site Approval

Except as exempted by law,[12] the owner or lessee of a proposed airport must, before site acquisition or construction or establishment of the proposed airport, obtain FDOT's approval of the airport site. FDOT must grant the site approval if it is satisfied:

- That the site has adequate area allocated for the proposed airport.
- That the proposed airport will conform to licensing or registration requirements and will comply with the applicable local government land development regulations or zoning requirements.
- That all affected airports, local governments, and property owners have been notified and any submitted comments have been adequately considered.
- That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.[13]

For public airports,[14] FDOT may only grant site approval after inspection of the proposed airport site.[15] For private airports[16] or temporary airports,[17] FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.[18]

Airport Licensing or Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.[19] A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.[20]

For private airports obtaining an airport registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the

[10] Section 330.27(2), F.S.
[11] Section 330.27(8), F.S.
[12] Exemptions from airport license and registration include airports owned by the United States, certain ultralight aircraft landing areas, certain helistops, and certain airports used for the aerial application or spraying of crops. *See* s. 330.30(3), F.S.
[13] Section 330.30(1)(a), F.S.
[14] Section 330.27(6), F.S., defines the term public airport" to mean an airport, publicly or privately owned, which is open for use by the public.
[15] Section 339.30(2)(c), F.S.
[16] Section 330.27(5), F.S., defines the term "private airport" to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.
[17] Section 330.27(7), F.S., defines the term "temporary airport" to mean an airport at which flight operations are conducted under visual flight rules established by the Federal Aviation Administration and which is used for less than 30 consecutive days with no more than 10 operations per day.
[18] Section 330.30(2)(c) and (d), F.S.
[19] Section 330.30(2)(a), F.S.
[20] Section 330.30(2)(a)1, F.S.

applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.[21]

For public airports,[22] FDOT may only grant site approval after inspection of the proposed airport site.[23] For private airports,[24] FDOT may only grant site approval after it receives the documentation it deems necessary to satisfy the conditions above.[25]

Airport Licenses and Registration

Except as provided, the owner or lessee of an airport must have a public airport license, private airport registration, or temporary airport registration before operating aircraft to or from the airport.[26] A license for a public airport is granted after final inspection finds the airport in compliance with all licensure requirements.[27]

For private airports obtaining a registration, upon granting site approval, FDOT must provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration is completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.[28]

Airport Land Use Compatibility Zoning Regulations

Under Florida law, political subdivisions must adopt, administer, and enforce airport land use compatibility zoning regulations relating to airport hazard areas. The following are minimum requirements that political subdivisions must consider in their airport land use compatibility zoning regulations:

- The prohibition of new landfills and the restriction of existing landfills when such areas are:
  - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
  - Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.
  - Outside the perimeters above, but still within the lateral limits of the civil airport imaginary surfaces. Case-by-case review of such landfills is advised.
- Where any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.
- Where an airport authority or other governing body operating a public-use airport has conducted a noise study,[29] or where a public-use airport owner has established noise contours pursuant to another public study accepted by the FAA, the prohibition of incompatible uses,

[21] Section 330.30(2)(a)2., F.S.
[22] Section 330.27(6), F.S., defines the term public airport" to mean an airport, publicly or privately owned, which is open for use by the public.
[23] Section 339.30(2)(c), F.S.
[24] Section 330.27(5), F.S., defines the term "private airport" to mean an airport, publicly or privately owned, which is not open or available for use by the public, but may be made available to others by invitation of the owner or manager.
[25] Section 330.30(2)(c) and (d), F.S.
[26] Section 330.30(2)(a), F.S.
[27] Section 330.30(2)(a)1, F.S.
[28] Section 330.30(2)(a)2., F.S.
[29] Noise studies are in accordance with 14 C.F.R. part 150.

as established in the noise study or as a part of an alternative FAA-accepted public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.

- Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the mitigation of potential incompatible uses associated with residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.
- The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones. [30]

III. Effect of Proposed Changes:

Definitions

The bill amends various definitions to provide better clarity and specificity. For example, the bill amends the definition of the term "aircraft" to include, but not be limited to, an airplane, autogyro, glider, gyrodyne, helicopter, lift and cruise, multicopter, paramotor, powered lift, seaplane, tiltrotor, ultralight, and vectored thrust.

The bill also amends the definition of term "airport" to include, but not be limited to, an airpark, airport, gliderport, heliport, helistop, seaplane base, ultralight flightpark, vertiport, and vertistop.

The bill repeals the statutory definition of the term "ultralight aircraft", which is unnecessary since the term is defined in federal law.

Vertiports

The bill provides that on or after July 1, 2024, the owner or lessee of a proposed vertiport must comply with statutory requirements for airport site approval and with airport licensing or registration requirements. In conjunction with granting site approval, the FDOT must conduct a final physical inspection of the vertiport to ensure compliance with all requirements for airport licensure or registration.

Advanced Air Mobility

The bill creates s. 332.15, F.S., relating to advanced air mobility. The bill requires the FDOT, within the resources provided pursuant to ch. 216, F.S., relating to planning and budgeting, to:

- Address the needs for vertiports, AAM, and other advances in aviation technology in the statewide aviation system plan and, as appropriate, in the FDOT's work program.
- Designate a subject matter expert on AAM within the FDOT to serve as a resource for local jurisdictions navigating advances in aviation technology, including electric powered-lift aircraft and electric aviation.

[30] Section 333.03(2), F.S.

- Lead a statewide education campaign for local officials to provide education on the benefits of AAM to support the efforts to make the state a leader in aviation technology.
- Provide local jurisdictions with a guidebook and technical resources to support uniform planning and zoning language across the state related to AAM and other advances in aviation technology.
- Ensure that a political subdivision of the state does not exercise its zoning or land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports within the jurisdiction of the subdivision.
- Conduct a review of airport hazard zone regulations and, as needed, make recommendations to the Legislature proposing any changes to regulations as a result of the review.

Airport Land Use Compatibility Zoning Regulations

The bill requires airport land use compatibility zoning regulations to "address", rather than "consider", issues specified in statute.

The bill generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.

Additionally, the bill adds an exception to such buffer zone in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

Reenacted Statutes

The bill reenacts portions of s. 365.172, F.S., relating to emergency communications, s. 379.2295, F.S., relating to airport activities within a federally approved wildlife hazard management area, and s. 493.6101, F.S., relating to the definition of "repossession," and s. 493.6403, F.S., relating to classes of licenses for repossession services to incorporate amendments to definitions made by the bill.

Effective Date

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The AAM industry may see a positive fiscal impact associated with including AAM in the state's aviation planning.

C. Government Sector Impact:

There may be an indeterminate negative fiscal impact to the FDOT associated with various tasks required by the bill, which can likely be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 330.27, 330.30, and 333.03.

This bill creates section 332.15 of the Florida Statutes.

This bill reenacts portions of the following sections of the Florida Statutes: 365.172, 379.2293, 493.6101 and 493.6103.

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/CS by Fiscal Policy Committee on February 22, 2024:
The committee substitute:

- Requires airport land use compatibility zoning regulations to "address", rather than "consider", issues specified in statute.
- Generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.
- Adds an exception to the buffer zone described above in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

CS/CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 8, 2024:
The committee substitute:

- Amends the definitions of "aircraft" and "airport."
- Deletes the definition of "ultralight aircraft."
- Requires owners of proposed vertiports to comply with specified statutes in obtaining sight approval and an airport license or registration.
- Requires FDOT to conduct a final inspection of vertiports.
- Requires FDOT to ensure that a political subdivision does not exercise its zoning and land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public-use vertiports.
- Reenacts various statutes to conform to changes made by amendment.
- Made other technical changes.

CS by Transportation on January 23, 2023:
The committee substitute clarifies that vertiports, electric aviation charging, and other advances in aviation technology must be included in the statewide aviation system plan and, as applicable, in the FDOT's work 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.

444598

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment (with title amendment)

Between lines 156 and 157
insert:

Section 4. Subsection (2) of section 333.03, Florida Statutes, is amended to read:

333.03 Requirement to adopt airport zoning regulations.—

(2) In the manner provided in subsection (1), political subdivisions shall adopt, administer, and enforce airport land use compatibility zoning regulations. At a minimum, airport land

444598

use compatibility zoning regulations must address ~~shall, at a minimum, consider~~ the following:

(a) The prohibition of new landfills and the restriction of existing landfills within the following areas:

1. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.

2. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.

3. Outside the perimeters defined in subparagraphs 1. and 2., but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. s. 77.19. Case-by-case review of such landfills is advised.

(b) When ~~Where~~ any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.

(c) When ~~Where~~ an airport authority or other governing body operating a public-use airport has conducted a noise study in accordance with 14 C.F.R. part 150, or when ~~where~~ a public-use airport owner has established noise contours pursuant to another public study accepted by the Federal Aviation Administration, the prohibition of incompatible uses, as established in the noise study in 14 C.F.R. part 150, Appendix A or as a part of an alternative Federal Aviation Administration-accepted public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques

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described in the study.

(d) When ~~Where~~ an airport authority or other governing body operating a public-use airport has not conducted a noise study, the prohibition ~~mitigation~~ of ~~potential incompatible uses associated with~~ residential construction and ~~any~~ educational facilities ~~facility~~, with the exception of aviation school facilities or residential property near a public-use airport that has as its sole runway a turf runway measuring less than 2,800 feet in length, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

(e) The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones.

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

And the title is amended as follows:

Delete line 14

and insert:

in aviation technology; amending s. 333.03, F.S.; revising requirements for the adoption of airport land use compatibility zoning regulations; reenacting ss. 365.172(13),

By the Appropriations Committee on Transportation, Tourism, and Economic Development; the Committee on Transportation; and Senator Harrell

606-03120-24 20241362c2

A bill to be entitled

An act relating to aviation; amending s. 330.27, F.S.; revising definitions; amending s. 330.30, F.S.; beginning on a specified date, requiring the owner or lessee of a proposed vertiport to comply with a specified provision in obtaining certain approval and license or registration; requiring the Department of Transportation to conduct a final physical inspection of the vertiport to ensure compliance with specified requirements; conforming a cross-reference; creating s. 332.15, F.S.; providing duties of the department, within specified resources, with respect to vertiports, advanced air mobility, and other advances in aviation technology; reenacting ss. 365.172(13), 379.2293(2), 493.6101(22), and 493.6403(1)(c), F.S., relating to emergency communications, airport activities within the scope of a federally approved wildlife hazard management plan or a federal or state permit or other authorization for depredation or harassment, definitions, and license requirements, respectively, to incorporate the amendment made to s. 330.27, F.S., in references thereto; providing an effective date.

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

Section 1. Subsections (1), (2), and (8) of section 330.27, Florida Statutes, are amended to read:

330.27 Definitions, when used in ss. 330.29-330.39.—

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

606-03120-24 20241362c2

(1) "Aircraft" means a powered or unpowered machine or device capable of atmospheric flight, including, but not limited to, an airplane, autogyro, glider, gyrodyne, helicopter, lift and cruise, multicopter, paramotor, powered lift, seaplane, tiltrotor, ultralight, and vectored thrust. The term does not include ~~except~~ a parachute or other such device used primarily as safety equipment.

(2) "Airport" means an area of land or water used for, or intended to be used for, ~~landing and takeoff of~~ aircraft operations, which may include any ~~including~~ appurtenant areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use. The term includes, but is not limited to, an airpark, airport, gliderport, heliport, helistop, seaplane base, ultralight flightpark, vertiport, and vertistop.

~~(8) "Ultralight aircraft" means any aircraft meeting the criteria established by part 103 of the Federal Aviation Regulations.~~

Section 2. Present subsections (3) and (4) of section 330.30, Florida Statutes, are redesignated as subsections (4) and (5), respectively, a new subsection (3) is added to that section, and paragraph (a) of subsection (1), paragraph (a) of subsection (2), and present subsection (4) of that section are amended, to read:

330.30 Approval of airport sites; registration and licensure of airports.—

(1) SITE APPROVALS; REQUIREMENTS, EFFECTIVE PERIOD, REVOCATION.—

(a) Except as provided in subsection (4) ~~(3)~~, the owner or lessee of a proposed airport shall, before site acquisition or

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

construction or establishment of the proposed airport, obtain approval of the airport site from the department. Applications for approval of a site shall be made in a form and manner prescribed by the department. The department shall grant the site approval if it is satisfied:

1. That the site has adequate area allocated for the airport as proposed.

2. That the proposed airport will conform to licensing or registration requirements and will comply with the applicable local government land development regulations or zoning requirements.

3. That all affected airports, local governments, and property owners have been notified and any comments submitted by them have been given adequate consideration.

4. That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.

(2) LICENSES AND REGISTRATIONS; REQUIREMENTS, RENEWAL, REVOCATION.—

(a) Except as provided in subsection (4) ~~(3)~~, the owner or lessee of an airport in this state shall have a public airport license, private airport registration, or temporary airport registration before the operation of aircraft to or from the airport. Application for a license or registration shall be made in a form and manner prescribed by the department.

1. For a public airport, upon granting site approval, the department shall issue a license after a final airport inspection finds the airport to be in compliance with all requirements for the license. The license may be subject to any

reasonable conditions the department deems necessary to protect the public health, safety, or welfare.

2. For a private airport, upon granting site approval, the department shall provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration shall be completed upon self-certification by the registrant of operational and configuration data deemed necessary by the department.

3. For a temporary airport, the department must publish notice of receipt of a completed registration application in the next available publication of the Florida Administrative Register and may not approve a registration application less than 14 days after the date of publication of the notice. The department must approve or deny a registration application within 30 days after receipt of a completed application and must issue the temporary airport registration concurrent with the airport site approval. A completed registration application that is not approved or denied within 30 days after the department receives the completed application is considered approved and shall be issued, subject to such reasonable conditions as are authorized by law. An applicant seeking to claim registration by default under this subparagraph must notify the agency clerk of the department, in writing, of the intent to rely upon the default registration provision of this subparagraph and may not take any action based upon the default registration until after receipt of such notice by the agency clerk.

(3) VERTIPORTS.—On or after July 1, 2024, the owner or lessee of a proposed vertiport must comply with subsection (1)

in obtaining site approval and with subsection (2) in obtaining an airport license or registration. In conjunction with the granting of site approval, the department must conduct a final physical inspection of the vertiport to ensure compliance with all requirements for airport licensure or registration.

(5)~~(4)~~ EXCEPTIONS.—Private airports with 10 or more based aircraft may request to be inspected and licensed by the department. Private airports licensed according to this subsection shall be considered private airports as defined in s. 330.27 ~~s. 330.27(5)~~ in all other respects.

Section 3. Section 332.15, Florida Statutes, is created to read:

332.15 Advanced air mobility.—The Department of Transportation shall, within the resources provided pursuant to chapter 216:

(1) Address the need for vertiports, advanced air mobility, and other advances in aviation technology in the statewide aviation system plan as required under s. 332.006(1) and, as appropriate, in the department's work program.

(2) Designate a subject matter expert on advanced air mobility within the department to serve as a resource for local jurisdictions navigating advances in aviation technology.

(3) Lead a statewide education campaign for local officials to provide education on the benefits of advanced air mobility and advances in aviation technology and to support the efforts to make this state a leader in aviation technology.

(4) Provide local jurisdictions with a guidebook and technical resources to support uniform planning and zoning language across this state related to advanced air mobility and

other advances in aviation technology.

(5) Ensure that a political subdivision of the state does not exercise its zoning and land use authority to grant or permit an exclusive right to one or more vertiport owners or operators and authorize a political subdivision to use its authority to promote reasonable access to advanced air mobility operators at public use vertiports within the jurisdiction of the subdivision.

(6) Conduct a review of airport hazard zone regulations and, as needed, make recommendations to the Legislature proposing any changes to regulations as a result of the review.

Section 4. For the purpose of incorporating the amendment made by this act to section 330.27, Florida Statutes, in a reference thereto, subsection (13) of section 365.172, Florida Statutes, is reenacted to read:

365.172 Emergency communications.—

(13) FACILITATING EMERGENCY COMMUNICATIONS SERVICE IMPLEMENTATION.—To balance the public need for reliable emergency communications services through reliable wireless systems and the public interest served by governmental zoning and land development regulations and notwithstanding any other law or local ordinance to the contrary, the following standards shall apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility. This subsection may not, however, be construed to waive or alter the provisions of s. 286.011 or s. 286.0115. For the purposes of this subsection only, "local government" shall mean any municipality or county and any agency of a municipality or

county only. The term "local government" does not, however, include any airport, as defined by s. 330.27(2), even if it is owned or controlled by or through a municipality, county, or agency of a municipality or county. Further, notwithstanding anything in this section to the contrary, this subsection does not apply to or control a local government's actions as a property or structure owner in the use of any property or structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however, a local government may not use its regulatory authority so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.

(a) Colocation among wireless providers is encouraged by the state.

1.a. Colocations on towers, including nonconforming towers, that meet the requirements in sub-sub-subparagraphs (I), (II), and (III), are subject to only building permit review, which may include a review for compliance with this subparagraph. Such colocations are not subject to any design or placement requirements of the local government's land development regulations in effect at the time of the colocation that are more restrictive than those in effect at the time of the initial antennae placement approval, to any other portion of the land development regulations, or to public hearing review. This sub-subparagraph may not preclude a public hearing for any appeal of the decision on the colocation application.

(I) The colocation does not increase the height of the tower to which the antennae are to be attached, measured to the

highest point of any part of the tower or any existing antenna attached to the tower;

(II) The colocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and

(III) The colocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennae placed on the tower and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the tower supporting the antennae. Such regulations may include the design and aesthetic requirements, but not procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time the initial antennae placement was approved.

b. Except for a historic building, structure, site, object, or district, or a tower included in sub-subparagraph a., colocations on all other existing structures that meet the requirements in sub-sub-subparagraphs (I)-(IV) shall be subject to no more than building permit review, and an administrative review for compliance with this subparagraph. Such colocations are not subject to any portion of the local government's land development regulations not addressed herein, or to public hearing review. This sub-subparagraph may not preclude a public hearing for any appeal of the decision on the colocation application.

(I) The colocation does not increase the height of the

existing structure to which the antennae are to be attached, measured to the highest point of any part of the structure or any existing antenna attached to the structure;

(II) The colocation does not increase the ground space area, otherwise known as the compound, if any, approved in the site plan for equipment enclosures and ancillary facilities;

(III) The colocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure, but not prohibitions or restrictions on the placement of additional colocations on the existing structure or procedural requirements, other than those authorized by this section, of the local government's land development regulations in effect at the time of the colocation application; and

(IV) The colocation consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with sub-sub-subparagraph (III) and were applied to the initial antennae placed on the structure and to its accompanying equipment enclosures and ancillary facilities and, if applicable, applied to the structure supporting the antennae.

c. Regulations, restrictions, conditions, or permits of the local government, acting in its regulatory capacity, that limit the number of colocations or require review processes inconsistent with this subsection do not apply to colocations addressed in this subparagraph.

d. If only a portion of the colocation does not meet the

requirements of this subparagraph, such as an increase in the height of the proposed antennae over the existing structure height or a proposal to expand the ground space approved in the site plan for the equipment enclosure, where all other portions of the colocation meet the requirements of this subparagraph, that portion of the colocation only may be reviewed under the local government's regulations applicable to an initial placement of that portion of the facility, including, but not limited to, its land development regulations, and within the review timeframes of subparagraph (d)2., and the rest of the colocation shall be reviewed in accordance with this subparagraph. A colocation proposal under this subparagraph that increases the ground space area, otherwise known as the compound, approved in the original site plan for equipment enclosures and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall, however, require no more than administrative review for compliance with the local government's regulations, including, but not limited to, land development regulations review, and building permit review, with no public hearing review. This sub-subparagraph does not preclude a public hearing for any appeal of the decision on the colocation application.

2. If a colocation does not meet the requirements of subparagraph 1., the local government may review the application under the local government's regulations, including, but not limited to, land development regulations, applicable to the placement of initial antennae and their accompanying equipment enclosure and ancillary facilities.

3. If a colocation meets the requirements of subparagraph 1., the colocation may not be considered a modification to an existing structure or an impermissible modification of a nonconforming structure.

4. The owner of the existing tower on which the proposed antennae are to be colocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development regulations to which the existing tower had to comply at the time the tower was permitted, including any aesthetic requirements, provided the condition or requirement is not inconsistent with this paragraph.

5. An existing tower, including a nonconforming tower, may be structurally modified in order to permit colocation or may be replaced through no more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and, if a replacement, the replacement tower is a monopole tower or, if the existing tower is a camouflaged tower, the replacement tower is a like-camouflaged tower. This subparagraph may not preclude a public hearing for any appeal of the decision on the application.

(b)1. A local government's land development and construction regulations for wireless communications facilities and the local government's review of an application for the placement, construction, or modification of a wireless communications facility shall only address land development or zoning issues. In such local government regulations or review, the local government may not require information on or evaluate

a wireless provider's business decisions about its service, customer demand for its service, or quality of its service to or from a particular area or site, unless the wireless provider voluntarily offers this information to the local government. In such local government regulations or review, a local government may not require information on or evaluate the wireless provider's designed service unless the information or materials are directly related to an identified land development or zoning issue or unless the wireless provider voluntarily offers the information. Information or materials directly related to an identified land development or zoning issue may include, but are not limited to, evidence that no existing structure can reasonably be used for the antennae placement instead of the construction of a new tower, that residential areas cannot be served from outside the residential area, as addressed in subparagraph 3., or that the proposed height of a new tower or initial antennae placement or a proposed height increase of a modified tower, replacement tower, or colocation is necessary to provide the provider's designed service. Nothing in this paragraph shall limit the local government from reviewing any applicable land development or zoning issue addressed in its adopted regulations that does not conflict with this section, including, but not limited to, aesthetics, landscaping, land use-based location priorities, structural design, and setbacks.

2. Any setback or distance separation required of a tower may not exceed the minimum distance necessary, as determined by the local government, to satisfy the structural safety or aesthetic concerns that are to be protected by the setback or distance separation.

3. A local government may exclude the placement of wireless communications facilities in a residential area or residential zoning district but only in a manner that does not constitute an actual or effective prohibition of the provider's service in that residential area or zoning district. If a wireless provider demonstrates to the satisfaction of the local government that the provider cannot reasonably provide its service to the residential area or zone from outside the residential area or zone, the municipality or county and provider shall cooperate to determine an appropriate location for a wireless communications facility of an appropriate design within the residential area or zone. The local government may require that the wireless provider reimburse the reasonable costs incurred by the local government for this cooperative determination. An application for such cooperative determination may not be considered an application under paragraph (d).

4. A local government may impose a reasonable fee on applications to place, construct, or modify a wireless communications facility only if a similar fee is imposed on applicants seeking other similar types of zoning, land use, or building permit review. A local government may impose fees for the review of applications for wireless communications facilities by consultants or experts who conduct code compliance review for the local government but any fee is limited to specifically identified reasonable expenses incurred in the review. A local government may impose reasonable surety requirements to ensure the removal of wireless communications facilities that are no longer being used.

5. A local government may impose design requirements, such

as requirements for designing towers to support colocation or aesthetic requirements, except as otherwise limited in this section, but may not impose or require information on compliance with building code type standards for the construction or modification of wireless communications facilities beyond those adopted by the local government under chapter 553 and that apply to all similar types of construction.

(c) Local governments may not require wireless providers to provide evidence of a wireless communications facility's compliance with federal regulations, except evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. part 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use, but may request the Federal Communications Commission to provide information as to a wireless provider's compliance with federal regulations, as authorized by federal law.

(d)1. A local government shall grant or deny each properly completed application for a colocation under subparagraph (a)1. based on the application's compliance with the local government's applicable regulations, as provided for in subparagraph (a)1. and consistent with this subsection, and within the normal timeframe for a similar building permit review but in no case later than 45 business days after the date the application is determined to be properly completed in accordance with this paragraph.

2. A local government shall grant or deny each properly completed application for any other wireless communications

facility based on the application's compliance with the local government's applicable regulations, including but not limited to land development regulations, consistent with this subsection and within the normal timeframe for a similar type review but in no case later than 90 business days after the date the application is determined to be properly completed in accordance with this paragraph.

3.a. An application is deemed submitted or resubmitted on the date the application is received by the local government. If the local government does not notify the applicant in writing that the application is not completed in compliance with the local government's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination may not be deemed as an approval of the application. If the application is not completed in compliance with the local government's regulations, the local government shall so notify the applicant in writing and the notification must indicate with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the local government shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. Deficiencies in document type or content not specified by the local government do not make the

application incomplete. Notwithstanding this sub-subparagraph, if a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the local government may continue to request the information until such time as the specified deficiency is cured. The local government may establish reasonable timeframes within which the required information to cure the application deficiency is to be provided or the application will be considered withdrawn or closed.

b. If the local government fails to grant or deny a properly completed application for a wireless communications facility within the timeframes set forth in this paragraph, the application shall be deemed automatically approved and the applicant may proceed with placement of the facilities without interference or penalty. The timeframes specified in subparagraph 2. may be extended only to the extent that the application has not been granted or denied because the local government's procedures generally applicable to all other similar types of applications require action by the governing body and such action has not taken place within the timeframes specified in subparagraph 2. Under such circumstances, the local government must act to either grant or deny the application at its next regularly scheduled meeting or, otherwise, the application is deemed to be automatically approved.

c. To be effective, a waiver of the timeframes set forth in this paragraph must be voluntarily agreed to by the applicant and the local government. A local government may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, a one-time waiver

may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(e) The replacement of or modification to a wireless communications facility, except a tower, that results in a wireless communications facility not readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the local government, are subject to no more than applicable building permit review.

(f) Any other law to the contrary notwithstanding, the Department of Management Services shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to state government-owned property not acquired for transportation purposes, and the Department of Transportation shall negotiate, in the name of the state, leases for wireless communications facilities that provide access to property acquired for state rights-of-way. On property acquired for transportation purposes, leases shall be granted in accordance with s. 337.251. On other state government-owned property, leases shall be granted on a space available, first-come, first-served basis. Payments required by state government under a lease must be reasonable and must reflect the market rate for the use of the state government-owned property. The Department of Management Services and the Department of Transportation are authorized to adopt rules for the terms and conditions and granting of any such leases.

(g) If any person adversely affected by any action, or failure to act, or regulation, or requirement of a local government in the review or regulation of the wireless communication facilities files an appeal or brings an appropriate action in a court or venue of competent jurisdiction, following the exhaustion of all administrative remedies, the matter shall be considered on an expedited basis.

Section 5. For the purpose of incorporating the amendment made by this act to section 330.27, Florida Statutes, in a reference thereto, subsection (2) of section 379.2293, Florida Statutes, is reenacted to read:

379.2293 Airport activities within the scope of a federally approved wildlife hazard management plan or a federal or state permit or other authorization for depredation or harassment.—

(2) An airport authority or other entity owning or operating an airport, as defined in s. 330.27(2), is not subject to any administrative or civil penalty, restriction, or other sanction with respect to any authorized action taken in a non-negligent manner for the purpose of protecting human life or aircraft safety from wildlife hazards.

Section 6. For the purpose of incorporating the amendment made by this act to section 330.27, Florida Statutes, in a reference thereto, subsection (22) of section 493.6101, Florida Statutes, is reenacted to read:

493.6101 Definitions.—

(22) "Repossession" means the recovery of a motor vehicle as defined under s. 320.01(1), a mobile home as defined in s. 320.01(2), a motorboat as defined under s. 327.02, an aircraft as defined in s. 330.27(1), a personal watercraft as defined in

s. 327.02, an all-terrain vehicle as defined in s. 316.2074, farm equipment as defined under s. 686.402, or industrial equipment, by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause. As used in this subsection, the term "industrial equipment" includes, but is not limited to, tractors, road rollers, cranes, forklifts, backhoes, and bulldozers. The term "industrial equipment" also includes other vehicles that are propelled by power other than muscular power and that are used in the manufacture of goods or used in the provision of services. A repossession is complete when a licensed recovery agent is in control, custody, and possession of such repossessed property. Property that is being repossessed shall be considered to be in the control, custody, and possession of a recovery agent if the property being repossessed is secured in preparation for transport from the site of the recovery by means of being attached to or placed on the towing or other transport vehicle or if the property being repossessed is being operated or about to be operated by an employee of the recovery agency.

Section 7. For the purpose of incorporating the amendment made by this act to section 330.27, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 493.6403, Florida Statutes, is reenacted to read:

493.6403 License requirements.—

(1) In addition to the license requirements set forth in this chapter, each individual or agency shall comply with the following additional requirements:

(c) An applicant for a Class "E" license shall have at least 1 year of lawfully gained, verifiable, full-time experience in one, or a combination of more than one, of the following:

1. Repossession of motor vehicles as defined in s. 320.01(1), mobile homes as defined in s. 320.01(2), motorboats as defined in s. 327.02, aircraft as defined in s. 330.27(1), personal watercraft as defined in s. 327.02, all-terrain vehicles as defined in s. 316.2074, farm equipment as defined under s. 686.402, or industrial equipment as defined in s. 493.6101(22).

2. Work as a Class "EE" licensed intern.

Section 8. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

1362
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cynthia Henderson

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Address 300 W Pensacola
Street

Tall FL 32301
City State Zip

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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:
Supernal

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1386
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government and Senator Calatayud
SUBJECT:	Department of Environmental Protection
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	**Favorable**
2.	Reagan	Betta	AEG	**Fav/CS**
3.	Carroll	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1386 amends provisions relating to aquatic preserves, resilience, onsite sewage treatment and disposal systems (OSTDSs, otherwise known as septic systems), and wastewater treatment facilities.

The bill requires all applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Domestic treatment facilities that dispose of effluent by certain means must implement reuse to the extent feasible and must consider the ecological or public water supply benefits afforded by any disposal.

The bill makes revisions to facilitate the transfer of the OSTDS program including:

- Creating new procedures for DEP regarding the processing and enforcement of septic tank requirements.
- Directing DEP to adopt rules for a general permit for projects which have, individually or cumulatively, a minimal adverse impact on public health or the environment.
- Directing DEP to establish an enhanced nutrient-reducing OSTDS approval program.

Regarding domestic wastewater treatment facilities and wastewater treatment plans, the bill:

- Requires certain public and private facilities to participate in developing the domestic wastewater treatment plan including providing certain information to the applicable local government.

- Requires certain wastewater treatment facilities that provide reclaimed water within a basin management action plan or reasonable assurance plan area to meet advanced waste treatment standards.

Regarding reclaimed water, the bill:
- Directs the water management districts and DEP to develop rules to promote reclaimed water and encourage potable water offsets that produce significant water savings.
- Authorizes extended permits for those applicants or permittees that propose a development or water resource development project using reclaimed water.

Regarding the Resilient Florida Grant Program, the bill:
- Authorizes DEP to provide grants to counties or municipalities to fund:
  - An update of their inventory of critical assets, including those that are currently or reasonably expected to be impacted by flooding and sea level rise;
  - Development of strategies to enhance community preparations for threats from flooding and sea level rise, including adaptation plans; and
  - Permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.
- Requires vulnerability assessments to use data from the Florida Flood Hub that is certified by the Chief Resilience Officer.
- Requires certain data and planning horizons to be used in the assessment.

The bill requires the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment to include the 20- and 50-year projected sea level rise at each active National Oceanic and Atmospheric Administration tidal gauge off the Florida coast as derived from statewide sea level rise projections.

Regarding the Statewide Flooding and Sea Level Rise Resilience Plan, the bill:
- Authorizes the plan to include projects not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment at DEP and the Chief Resilience Officer's discretion.
- Expands the types of projects that can be submitted by local or regional entities.

The bill requires DEP to include the projects funded under the water quality grant program on a user-friendly website or dashboard.

The bill requires the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool on its website related to its statewide wastewater and stormwater needs analysis.

Regarding aquatic preserves, the bill:
- Provides that it is a noncriminal infraction to operate a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within the Nature Coast Aquatic Preserve.

Declares the Kristin Jacobs Coral Reef Ecosystem Conservation Area to be an aquatic preserve.

The bill may have a positive, yet indeterminate, fiscal impact on state government, because DEP is directed to deposit certain damages, costs, or penalties it collects relating to OSTDSs regulations into the Water Quality Assurance Trust Fund.

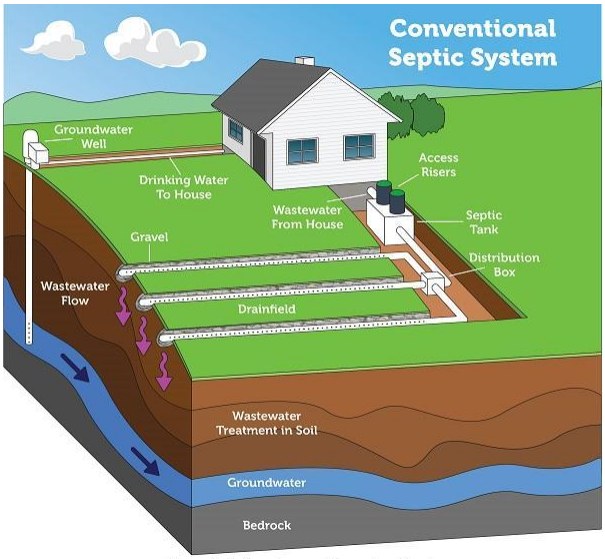
The bill has an effective date of July 1, 2024.

II. Present Situation:

Water Quality and Nutrients

Nutrient pollution and the excessive accumulation of nitrogen and phosphorus in water is one of the most widespread, costly, and challenging environmental problems.[1] In Florida, 35 percent of waterbodies are impaired for nutrients and 87 percent of counties have nutrient impaired waters within their boundaries.[2]

Phosphorus and nitrogen are derived from natural and human-made sources.[3] Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.[4]



Please note: Septic systems vary. Diagram is not to scale.

Onsite Sewage Treatment and Disposal Systems

Onsite Sewage Treatment and Disposal Systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[5] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[6]

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[1] U.S. Environmental Protection Agency (EPA), *Nutrient Pollution: The Problem*, https://www.epa.gov/nutrientpollution/problem (last visited Jan. 18, 2024).
[2] DEP, *Rulemaking Update: Stormwater | Chapter 62-330, F.A.C., Environmental Resource Permitting*, 2 (2023), (on file with the Senate Committee on Environment and Natural Resources).
[3] *Id.*
[4] U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, https://www.epa.gov/nutrientpollution/sources-and-solutions (last visited Jan. 18, 2024).
[5] DOH, *Septic System Information and Care*, http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited Jan. 9, 2024); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Jan. 18, 2024) (showing the graphic provided in the analysis).
[6] *Id.*

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[7] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[8] For example, in rural areas and low-density developments, central sewer systems are not cost-effective.[9]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[10] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[11]

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[12] The Department of Environmental Protection (DEP) publishes on its website approved products and resources on advanced systems.[13] Determining which advanced system is the best option can depend on site-specific conditions.

In 2023, the Florida Legislature passed a law requiring enhanced nutrient-reducing OSTDSs in places where waterbodies do not meet water quality standards and there is a plan in place, such as a basin management action plan (BMAP) or alternative restoration plan, to address water quality issues.[14] Enhanced nutrient-reducing OSTDSs are required for new systems on lots of one acre or less within all BMAP areas, reasonable assurance plan areas, and pollution reduction plan areas when sewer is not available.[15] Within the Banana River Lagoon BMAP, the Central Indian River Lagoon BMAP, the North Indian River Lagoon BMAP, and the Mosquito Lagoon reasonable assurance plan area, all new OSTDSs are prohibited unless central sewerage is not available, in which case only enhanced nutrient-reducing OSTDSs are authorized.[16]

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[7] DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems (last visited Jan. 18, 2024).
[8] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/costs-implement-mandatory-statewide-inspection.pdf.
[9] *Id*.
[10] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf; *See* Fla. Admin. Code R. 64E-6.006(2).
[11] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Oct. 2020), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[12] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf.
[13] DEP, *Onsite Sewage Program, Product Listings and Approval Requirements*, https://floridadep.gov/water/onsite-sewage/content/product-listings-and-approval-requirements.
[14] DEP, *Permitting of Enhanced Nutrient Reducing Onsite Sewage Treatment and Disposal Systems*, https://floridadep.gov/water/onsite-sewage/content/permitting-enhanced-nutrient-reducing-onsite-sewage-treatment-and (last visited Jan. 18, 2024); No. 2023-169, Laws of Fla.; Sections 373.811 and 403.067(7)(a)10., F.S.
[15] Section 403.067(7)(a)10., F.S.
[16] Section 373.469, F.S.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[17] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from DEP.[18]

In 2020, the Clean Waterways Act provided for the transfer of the Onsite Sewage Program from the Department of Health (DOH) to DEP.[19] The Onsite Sewage Program will be transferred over a period of five years, and guidelines for the transfer are provided by an interagency agreement.[20] Per the agreement, DEP has the primary powers and duties of the Onsite Sewage Program, meaning that the county departments of health will implement the OSTDS program under the direction of DEP instead of DOH.[21] The county departments of health still handle permitting and inspection of OSTDS.[22] In the event of an alleged violation of OSTDS laws, county departments of health are responsible for conducting an inspection to gather information regarding the allegations.[23]

In 2008, less than one percent of OSTDSs in Florida were actively managed under operating permits and maintenance agreements.[24] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[25] Current law directs DEP to administer permits, site evaluations, and inspections associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an OSTDS.[26] Although this statutory authority is broad, inspections for traditional OSTDS generally occur during OSTDS construction, repair, or abandonment.[27] Buildings that use an aerobic treatment unit or generate commercial waste must by inspected by DEP at least annually to assure compliance with the operating permit.[28]

Under s. 381.0065(5), F.S., DEP personnel who have reason to believe noncompliance exists, may at any reasonable time, enter a premises with an OSTDS permit or the business premises of any septic tank contractor to ascertain compliance with applicable statutes and rule. The term "premises" does not include a residence or private building. To gain entry to a residence or private building, DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction. DEP may issue citations that may contain an order of correction or an order to pay a fine, or both when a violation of applicable laws or rules is enforceable by an administrative, civil remedy, or is a misdemeanor of the

[17] Section 381.00655, F.S.
[18] *Id*.
[19] DEP, *Program Transfer*, https://floridadep.gov/water/onsite-sewage/content/program-transfer (last visited Jan. 18, 2024).
[20] DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program*, 5 (June 30, 2021), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf.
[21] *Id.* at 14.
[22] *Id.* at 11; and DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage (last visited Jan. 18, 2024).
[23] DOH, DEP, *Interagency Agreement between DEP and DOH in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program* at 11.
[24] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/costs-implement-mandatory-statewide-inspection.pdf.
[25] *Id*.
[26] Section 381.0065(3)(b); Fla. Admin. Code 62-6.003.
[27] *See* Fla. Admin. Code 62-6.003, 62-6.011.
[28] Section 381.0065(4), F.S.

second degree.[29] The fines imposed by citation may not exceed $500 per violation. Each day the violation exists constitutes a separate violation.[30] The department may reduce or waive the fine imposed by the citation. Fines are deposited into the county health department trust fund.[31]

DEP is also required by law to make rules to relating to the location of OSTDSs, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider:

- Conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs,
- Impaired or degraded water bodies,
- Domestic wastewater and drinking water infrastructure,
- Potable water sources,
- Nonpotable wells,
- Stormwater infrastructure,
- The onsite sewage treatment and disposal system remediation plans developed for purposes of a BMAP,
- Nutrient pollution, and
- The recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652, F.S.[32]

The rules are required to allow a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.[33] DEP updated Chapter 62-6 of the Florida Administrative Code in 2022 to address these requirements.

A county or municipality that contains a first magnitude spring must, and any county or municipality that does not contain a first magnitude spring may, develop and adopt by local ordinance an OSTDS evaluation and assessment program meeting the requirements of state law.[34] If adopted, the OSTDS evaluation and assessment program requires that each OSTDS within all or part of the county's or municipality's jurisdiction be evaluated once every five years to assess the fundamental operational condition of the system and to identify system failures.

[29] Section 381.0065(5), F.S.
[30] *Id*.
[31] *Id*.
[32] Section 381.0065(4)(e), F.S.
[33] *Id*.
[34] Section 381.00651(2), F.S. There are exceptions. If a county or municipality that contains a first magnitude spring has already adopted an OSTDS evaluation and assessment program, and it meets the grandfathering provisions of the statute, it is exempt from the requirement. The governing body of a local government can also choose to opt out of the requirement by adopting a resolution by a 60 percent vote that indicates an intent to not adopt an OSTDS evaluation and assessment program.

The following table includes administrative and judicial remedies available pursuant to part I of ch. 403 for violations of OSTDSs regulations, part I of ch. 386, relating to sanitary nuisances involving OSTDSs, or part III of ch. 489.

Statute	Administrative Remedies	Judicial Remedies
Part I, ch. 403, F.S.	• Institute an administrative proceeding to establish liability and recover damages for any injury to air, waters, or property of the state caused by any violation; the department may order the violator to pay damages to the state. • Institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively when penalties sought do not exceed $50,000 per assessment. • Institute an administrative proceeding by serving a written notice of violation upon the alleged violator by certified mail. • In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided by law. • For a drinking water contamination violation, a penalty of $3,000 for a maximum containment level violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological maximum contaminant level or it is a fecal coliform bacteria violation. • For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, a penalty of $2,000. • For failure to install, maintain, or use a required pollution control system or device, $6,000. • For failure to obtain a required permit before construction or modification, $4,500. • For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.[35]	• Institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant and aquatic life, of the state caused by any violation. • Institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense.[36] • Institute a civil action in a court of competent jurisdiction to seek injunctive relief.[37]

[35] Section 403.121, F.S.
[36] *Id*.
[37] Section 403.131, F.S.

Statute	Administrative Remedies	Judicial Remedies
Part I, ch. 386, F.S.	• Undertake required correctional procedures regarding sanitary nuisances, the cost or expense of which must be paid by the person(s) committing, creating, keeping, or maintaining such nuisance; institute a civil action if the cost and expense is not paid within 10 days of removal. • Institute administrative proceedings authorized pursuant to s. 381.0061, F.S., (DEP may impose a fine, which may not exceed $500 for each violation of regulations relating to OSTDSs, septic tank contracting, and sanitary nuisances).[38]	• Institute criminal proceedings in the county court in the jurisdiction of which the condition exists against all persons failing to comply with notices to correct sanitary nuisance conditions. • Institute legal proceedings authorized pursuant to s. 381.0012, F.S., (DEP may apply for an injunction in the proper circuit court; DEP may receive a warrant from a trial court judge to carry out the purpose and intent of ch. 381, F.S., relating to public health).[39]
Part III, ch. 489, F.S.	• Revoke or suspend a certificate of registration for certain violations.[40] • Deny a registration if the department determines that an applicant does not meet all requirements of this part or has violated any provisions of this part.[41]	• None.

Impaired Waters

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet the established water quality standards.[42] States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.[43]

DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for assessment purposes.[44] If DEP determines that any waters are impaired, the

[38] Section 386.03, F.S.
[39] *Id.*
[40] Section 489.556, F.S.
[41] Section 489.558, F.S.
[42] EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*, https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa (last visited Jan. 18, 2024); 40 C.F.R. 130.7. Following the development of the list of impaired waters, states must develop a total maximum daily load for every pollutant/waterbody combination on the list. A total maximum daily load is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards. DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Jan. 18, 2024).
[43] *Id.*
[44] DEP, *Assessment Lists*, https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists (last visited Jan. 18, 2024).

waterbody must be placed on the verified list of impaired waters and a total maximum daily load (TMDL) must be calculated.[45] A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.[46] A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.[47]

Basin Management Action Plans

BMAPs are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,[48] for a watershed.

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices (BMPs) or conducting water quality monitoring.[49] A nonpoint source discharger may be subject to enforcement action by DEP or a water management district for failure to implement these requirements.[50]

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.[51] Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.[52]

BMAPs must include five-year milestones for implementation and water quality improvement and an associated water quality monitoring component to evaluate the progress of pollutant load reductions.[53] Every five years an assessment of progress toward these milestones must be conducted and revisions to the plan made as appropriate.[54]

Each BMAP must also include:

- The management strategies available through existing water quality protection programs to achieve TMDLs;
- A description of BMPs adopted by rule;

[45] *Id.*; DEP, *Verified List Waterbody Ids (WBIDs)*, https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about (last visited Jan. 18, 2024); section 403.067(4), F.S.
[46] Section 403.067(6)(a), F.S. *See also* 33 U.S.C. § 1251, s. 303(d) (the Clean Water Act).
[47] Section 403.067(5), F.S.
[48] "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).
[49] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.
[50] Section 403.067(7)(b)2.h., F.S.
[51] *Id.*
[52] *Id.*
[53] Section 403.067(7)(a)6., F.S.
[54] *Id.*

- For the applicable five-year implementation milestones, a list of projects that will achieve the pollutant load reductions needed to meet a TMDL or other established load allocations, including a planning-level cost estimate and an estimated date of completion;
- A list of regional nutrient reduction projects submitted by the Department of Agriculture and Consumer Services which will achieve pollutant load reductions established for agricultural nonpoint sources;[55]
- The source and amount of financial assistance to be made available; and
- A planning-level estimate of each project's expected load reduction, if applicable.[56]

Flooding and Sea Level Rise

Given Florida's flat topography[57] and extreme rainfall events, flooding has been an issue throughout the state's history.[58] The effects of climate change—including sea level rise, increased storm intensity, and increased frequency and severity of extreme rainfall events—have increased flooding in inland and coastal areas.[59]

Sea level rise is a direct effect of climate change, resulting from a combination of thermal expansion of warming ocean waters and the addition of water mass into the ocean, largely associated with the loss of ice from glaciers and ice sheets.[60] The global mean sea level has risen about 8–9 inches since 1880, and the rate of rise is accelerating: 0.06 inches per year throughout most of the twentieth century, 0.14 inches per year from 2006–2015, and 0.24 inches per year from 2018–2019.[61] In 2021, global sea levels set a new record high—3.8 inches above 1993 levels.[62]

The latest projections from the National Oceanic and Atmospheric Administration (NOAA) estimate that an average of two feet sea level rise can be expected over the next 50 years.[63] All coastal areas of Florida will be affected under this scenario.[64]

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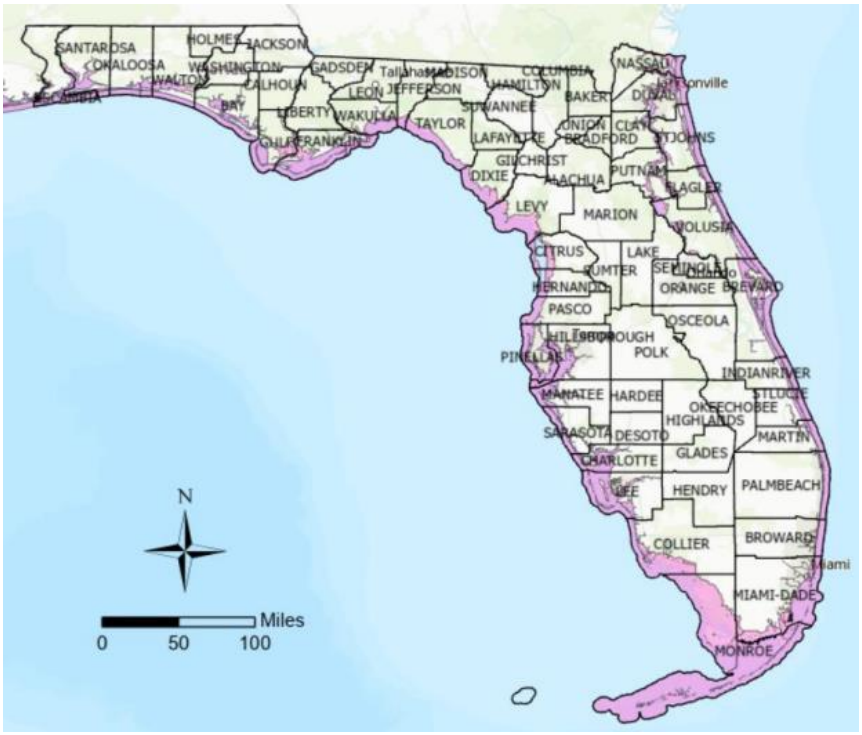
[55] This is required only where agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges or DEP determines that additional measures are necessary to achieve a TMDL. Section 403.067(7)(e)1., F.S.
[56] Section 403.067(7)(a)4., F.S.
[57] The Florida coastline has an average elevation of approximately 15 to 20 feet above mean sea level (MSL) with barrier islands typically at elevation zero to five feet above MSL. The southern portion of the state (south of Lake Okeechobee) is typically lower than 15 feet MSL. U.S. Army Corps of Engineers, *South Atlantic Coastal Study: Florida Appendix*, 3-26 (2022), *available at* https://www.sad.usace.army.mil/Portals/60/siteimages/SACS/SACS_FL_Appendix_508_20220812.pdf?ver=XGRM8v-69_bdLAFPXEmlOg%3d%3d.
[58] Florida Office of Economic and Demographic Research (EDR), *Annual Assessment of Flooding and Sea Level Rise*, 2 (2023), *available at* http://edr.state.fl.us/Content/natural-resources/2023_AnnualAssessmentFloodingandSeaLevelRise_Chapter6.pdf.
[59] National Aeronautics and Space Administration (NASA), *The Effects of Climate Change*, https://climate.nasa.gov/effects/ (last visited Jan. 18, 2024).
[60] National Oceanic and Atmospheric Administration (NOAA) et al., *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) *available at* https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html.
[61] NOAA, *Climate Change: Global Sea Level*, https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level (last visited Jan. 18, 2024).
[62] *Id.*
[63] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 20; NOAA, *Global and Regional Sea Level Rise Scenarios for the U.S.*, (2022) *available at* https://oceanservice.noaa.gov/hazards/sealevelrise/sealevelrise-tech-report.html.
[64] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 21.



Projection of 2 ft. Sea Level Rise[65]

Over five million structures are estimated to be affected by flooding under a two-foot sea level rise scenario. The estimated value of these at-risk properties exceeds $576 billion.[66]

Due to its porous geology, economic and property value, and the potential impact of various flooding hazards, southeast Florida is the area most at risk from sea level rise.[67] The effects of sea level rise are already apparent in this region and pose a threat to lives, livelihoods, economies, and the environment.[68] Physical impacts of sea level rise include coastal inundation and erosion, increased frequency of flooding in vulnerable coastal and inland areas due to impairment of the region's largely gravity-driven stormwater infrastructure system, reduced soil infiltration capacity, and saltwater intrusion of drinking-water supply. Moreover, the impacts of surge from tropical storms or hurricanes are exacerbated by sea level rise. Increased pollution and contamination from flooding degrades natural resources critical to the region's economy. Sea level rise can also result in displacement, decrease in property values and tax base, increases in insurance costs, loss of services, and impairment of infrastructure such as roads and septic systems.[69]

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[65] *Id.* at 21.
[66] *Id.* at 24, 25.
[67] EDR, *Annual Assessment of Flooding and Sea Level Rise* at 2.
[68] Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida*, 5 (2019), *available at* https://southeastfloridaclimatecompact.org/wp-content/uploads/2020/04/Sea-Level-Rise-Projection-Guidance-Report_FINAL_02212020.pdf.
[69] Sea Level Rise Ad Hoc Work Group, Southeast Florida Regional Climate Change Compact (SFRCCC), *Unified Sea Level Rise Projection: Southeast Florida* at 5.

Sea Level Rise Projections

Entities from the international to the local level use scientific data and modeling to create projections of future sea level rise for planning and decision-making. The NOAA operates tide gauges along the nation's coasts and satellites that measure changes in sea level. In 2017 and 2022, the NOAA published sea level rise projections for the U.S.[70] The NOAA's projections include observation-based extrapolations and five scenarios ranging from "low" to "high."[71] Interactive maps have been developed to depict local conditions under each NOAA scenario.[72]

Resilience and Nature-Based Solutions

Resilience is the ability of a community to prepare for anticipated natural hazards, adapt to changing conditions, and withstand and recover rapidly from disruptions.[73] Resilience planning includes preparing for hazard events, risk mitigation, and post-event recovery and should be proactive, continuous, and integrated into other community goals and plans.[74]

Nature-based solutions are an important part of resilience planning. Nature-based solutions use natural features and processes to combat climate change, reduce flood risks, improve water quality, protect coastal property, restore and protect wetlands, and stabilize shorelines.[75] Examples of nature-based solutions include:

- Living shorelines, which stabilize a shore by combining living components, such as plants, with structural elements, such as rock or sand. Living shorelines can slow waves, reduce erosion, and protect coastal property.
- Oyster reefs. Oysters are often referred to as "ecosystem engineers" because of their tendency to attach to hard surfaces and create large reefs made of thousands of individuals. In addition to offering shelter and food to coastal species, oyster reefs buffer coasts from waves and filter surrounding waters.
- Dunes, which often have dune grasses or other vegetation and serve as a barrier between the water's edge and inland areas.[76]

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[70] NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2017), *available at* https://tidesandcurrents.noaa.gov/publications/techrpt83_Global_and_Regional_SLR_Scenarios_for_the_US_final.pdf; NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, (2022), *available at* https://aambpublicoceanservice.blob.core.windows.net/oceanserviceprod/hazards/sealevelrise/noaa-nos-techrpt01-global-regional-SLR-scenarios-US.pdf.

[71] NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 15 (2022). The 2017 projections also included an "extreme" scenario, which has been removed from the 2022 report. *See* NOAA, *Global and Regional Sea Level Rise Scenarios for the United States*, 23 (2017).

[72] University of Florida, *Florida Sea Level Scenario Sketch Planning Tool*, https://sls.geoplan.ufl.edu/viewer/ (last visited Jan. 18, 2024).

[73] Federal Emergency Management Agency (FEMA), *National Risk Index: Community Resilience*, https://hazards.fema.gov/nri/community-resilience (last visited Jan. 18, 2024).

[74] National Institute of Standards and Technology, U.S. Dep't of Commerce, *Community Resilience Planning Guide for Buildings and Infrastructure Systems*, 1 (2016), *available at* https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1190v1.pdf.

[75] FEMA, *FEMA Resources for Climate Resilience*, 5 (2021), *available at* https://www.fema.gov/sites/default/files/documents/fema_resources-climate-resilience.pdf.

[76] FEMA, *Types of Nature-Based Solutions*, https://www.fema.gov/emergency-managers/risk-management/nature-based-solutions/types (last visited Jan. 18, 2024).

The Resilient Florida Grant Program

The Florida Legislature has established several statewide resilience programs, including the Resilient Florida Grant Program, the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set, and the Statewide Flooding and Sea Level Rise Resilience Plan.

The Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, including vulnerability assessments, plan development, and projects to adapt critical assets.[77] In the program's first two years, 263 implementation projects were awarded a total of nearly $954 million.[78] Vulnerability assessments funded through this program must encompass the entire county or municipality; use the most recent publicly available Digital Elevation Model and dynamic modeling techniques, if available; and analyze the vulnerability of and risks to critical assets,[79] including regionally significant assets.[80] In addition, vulnerability assessments must include, where applicable:

- Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), F.S.,[81] if the county or municipality is subject to, but has not complied with, such requirements;
- The depth of tidal flooding, current and future storm surge flooding, rainfall-induced flooding (including for a 100-year and 500-year storm), and compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding; and
- The following scenarios and standards:
  - All analyses in the North American Vertical Datum of 1988;[82]
  - At least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections;
  - At least two planning horizons that include planning horizons for the years 2040 and 2070; and

[77] Section 380.093(2)(a), F.S. "Critical asset" is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.
[78] This figure includes $270 million of state funding for the Statewide Flooding and Sea Level Resilience Plan. DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources* (Feb. 23, 2023), *available at* https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.
[79] Critical assets include transportation assets and evacuation routes (airports, bridges, bus terminals, major roadways, etc.), critical infrastructure (wastewater and stormwater treatment facilities, drinking water facilities, solid and hazardous waste facilities, etc.), critical community and emergency facilities (schools, correctional facilities, fire stations, hospitals, etc.), and natural, cultural, and historical resources (conservation lands, parks, shorelines, wetlands, etc.). Section 380.093(2)(a), F.S.
[80] Section 380.093(3)(c), F.S. Regionally significant assets are critical assets that support the needs of communities spanning multiple geopolitical jurisdictions. Section 380.093(2)(d), F.S.
[81] This section provides that, in communities abutting the Gulf of Mexico or Atlantic Ocean or other coastal areas defined by statute, a local government's comprehensive plan must include a coastal management element. Sections 163.3178(2) and 163.3177(6)(g), F.S. This element must contain a redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. Section 163.3178(2)(f), F.S.
[82] A vertical datum is a surface of zero elevation to which heights of various points are referenced. Traditionally, vertical datums have used classical survey methods to measure height differences (i.e. geodetic leveling) to best fit the surface of the earth. The current vertical datum for the contiguous United States and Alaska is the North American Vertical Datum of 1988. NOAA, *National Geodetic Survey: Vertical Datums*, https://www.ngs.noaa.gov/datums/vertical/#:~:text=TABLE%201%3A%20Current%20Vertical%20Datums%20for%20United%20States,%20%202002-present%20%201%20more%20rows%20 (last visited Jan. 18, 2024).

- Local sea level data that has been interpolated between the two closest NOAA tide gauges.[83]

The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment will provide information necessary to determine the risks to inland and coastal communities.[84] By July 1, 2023, DEP must develop a data set providing statewide sea level rise projections and information necessary to determine the risks of flooding and sea level rise to inland and coastal communities. By July 1, 2024, DEP must develop a statewide assessment (using the statewide data set) identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets and be updated every five years.[85]

The Statewide Flooding and Sea Level Rise Resilience Plan consists of ranked projects that address risks of flooding and sea level rise to coastal and inland communities.[86] Examples of projects include construction of living shorelines, seawalls, and pump stations, elevation projects, and infrastructure hardening.[87] Counties, municipalities, water management districts, regional water supply authorities, and other entities may submit to DEP an annual list of proposed projects. Each project must have a minimum 50 percent cost share, unless the project assists or is within a financially disadvantaged community.[88] DEP ranks the projects using a four-tier scoring system.[89] DEP has adopted rules to implement s. 380.093, F.S., relating to the Statewide Flooding and Sea Level Rise Resilience Plan and project submittal requirements. These rules can be found in Chapter 62S-8 of the Florida Administrative Code.[90] In December 2022, DEP submitted the FY 23-24 Statewide Flooding and Sea Level Rise Resilience Plan totaling nearly $408 million over the next three years.[91]

DEP may also provide funding for regional resilience entities to assist local governments with planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise.[92] As of February 2023, $4 million had been appropriated to regional resilience entities.[93]

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[83] Section 380.093(3)(d)
[84] Section 380.093(4), F.S.; DEP, *Resilient Florida Program – Statewide Assessment*, https://floridadep.gov/rcp/resilient-florida-program/content/resilient-florida-program-statewide-assessment (last visited Jan. 18, 2024).
[85] *Id. See also* DEP, *Resilient Florida Program – Statewide Assessment*.
[86] Section 380.093(5), F.S.
[87] DEP, *2023-2024 Statewide Flooding and Sea Level Rise Resilience Plan*, *available at* https://floridadep.gov/sites/default/files/2023-24%20Statewide%20Flooding%20and%20Sea%20Level%20Rise%20Resilience%20Plan_0.pdf.
[88] Section 380.093(5)(e), F.S. A financially disadvantaged small community is a municipality with a population of 10,000 or fewer, or a county with a population of 50,000 or fewer, where the per capita annual income is less than the state's per capita annual income. *Id.*
[89] Section 380.093(5)(h), F.S.
[90] Fla. Admin. Code Chapter 62S-8, *available at* https://floridadep.gov/sites/default/files/Final%20Rule%20Language_0.pdf.
[91] DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 9, *available at* https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf
[92] Section 380.093(6), F.S.
[93] DEP, *Presentation to the Florida Senate Committee on Environment and Natural Resources*, 18 (Feb. 23, 2023), *available at* https://www.flsenate.gov/Committees/Show/SSHR/MeetingPacket/5700/10150_MeetingPacket_5700_2.23.23.pdf.

In 2022, the Statewide Office of Resilience was created within the Executive Office of the Governor for the purpose of reviewing all flood resilience and mitigation activities in the state and coordinating flood resilience and mitigation efforts with federal, state, and local governmental entities and other stakeholders. The office's Chief Resilience Officer and DEP worked together to provide the Governor and the Legislature with a report on flood resilience and mitigation efforts across Florida.[94]

Florida Flood Hub for Applied Research and Innovation

The Florida Flood Hub for Applied Research and Innovation was established within the University of South Florida College of Marine Science to coordinate efforts between the academic and research institutions of the state.[95] The Florida Flood Hub is tasked with, among other things, organizing existing data needs for a comprehensive statewide flood vulnerability and sea level rise analysis and performing gap analyses to determine data needs; developing statewide open source hydrologic models for physically based flood frequency estimation and real-time forecasting of flood; establishing community-based programs to improve flood monitoring and prediction along major waterways; and providing tidal and storm surge flooding data to counties and municipalities for vulnerability assessments.[96]

Water Reuse

Water reuse is an important component of both wastewater management and water resource management in Florida. Reuse is defined as the deliberate application of reclaimed water for a beneficial purpose.[97] Whereas, reclaimed water is defined as water from a domestic wastewater[98] treatment facility that has received at least secondary treatment[99] and basic disinfection[100] for reuse.[101]

Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[102] These facilities may require state and federal permits for discharges to surface waters.[103] Federal requirements for most facilities or activities are generally incorporated into a state-issued

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[94] DEP and Florida Statewide Office of Resilience, *2022 Flood Resilience and Mitigation Efforts Across Florida*, 2, *available at* https://floridadep.gov/sites/default/files/2022%20Flood%20Resilience%20and%20Mitigation%20Efforts%20Report%20Only_0.pdf; Letter from Department of Economic Opportunity to DEP, 1-2 (Nov. 9, 2022), *available at* https://floridadep.gov/DEO_PoF_Letter2022.

[95] Section 380.0933(1), F.S.

[96] Section 380.0933(2) and (3), F.S.

[97] Fla. Admin. Code R. 62-610.200(52).

[98] Section 367.021(5), F.S., defines the term "domestic wastewater" to mean wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

[99] Fla. Admin. Code R. 62-610.200(54) defines the term "secondary treatment" to mean "wastewater treatment to a level that will achieve the effluent limitations specified in paragraph 62-600.420(1)(a), F.A.C."

[100] Fla. Admin. Code R. 62-600.440(5) provides the requirements for basic disinfection.

[101] Section 373.019(17), F.S.; Fla. Admin. Code R. 62-610.200(48).

[102] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Jan. 18, 2024).

[103] For required state permits, *see* Section 403.087, F.S.; *see also* DEP, *Wastewater Permitting*, available at https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Jan. 18, 2024). For federal permits, *see* 33 U.S.C. s. 1342.

permit.[104] DEP also regulates the construction and operation of domestic wastewater treatment facilities and establishes disinfection requirements for the reuse of reclaimed water.[105]

Reusing water helps conserve drinking water supplies by replacing the use of drinking quality water for non-drinking water purposes, such as irrigation, industrial cooling, groundwater recharge, and prevention of saltwater intrusion in coastal groundwater aquifers.[106] Water reuse also provides environmental benefits, including reduced groundwater withdrawals, reduced needs for new drinking water supplies and infrastructure, and improved water quality of the natural environment by reducing the amount of nutrients that are discharged directly to surface water and groundwater by wastewater treatment facilities.[107] The use of reclaimed water also provides for the recovery of water that would otherwise be lost to tide and evaporation.

In its rules, DEP requires promotion of reuse of reclaimed water, recycling of stormwater for irrigation and other beneficial uses, recycling of industrial wastewater, and encourages local governments to create programs for reuse.[108] Water conservation and the promotion of water reuse have also been established as formal state objectives by the Legislature.[109] State law further provides that the use of reclaimed water provided by wastewater treatment plants permitted and operated under a reuse program by DEP are considered environmentally acceptable and are not a threat to public health and safety.[110]

Florida tracks its reuse inventory in an annual report compiled by DEP.[111] In 2021, a total of 455 domestic wastewater treatment facilities reported making reclaimed water available for reuse.[112] Approximately 908 million gallons per day (mgd) of reclaimed water were used for beneficial purposes in 2021,[113] which represents approximately 53 percent of the total domestic wastewater flow in the state.[114] The total reuse flow associated with reuse systems was 1,701 mgd,[115] which represents approximately 61 percent of the total domestic wastewater treatment flow in the state.[116]

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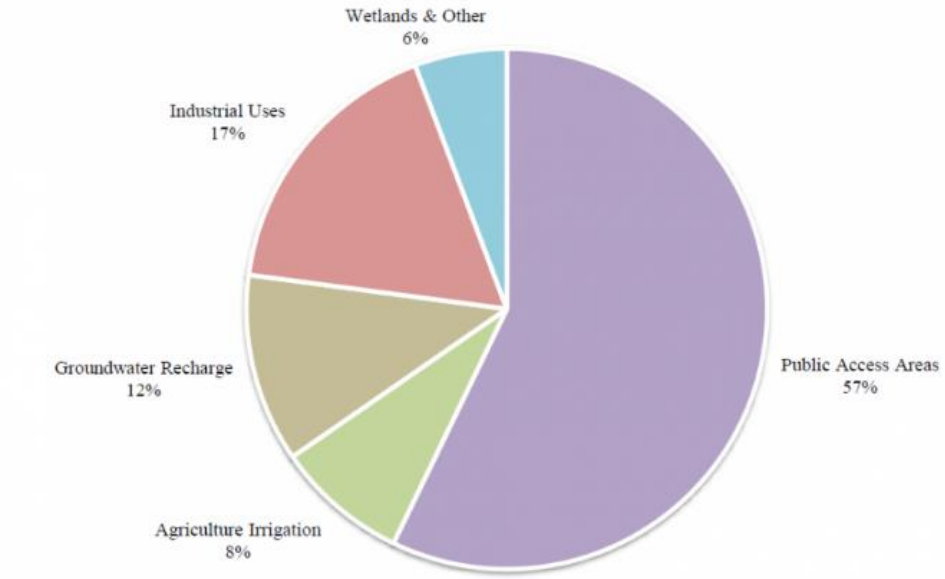
[104] Sections 403.061 and 403.087, F.S.
[105] Fla. Admin. Code R. 62-600.
[106] Martinez, Christopher J. and Clark, Mark W., *Reclaimed Water and Florida's Water Reuse Program*, UF/IFAS Agricultural and Biological Engineering Department (rev. 07/2012), *available at* https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.590.5063&rep=rep1&type=pdf.
[107] *Id*.
[108] Fla. Admin. Code R. 62-40.416.
[109] Sections 403.064(1) and 373.250(1), F.S.
[110] *Id*.
[111] *See* DEP, *2021 Reuse Inventory Report* (2022), *available at* https://floridadep.gov/sites/default/files/2021%20Reuse%20Inventory.pdf; compiled from reports collected pursuant to chapter 62-610 of the Florida Administrative Code.
[112] DEP, *2019 Reuse Inventory Report* at 2.
[113] This represents an average per capita reuse of 38.66 gallons per day per person. DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Jan. 18, 2024).
[114] DEP, *2019 Reuse Inventory Report* at 2, 3.
[115] *Id*. at 2.
[116] *Id*. at 3.

The chart below shows the percentage of reclaimed water utilization by flow.[117]



Note: Agriculture irrigation includes edible crops (e.g., citrus) as well as feed and fodder crops (e.g., spray fields).

In 2021, the Legislature passed SB 64, which required domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to submit a plan for eliminating non-beneficial surface water discharge by January 2032.[118] The plan must include the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.[119]

SB 64 authorized discharges that are being beneficially used or otherwise regulated, including discharges associated with an indirect potable reuse project; permitted wet weather discharge; discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes; utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or discharges that provide direct ecological or public water supply benefits.[120] The bill further specified that potable reuse is an alternative water supply and made reuse projects eligible for alternative water supply funding and incentivized the development of potable reuse projects.[121]

Reclaimed Water as Alternative Water Supply

When traditional water supplies are constrained, alternative water supplies must be developed in addition to water conservation efforts. Alternative water supply can include reclaimed water,

[117] DEP, *Florida's Reuse Activities*.
[118] Chapter 2021-168, Laws of Fla.; s. 403.064(17), F.S.
[119] *Id*.
[120] *Id*.
[121] *Id*.

brackish groundwater, surface water, and excess surface water captured and stored in reservoirs or aquifer storage and recovery wells.[122]

Reclaimed water is a type of alternative water supply and is eligible to receive alternative water supply funding.[123] Reclaimed water can be used for many purposes to meet water demand, including:

- Irrigation of golf courses, parks, residential properties, and landscaped areas;
- Urban uses, such as toilet flushing, car washing, and aesthetic purposes;
- Agricultural uses, such as irrigation of food crops, pasture lands, and at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging groundwater through rapid infiltration basins, absorption fields, and direct injection;
- Augmentation of surface waters used for drinking water supplies; and
- Industrial uses such as processing and cooling water.[124]

Regulation of Reclaimed Water

Both DEP and the water management districts (districts) play a regulatory role in the use of reclaimed water. DEP regulations focus on water quality and ensure that reclaimed water is appropriately treated for its intended use to ensure protection of public health and the environment. The districts work with local utilities and water users to maximize the beneficial use of reclaimed water as an alternative water supply. The districts include alternative water supply projects in their regional water supply plans[125] and implement cost-share programs to assist communities in developing reclaimed water systems.[126]

In its rules, DEP provides detailed reclaimed water treatment requirements depending upon how the reclaimed water will be used, including for groundwater recharge, surface water discharge, or to protect water quality.[127] In order to be reused as reclaimed water, domestic wastewater must meet, at minimum, a treatment standard of secondary treatment, basic disinfection, and pH control.[128] The regulations also include requirements for groundwater monitoring at reuse and land application sites.[129]

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[122] DEP, *Alternative Water Supply*, https://floridadep.gov/water-policy/water-policy/content/alternative-water-supply#Alternative%20Water%20Supplie (last visited Jan. 18, 2024).
[123] Section 373.250(2), F.S.
[124] DEP, *Uses of Reclaimed Water*, https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water (last visited Jan. 18, 2024).
[125] Section 373.036(2), F.S.
[126] DEP, *Water Management District Reuse Programs*, https://floridadep.gov/water/domestic-wastewater/content/water-management-district-reuse-programs (last visited Jan. 18, 2024).
[127] Fla. Admin. Code R. 62-610.
[128] DEP, *Applicable Rules for Reuse Projects*, https://floridadep.gov/water/domestic-wastewater/content/applicable-rules-reuse-projects#:~:text=Treatment%20and%20disinfection%20requirements%20for%20reuse%20of%20reclaimed,in%20order%20to%20be%20reused%20as%20reclaimed%20water (last visited Jan. 18, 2024).
[129] Fla. Admin. Code R. 62-610.412.

The districts are responsible for the administration of water resources at a regional level, including programs to protect water supply, water quality, and natural systems.[130] The districts issue consumptive use permits (CUPs) to manage the use of water. A CUP allows the holder to withdraw a specified amount of water from surface water and groundwater sources for reasonable and beneficial use.[131] CUPs require water conservation to prevent wasteful uses, require the reuse of reclaimed water instead of higher-quality groundwater where appropriate, and set limits on the amount of water that can be withdrawn.[132] The districts may not require CUPs for reclaimed water.[133]

The districts also implement minimum flows and minimum water levels (MFLs) to balance public water supply needs with protection of the state's natural systems.[134] For water bodies that are below or projected to fall below their MFL, the districts are required to implement a recovery or prevention strategy to ensure the MFL is maintained.[135]

[130] DEP, *Water Management Districts*, https://floridadep.gov/water-policy/water-policy/content/water-management-districts (last visited Jan. 18, 2024).
[131] South Florida Water Management District, *Consumptive Water Use Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/water-use-permits (last visited Jan. 18, 2024).
[132] *Id.*
[133] Section 373.250, F.S.
[134] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 18, 2024); *see also* section 373.042(1), F.S. Minimum flows and minimum water levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
[135] *Id.*

Class I Injection Wells

Class I injections wells are used to inject hazardous and non-hazardous wastes into deep, confined rock formations (see the image to the right).[136] Class I wells are typically drilled thousands of feet below the lowermost underground source of drinking water.[137] There are more than 180 active Class I wells in Florida, the majority of which dispose of non-hazardous, secondary-treated effluent from domestic wastewater treatment plants.[138] New hazardous waste wells were banned in Florida in 1983.[139]

Class I injections wells are required to be constructed, maintained, and operated so that the injection fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited. The wells are monitored so that any migration of injection fluids would be detected before reaching the underground source of drinking water.[140]

Aquatic Preserves

The State of Florida passed the Aquatic Preserve Act in 1975 to ensure that the state-owned submerged lands in areas with exceptional biological, aesthetic, and scientific value were set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.[141] There are currently 42 aquatic preserves encompassing about 2.2 million acres.[142] All but four are located along Florida's 8,400 miles of coastline.[143]

Aquatic preserves only include lands or water bottoms owned by the state. The Aquatic Preserve Act excludes any privately owned lands or water bottoms, or any publicly owned and maintained navigation channel or other public works project authorized by the U.S. Congress designed to improve or maintain commerce and

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[136] U.S. Environmental Protection Agency, *Underground Injection Control, Class I Industrial and Municipal Waste Disposal Wells*, https://www.epa.gov/uic/class-i-industrial-and-municipal-waste-disposal-wells (last visited Jan. 18, 2024).
[137] *Id*.
[138] DEP, *UIC Wells Classification*, https://floridadep.gov/water/aquifer-protection/content/uic-wells-classification#:~:text=In%20Florida%2C%20there%20are%20six%20classes%20of%20injection,than%20180%20active%20Class%20I%20wells%20in%20Florida (last visited Jan., 18, 2024).
[139] *Id*.
[140] *Id*.
[141] Section 258.36, F.S.; DEP, *Aquatic Preserve Program*, https://floridadep.gov/rcp/aquatic-preserve (last visited Jan. 18, 2024).
[142] DEP, *Aquatic Preserve Program*; DEP, Geospatial Open Data, *Florida Aquatic Preserves*, https://geodata.dep.state.fl.us/datasets/FDEP::florida-aquatic-preserves/explore?location=27.492338%2C-83.860873%2C5.95 (last visited Jan. 18, 2024); DEP, Office of Resilience and Coastal Protection, *Aquatic Preserve Program*, https://floridaapdata.org/about_FCO.php (last visited Jan. 18, 2024).
[143] DEP ORCP, *Aquatic Preserve Program*.

navigation.[144] Further, the Aquatic Preserve Act excludes all lands lost by avulsion or artificially induced erosion.[145]

The Board of Trustees of the Internal Improvement Trust Fund (Board) may establish additional aquatic preserves, subject to confirmation by the Legislature.[146] Following public notice and public hearing in the county or counties in which the proposed preserve is to be located, the Board may adopt a resolution formally setting aside such areas. The resolution must include:

- A legal description of the area to be included;
- The designation of the type of aquatic preserve being set aside;
- A general statement of what is sought to be preserved; and
- A clear statement of the management responsibilities for the area.[147]

Privately-owned lands and water bottoms may be included in an aquatic preserve upon specific authorization from the owner as a dedication in perpetuity or a lease.[148]

Current law restricts certain activities in aquatic preserves, including the construction of utility cables and pipes and spoil disposal.[149] Further, the Board may not:

- Sell, lease, or transfer sovereign submerged lands[150] unless it is in the public interest.
- Approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve, except when public road and bridge construction projects have no reasonable alternative and it is not contrary to the public interest.
- Approve further dredging or filling of submerged lands, except for certain activities that must be authorized pursuant to a permit.[151]

Only minimal or maintenance dredging is permitted in an aquatic preserve and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally.[152] Oil and gas well drilling is prohibited within the aquatic preserve. Docking facilities and structures for shore protection are restricted as to size and location.[153]

No wastes or effluents may be discharged into an aquatic preserve if they substantially inhibit the accomplishment of the purposes of the Aquatic Preserve Act. Riparian owners may selectively trim or alter mangroves on adjacent publicly owned submerged lands, provided that the selective

[144] Section 258.40, F.S.
[145] *Id.*
[146] Section 258.41, F.S.
[147] *Id.*
[148] *Id.*
[149] Section 258.42, F.S.
[150] Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board holds title to sovereign submerged lands. DEP, *Submerged Lands Management*, https://floridadep.gov/lands/bureau-public-land-administration/content/submerged-lands-management (last visited Jan 18, 2024).
[151] Section 258.42, F.S.
[152] Fla. Admin. Code R. 18-20.004. Note that every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code and/or ch. 258, F.S.
[153] Section 258.42, F.S. Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria.

trimming or alteration is in compliance with the requirements of state law including permit requirements for mangrove trimming.[154]

Leases of sovereign submerged lands are more costly within aquatic preserves. A rate of two times the existing rate is applied to aquatic preserve leases if 75 percent or more of the lease shoreline and the adjacent 1000 feet on either side of the leased area is in a natural, unbulkheaded, non-seawalled or non-riprapped condition.[155]

The Board has a duty to conserve and improve state-owned lands and the products thereof, which includes the preservation and regeneration of seagrass.[156] A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction. The Nature Coast Aquatic Preserve is also not included. The penalties are as follows:

- $100 for a first offense;
- $250 for a second offense occurring within 12 months of a prior conviction;
- $500 for a third offense occurring within 36 months of a prior conviction; and
- $1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.[157]

The Nature Coast Aquatic Preserve

The Florida Legislature designated the Nature Coast Aquatic Preserve in 2020[158] and it is the 42nd aquatic preserve.[159] The preserve is the second-largest in Florida. It encompasses 800 square miles of coastal waters, including 625 miles of shoreline along Citrus, Hernando, and Pasco Counties. The preserve is bordered to the north and south by three other aquatic preserves. The combination of all four aquatic preserves protects the largest contiguous seagrass meadow in the Gulf of Mexico and the largest spring-fed seagrass habitat in the world.[160]

The preserve by itself protects nearly 400,000 acres of seagrass that support working waterfront industries, including fisheries, seafood production, and ecotourism. The preserve also includes mangrove islands, saltmarsh, sponge beds, marine springs, oyster reefs, and limestone hardbottom habitats.[161]

Kristin Jacobs Coral Reef Ecosystem Conservation Area

The Kristin Jacobs Coral Reef Ecosystem Conservation Area, formerly known as the Southeast Florida Coral Reef Initiative, was officially established on July 1, 2018.[162] The conservation area

[154] Section 258.42, F.S.
[155] Fla. Admin. Code Rule 18-21.011(1)(b)5.
[156] Section 253.04(3), F.S.
[157] Section 327.73(x), F.S.
[158] Section 258.3991, F.S.
[159] DEP, *Nature Coast Aquatic Preserve*, https://floridadep.gov/NatureCoastAP (last visited Jan. 18, 2024).
[160] *Id.*
[161] *Id.*
[162] Section 253.90, F.S.; DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*, https://floridadep.gov/rcp/coral/content/coral-eca-kristin-jacobs-coral-reef-ecosystem-conservation-area (last visited Jan. 18, 2024).

is the northernmost section of Florida's coral reef and runs 105 miles from the St. Lucie Inlet to the northern boundary of Biscayne National Park. The conservation area is part of the only barrier reef system in the continental U.S. and is home to more than 6,000 species of marine life including fish, stony corals, gorgonians, sponges, and other marine invertebrates.[163]

III. Effect of Proposed Changes:

Section 1 amends s. 253.04, F.S., to extend the area in which a person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve commits a noncriminal infraction. The area now includes the Nature Coast Aquatic Preserve.

Section 2 amends s. 258.39, F.S., to declare as an aquatic preserve the Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Section 3 amends s. 373.250, F.S., to direct each water management district, in coordination with the Department of Environmental Protection (DEP), to develop rules by December 31, 2025, to promote the use of reclaimed water and encourage potable quantifiable water offsets that produce significant water savings beyond those required in a consumptive use permit.

The bill requires that the rules must provide that if an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. The bill provides that the rules developed pursuant to this paragraph must include, at a minimum:

- A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond a 20-year permit duration or is completed for the purpose of meeting the requirements of an adopted recovery or prevention strategy; and
- Guidelines for a district to follow in determining the permit duration based on the project's implementation.

The bill requires that the rules must also provide authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced wastewater treatment standards for total nitrogen and total phosphorous during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. The bill provides that rules associated with this paragraph must include, at a minimum:

[163] DEP, *Coral ECA: Kristin Jacobs Coral Reef Ecosystem Conservation Area*.

- A requirement that the permittee be in compliance with the permittee's consumptive use permit;
- A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project helps meet water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recover or prevention strategy;
- A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and
- Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

The bill expressly states that these provisions do not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4 amends s. 380.093, F.S., to define the "Florida Flood Hub" as the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933, F.S.

The bill amends the definition of "preconstruction activities" to specify that the activities are those associated with a project that *addresses the risks of flooding and sea level rise* that occur before construction begins.

Resilient Florida Grant Program

The bill provides that DEP may provide grants to a county or municipality to fund updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The bill adds that the updated inventory must be submitted to DEP and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

The bill adds that DEP may provide grants to a county or municipality to fund the development of strategies, in addition to projects, plans, and policies, that enhance community preparations for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

The bill specifies that, under the grant program, DEP may provide grants to a county or municipality for the cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

The bill requires that, upon completion of a vulnerability assessment, the county or municipality must submit to DEP an inventory of critical assets, including regionally significant assets that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

The bill requires that a vulnerability assessment make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. The bill adds that this includes analyzing impacts related to the depth of tidal flooding, current and future storm surge flooding, and rainfall-induced flooding, which are already listed in statute. With regard to current and future storm surge flooding, the bill removes language directing the use of publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data, unless there is an absence of applicable data from the Florida Flood Hub. Further, the bill adds that higher frequency storm events may be analyzed to understand the exposure of a regionally significant asset. With regard to rainfall-induced flooding, the bill specifies that a spatiotemporal analysis used in the analysis must be GIS-based.

The bill requires that a vulnerability assessment initiated after July 1, 2024, must apply at a minimum the 2022 NOAA intermediate-low and intermediate sea level rise scenarios or the statewide sea level rise projections developed pursuant to the comprehensive statewide flood vulnerability and sea level rise assessment. This replaces language in current law requiring two local sea level rise scenarios that must include the 2017 NOAA intermediate-low and intermediate-high sea level rise scenarios.

The bill adds that a vulnerability assessment apply at least two planning horizons that are identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which DEP, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

The bill requires that the local sea level data required to be applied in a vulnerability assessment must be the data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, then the bill allows the use of local sea level data that may be interpolated between the two closest NOAA tide gauges.

Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment

The bill updates an out-of-date requirement, to require DEP to develop and maintain a comprehensive statewide flood vulnerability and sea level rise data set. The bill directs DEP to develop and maintain the data set in coordination with the Chief Resilience Officer. The bill requires the compilation, analysis, and incorporation of information related to critical asset inventories. The bill requires the Chief Science Officer to coordinate specifically with the Chief Resilience Officer and the Florida Flood Hub to develop statewide sea level rise projections.

The bill updates an out-of-date provision and requires DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub, to complete a comprehensive statewide flood vulnerability and sea level rise assessment. The bill requires that the assessment must include the 20- and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections.

The bill requires DEP to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the comprehensive statewide flood vulnerability and sea level rise data set using the best available information each year at least every five years. The bill removes language requiring DEP to update the data set and assessment more frequently than every five years if it determines that updates are necessary to maintain their validity.

Statewide Flooding and Sea Level Rise Resilience Plan

The bill removes an out-of-date requirement regarding a preliminary plan to be submitted by December 1, 2021. The bill requires that each annual plan must *primarily* address risks of flooding and sea level rise, but adds that it may also include, at DEP's discretion in consultation with the Chief Resilience Officer, certain other projects that address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill specifies that local governments, special districts, and regional resilience entities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

The bill extends the deadline for counties, municipalities, special districts, and regional resilience entities acting on behalf of one or more member counties or municipalities to submit projects identified in existing vulnerability assessments that do not comply with the requirements of the Resilient Florida Grant Program to December 1, 2024. Such entities may submit those projects only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with DEP pursuant to the grant program or funded by another state or federal agency, or is self-funded and intended to meet the grant program's vulnerability assessment requirements or the existing vulnerability assessment was completed using previously compliant statutory requirements. The bill provides that projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet the most recent statutory requirements

The bill removes the term "financially disadvantaged community" for purposes of reduced cost share and replaces it with the term "community eligible for reduced cost share" and includes a municipality or county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

The bill specifies that water management, drainage, erosion control, and flood control districts and regional water supply authorities may submit proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise

assessment or vulnerability assessments that meet the requirements of the Resilient Florida Grant Program.

The bill removes language requiring that for a project to be eligible for inclusion in the plan, it must have been submitted by an authorized entity or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

The bill authorizes DEP to adopt rules to implement this section.

Regional Resilience Entities

The bill specifically includes regional planning councils and estuary partnerships as regional entities that may receive funding for certain purposes.

The bill specifies that one of the purposes for which DEP may provide funding to certain regional entities is to coordinate and conduct activities authorized by the Resilient Florida Grant Program with broad regional benefit or on behalf of multiple member counties and municipalities. This replaces language authorizing DEP to provide funding for the purpose of coordinating multijurisdictional vulnerability assessments.

Section 5 amends s. 381.0061, F.S., to removes an authorization allowing the Department of Health (DOH) to impose a fine for a violation of the laws relating to onsite sewage treatment and disposal systems (OSTDSs) regulations, OSTDS fees, and septic tank contracting.

The bill specifies that DOH may impose a fine for a violation of any rule adopted by DOH under ch. 381, F.S., relating to public health, or for a violation of ch. 386, F.S., relating to sanitary nuisances and the Florida Clean Air Act, that does not involve OSTDSs.

Section 6 provides that the Legislature intends that the transfer of the regulation of the Onsite Sewage Program from DOH to DEP, as required by the Clean Waterways Act, be completed in a phased approach.

The bill directs that before the phased transfer, DEP must coordinate with DOH to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. DOH must transfer the agreed-upon equipment and vehicles to DEP, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to DOH.

The bill provides that when DEP begins implementing the program within a county, DOH may no longer implement or collect fees for the program unless specified by separate delegation or contract with DEP.

Section 7 amends s. 381.0065, F.S., to specify that DEP must conduct enforcement activities in accordance with part I of chapter 403, F.S., relating to pollution control, as well as for a violation of any rule adopted by DEP under laws regulating OSTDSs, sanitary nuisances relating to OSTDSs, or septic tank contracting.

The bill adds that all references in this section (s. 381.0065, F.S.) to part I of chapter 386, regarding sanitary nuisances, relate solely to nuisances that involve improperly built or maintained septic tanks or other OSTDSs and untreated or improperly treated or transported waste from OSTDSs. The bill provides that DEP shall have all the duties and authorities of DOH for sanitary nuisances involving OSTDSs. The bill provides that this authority is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section relating to OSTDSs regulations and ch. 403, F.S., relating to pollution control.

The bill directs DEP to adopt rules establishing and implementing a program of general permits for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. The rules must:

- Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and
- Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to DEP without any agency action by DEP. Within the 30-day notice period, DEP shall determine whether the activity qualifies for a general permit. Further, if the activity does not qualify or the notice does not contain all the required information, DEP must notify the person.

The bill specifies that for DEP personnel to gain entry to a residence or private building, DEP must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091, F.S., relating to inspections. The bill removes language authorizing DEP to issue citations that may contain an order of correction or an order to pay a fine, or both, and instead provides that DEP has all the judicial and administrative remedies available to it pursuant to part I of ch. 403, F.S., relating to pollution control.

The bill removes all requirements relating to DEP issuing citations.

The bill provides that DEP shall deposit any damages, costs, or penalties it collects pursuant to this section on OSTDSs regulations and part I of ch. 403, F.S., relating to pollution control, in the Water Quality Assurance Trust Fund. The bill removes language directing DEP to deposit money from fines into the county health department trust fund.

Section 8 amends s. 381.0066, F.S., relating to OSTDS fees, to provide that the fee schedule for application review, permit issuance, or system inspection applies when performed by DEP or a private provider inspector.

The bill removes language providing that fees collected with respect to OSTDS must be deposited in a trust fund administered by DEP, to be used for purposes stated in the OSTDS fees and regulations laws. The bill directs that funds collected for the implementation of OSTDS regulation, connection of existing OSTDSs to central sewerage systems, and corrective orders relating to OSTDSs and private and certain public water systems, subsequent to any phased transfer of implementation from DOH to DEP within any county, must be deposited in the Florida Permit Fee Trust Fund, to be administered by DEP.

Section 9 amends s. 403.061, F.S., to direct that, upon direction of DEP, all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Current law only requires all state agencies to make these services and facilities available.

Section 10 amends s. 403.064, F.S., to provide a Legislative finding that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use.

Therefore, the bill would require *all* applicants for permits to construct and operate a domestic wastewater treatment facility to prepare a reuse feasibility study. Currently, this requirement is limited to wastewater treatment facilities discharging to a water resource caution area.

The bill makes the following changes to the content requirements of reuse feasibility studies:
- A reuse feasibility study must include an evaluation of the estimated water savings resulting from different types of reuse, if implemented;
- A reuse feasibility study must include an evaluation of environmental and water resource benefits associated with different types of reuse;
- A reuse feasibility study must include an evaluation of economic, environmental, and technical constraints associate with the different types of reuse, including any constraints caused by potential water quality impacts.

The bill requires that a domestic wastewater treatment facility that disposes of effluent or a portion thereof by Class I deep well injection, surface water discharge, land application, or other method to dispose of effluent or a portion thereof must give consideration to direct ecological or public water supply benefits afforded by any disposal and implement reuse to the degree that it is feasible.

Section 11 amends s. 403.067, F.S., to specify that if a local government is required to develop a wastewater treatment plan as part of a basin management action plan (BMAP), that plan is a *domestic* wastewater treatment plan. The bill adds that public and private domestic wastewater treatment facilities that specifically provide services or are located within the jurisdiction of the local government must participate in developing the domestic wastewater treatment plan.

The bill adds that private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments.

Section 12 amends s. 403.0673, F.S., which creates the water quality improvement grant program to require DEP, in the annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on projects funded in the water quality grant program, to include a status report on each project funded since 2021. The status report must, at a minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody. The bill also directs DEP to include projects funded under the water quality grant program on a user-friendly website or dashboard.

Section 13 amends s. 403.086, F.S., to require that by July 1, 2034, within a BMAP or a reasonable assurance plan area, any wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied must meet the standards for advanced waste treatment for total nitrogen and phosphorous as set in statute,[164] if DEP has determined in an applicable BMAP or reasonable assurance plan that the use of reclaimed water is contributing to the nutrient impairment being addressed in such plan. The bill provides that for such DEP determinations made in a nutrient BMAP or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced wastewater treatment standards within 10 years after such determination. DEP is not prevented from requiring an alternative treatment standard, including a more stringent treatment standard, if DEP determines that alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria.

The bill provides that this criteria does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by DEP or a water management district to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced wastewater treatment standards before entering groundwater or surface water.

Section 14 amends s. 403.121, F.S., to provide that DEP shall have certain judicial and administrative remedies available to it for violations of statutes relating to:
- General requirements for OSTDSs (ss. 381.0065-381.0067, F.S.);
- Sanitary nuisances for purposes of OSTDSs only (part I of ch. 386, F.S.);
- Septic tank contracting (part III of ch. 489, F.S., or any rule promulgated thereunder).

With regard to the schedule for administrative penalties, DEP shall assess a penalty of $2,000 for the following violations:
- Failure to obtain an OSTDS permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

The bill adds that each day the cause of a sanitary nuisance is not addressed constitutes a separate offense.

Section 15 amends s. 403.0671, F.S., to clarify that BMAP wastewater reports must include projects to construct, upgrade, or expand domestic wastewater treatment facilities to meet the *domestic* wastewater treatment plan. This change conforms to amendments made in Section 11 of the bill.

Section 16 amends s. 403.9301, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly-accessible data visualization tool on its website related to its statewide wastewater services projections.

[164] Section 403.086(4), F.S.

Section 17 amends s. 403.9302, F.S., to require the Office of Economic and Demographic Research to provide, beginning July 1, 2024, and annually thereafter, a publicly accessible data visualization tool on its website related to its statewide stormwater services projections.

Sections 18 reenacts s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made by this bill in a reference to the amended section.

Section 19 reenacts s. 381.0072(4)(a) and (6)(a), F.S., relating to food service protection, to incorporate the amendment made by this bill in a reference to the amended section.

Section 20 reenacts s. 381.0086(4), F.S., relating to public health rules, variances, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 21 reenacts s. 381.0098(7), F.S., relating to biomedical waste, to incorporate the amendment made by this bill in a reference to the amended section.

Section 22 reenacts s. 513.10(2), F.S., relating to operating a mobile home or recreational vehicle park without a permit, enforcement, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 23 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution prohibits a general law that requires a county or municipality to spend funds to take an action requiring the expenditure of funds, unless the law fulfills an important state interest and unless an exception applies. This bill may contain a local mandate because it requires all counties, at the direction of the Department of Environmental Protection, to make available necessary scientific, technical, research, administrative, and operational services and facilities. Because these are services and facilities that the local government would already have available, the exemption for insignificant fiscal impacts may apply.

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:

The Department of Environmental Protection (DEP) shall assess a penalty of $2,000 for the following violations:

- Failure to obtain an onsite sewage treatment and disposal system (OSTDS) permit or for another violation of s. 381.0065, F.S., relating to OSTDSs regulations;
- The creation of or maintenance of a nuisance related to an OSTDS under part I of ch. 386, F.S.; or
- For a violation of part III of ch. 489, relating to septic tank contracting, or any rule properly promulgated thereunder.

C. Government Sector Impact:

This bill may have a positive fiscal impact on certain local governments, because opportunities for reduced cost share now includes a municipality or county with a per capita annual income that is equal or less than 75 percent of the state's per capita annual income as shown in the most recent census for the Resilient Florida Grant Program. With more counties and municipalities available for reduced cost share and a finite amount of funds, some counties and municipalities may not receive grants that they may otherwise have.

This bill may have a negative fiscal impact on local governments due to the requirement that all counties must make available necessary scientific, technical, research, administrative, and operational services and facilities. Further, county health departments will lose revenue and staffing that is being taken over by DEP, but they will also no longer have to provide those services.

This bill may have a positive fiscal impact on state government, because DEP is directed to deposit certain damages, costs, or penalties it collects relating to onsite sewage treatment and disposal systems regulations into the Water Quality Assurance Trust Fund. Local governments may experience a negative fiscal impact, because the bill removes language directed DEP to deposit funds from fines into the county health department trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.04, 258.39, 373.250, 380.093, 381.0061, 381.0065, 381.0066, 403.061, 403.064, 403.067, 403.0673, 403.086, 403.091, 403.9301, 403.9302, 403.121, and 403.0671,.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(x), 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2).

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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Revises the wording in a requirement for rules relating to long-term consumptive use permits for a water supply or resource development project from *benefits a waterbody with a minimum flow or minimum water level* with a recovery or prevention strategy to *for the purpose of meeting the requirements of an adopted* recovery or prevention strategy.
- Adds water management district approved water quality restoration or water resource development projects to an exemption for land-applied reclaimed water from certain advanced wastewater treatment standards.
- Removes language in the underlying bill that allows the Department of Environmental Protection (DEP) to inspect certain properties where an onsite sewage treatment and disposal system is located or is being constructed or installed or where certain required records are kept.

CS by Appropriations Committee on Agriculture, Environment, and General Government on February 13, 2024:
The committee substitute:

- Clarifies that resiliency projects identified in a previously completed vulnerability assessment remain eligible for funding in the state resilience plan and project applications may be submitted to the department any time prior to September 1 of each year.
- Specifies that the requirement to treat reclaimed water used for irrigation to advanced waste treatment standards only applies to the nitrogen and phosphorous criteria and if within a nutrient basin management action plan where the department has determined that the use of reclaimed water is causing or contributing to the nutrient impairment.
- Directs the Office of Economic and Demographic Research to provide a publicly-accessible data visualization tool related to its statewide wastewater and stormwater needs analysis.

- Directs DEP to include the Water Quality Grant Program projects funded under the water quality grant program on a user-friendly website or dashboard.
- Specifies that a consumptive use permit extension authorized in the bill only applies if the reclaimed water meets the advanced treatment standards for total nitrogen and phosphorous.

B. Amendments:

None.

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	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Calatayud) recommended the following:

Senate Amendment (with title amendment)

Delete lines 190 - 1843

and insert:

development project either meets water demands beyond a 20-year permit duration or is completed for the purpose of meeting the requirements of an adopted recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

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This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a) during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond the issued permit duration or is completed for the purpose of meeting the requirements of an adopted recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

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This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

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

(c) "Florida Flood Hub" means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

(d) ~~(c)~~ "Preconstruction activities" means activities associated with a project that addresses the risks of flooding and sea level rise that occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys and data collection, site development, solicitation, public hearings, local code or comprehensive plan amendments, establishing local funding sources, and easement acquisition.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

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(b) Subject to appropriation, the department may provide grants to each of the following entities:

1. A county or municipality to fund:

a. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).

b. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea level rise.

c. Updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The updated inventory must be submitted to the department and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

d. The development of projects, plans, strategies, and policies that enhance community preparations ~~allow communities to prepare~~ for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

e.~~d.~~ Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan. Only communities eligible for a reduced cost share as defined in paragraph (5)(e) are eligible for such preconstruction activities ~~that are located in a municipality~~

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~~that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website~~.

f.~~e.~~ Feasibility studies ~~and the cost of permitting~~ for nature-based solutions that reduce the impact of flooding and sea level rise.

g. The cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

2. A water management district identified in s. 373.069 to support local government adaptation planning, which may be conducted by the water management district or by a third party on behalf of the water management district. Such grants must be used for the express purpose of supporting the Florida Flood Hub ~~for Applied Research and Innovation~~ and the department in implementing this section through data creation and collection, modeling, and the implementation of statewide standards. Priority must be given to filling critical data gaps identified by the Florida Flood Hub ~~for Applied Research and Innovation~~ under s. 380.0933(2)(a).

(c) A vulnerability assessment conducted pursuant to paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and

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upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department all of the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must do ~~include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the

county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as ~~If~~ applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data~~. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset or regionally significant asset. Publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data may be used in the absence of applicable data from the Florida Flood Hub.

c. To the extent practicable, rainfall-induced flooding using a GIS-based spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions. Vulnerability assessments for rainfall-induced flooding must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the

applicable water management district or, if necessary, the appropriate federal agency. Future rainfall conditions should be used, if available. Noncoastal communities must perform a rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. For a vulnerability assessment initiated after July 1, 2024, at a minimum ~~least two local sea level rise scenarios~~, ~~which must include~~ the 2022 NOAA ~~2017 National Oceanic and Atmospheric Administration~~ intermediate-low and intermediate ~~intermediate-high~~ sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4)(a) ~~projections~~.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070

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2029	2050	2080
2034	2055	2085
2039	2060	2090
2044	2065	2095
2049	2070	2100

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be ~~that has been~~ interpolated between the two closest NOAA ~~National Oceanic and Atmospheric Administration~~ tide gauges; however, such~~. Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be~~. Data~~ taken from an alternate tide gauge ~~may be used~~ with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to

conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state which ~~that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise data set with the best available information each year and shall update the assessment at least every 5 years. ~~The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) By December 1 of~~, 2021, and~~ each year ~~December 1~~

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~~thereafter~~, the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state. All eligible projects submitted to the department pursuant to this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a description of the methodology used to rank projects, the specific scoring system used, the project proposal application form, a copy of each submitted project proposal application form separated by eligible projects and ineligible projects, the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

(b) ~~The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that includes projects that address risks of flooding and sea level rise identified in available local government vulnerability assessments and projects submitted by water management districts that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates to the preliminary plan.~~ The plan submitted by December 1, 2024, and each plan submitted by December 1

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thereafter:~~,~~

1. Shall primarily address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment; and

2. May include, at the discretion of the department in consultation with the Chief Resilience Officer, other projects submitted pursuant to paragraph (d) which address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include all of the following information for each recommended project:

1. A description of the project.

2. The location of the project.

3. An estimate of how long the project will take to complete.

4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.

7. The project sponsor.

(d)1. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

a. Counties.

b. Municipalities.

c. Special districts as defined in s. 189.012 which ~~that~~ are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.

d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) or if the existing vulnerability assessment was completed using previously compliant statutory requirements. Projects identified from this category of vulnerability assessments will be eligible for submittal until the prior vulnerability assessment has been updated to meet most recent statutory requirements ~~2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities~~.

2. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the

department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project:

a. Water management districts.

b. Drainage districts.

c. Erosion control districts.

d. Flood control districts.

e. Regional water supply authorities.

3. Each project submitted to the department pursuant to this paragraph for consideration by the department for inclusion in the plan must include all of the following information:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to complete.

d. An estimate of the cost of the project.

e. The cost-share percentage available for the project.

f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a ~~financially disadvantaged small~~ community eligible for a reduced cost share. For purposes of this section, the term "~~financially disadvantaged small~~ community eligible for a reduced cost share" means:

1. A municipality that has a population of 10,000 or fewer,

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according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or

3. A municipality or county that has a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

(f) ~~To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater

management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce

project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h) ~~(i)~~ The total amount of funding proposed for each year of the plan may not be less than $100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i) ~~(j)~~ The department shall adopt rules ~~initiate rulemaking by August 1, 2021,~~ to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments~~.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise

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Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed $500 for each violation, for a violation of s. 381.006(15) or~~, s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 not involving onsite sewage treatment and disposal systems. The department shall give an alleged violator a notice of intent to impose such fine ~~shall be given by the department to the alleged violator~~. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections (5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:

(h) Conduct enforcement activities in accordance with part I of chapter 403, ~~including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders~~ for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or

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simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. Such rules must:

1. Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and

2. Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the department without any agency action by the department. Within the 30-day notice period, the department shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the department must notify the person.

(5) ENFORCEMENT; RIGHT OF ENTRY~~; CITATIONS~~.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or

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part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091.

(b)~~1.~~ The department has all of the judicial and administrative remedies available to it pursuant to part I of chapter 403 ~~may issue citations that may contain an order of correction or an order to pay a fine, or both,~~ for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department~~, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action~~.

~~2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.~~

~~3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.~~

~~4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must~~

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~~contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.~~

~~5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.~~

~~6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~7.~~ The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any damages, costs, or penalties ~~fines~~ it collects pursuant to this section and part I of chapter 403 in the Water Quality Assurance Trust Fund ~~county health department trust fund for use in providing services specified in those sections~~.

~~8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of~~

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~~enforcement for each violation.~~

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may contract with or delegate its powers and duties under this section to a county as provided in s. 403.061 or s. 403.182.

Section 8. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, when performed by the department or a private provider inspector, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site

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evaluation: a fee of not less than $40, or more than $115.

(c) Biennial operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than $100.

(d) Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(e) Innovative technology: a fee not to exceed $25,000.

(f) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more than $200, per year.

(g) Application for variance: a fee of not less than $150, or more than $300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $15, or more than $30.

(i) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(k) Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration,

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and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(l) Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not less than $150, or more than $300.

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department ~~a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655~~.

Section 9. Subsection (4) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies and counties, upon direction of the department, shall make these services and facilities available.

757
758 The department shall implement such programs in conjunction with
759 its other powers and duties and shall place special emphasis on
760 reducing and eliminating contamination that presents a threat to
761 humans, animals or plants, or to the environment.
762 Section 10. Subsections (1), (2), (14), and (15) of section
763 403.064, Florida Statutes, are amended to read:
764 403.064 Reuse of reclaimed water.—
765 (1) The encouragement and promotion of water conservation,
766 and reuse of reclaimed water, as defined by the department, are
767 state objectives and are considered to be in the public
768 interest. The Legislature finds that the reuse of reclaimed
769 water is a critical component of meeting the state's existing
770 and future water supply needs while sustaining natural systems
771 and encouraging its best and most beneficial use. The
772 Legislature further finds that for those wastewater treatment
773 plants permitted and operated under an approved reuse program by
774 the department, the reclaimed water shall be considered
775 environmentally acceptable and not a threat to public health and
776 safety. The Legislature encourages the development of incentive-
777 based programs for reuse implementation.
778 (2) All applicants for permits to construct or operate a
779 domestic wastewater treatment facility ~~located within, serving a~~
780 ~~population located within, or discharging within a water~~
781 ~~resource caution area~~ shall prepare a reuse feasibility study as
782 part of their application for the permit. Reuse feasibility
783 studies must ~~shall~~ be prepared in accordance with department
784 guidelines adopted by rule and shall include, but are not
785 limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of ~~if~~ reuse, if ~~is~~ implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule must ~~shall~~ consider phased implementation.

(14) After conducting a feasibility study under subsection (2), a domestic wastewater treatment facility ~~facilities~~ that disposes ~~dispose~~ of effluent by Class I deep well injection~~,~~ as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or other method to dispose of effluent or a portion thereof must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study, with consideration given to direct ecological or public water supply benefits afforded by any disposal. Applicable permits issued by the department must ~~shall~~ be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or another method to dispose of effluent or a portion thereof for backup use only ~~facility as~~

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~~backup for a reclaimed water reuse system~~.

(b) ~~This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

~~(15) After conducting a feasibility study under subsection (2), domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study.~~ This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. ~~Applicable permits issued by the department shall be consistent with the requirements of this subsection.~~

~~(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.~~

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

Section 11. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

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1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must

also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation

to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement

established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department

water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual

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gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load

reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this

section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 12. Paragraph (f) of subsection (2) and subsection (7) of section 403.0673, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients

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entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

(7) Beginning January 15, 2024, and each January 15 thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(a) The report must include a list of those projects receiving funding and the following information for each project:

1. ~~(a)~~ A description of the project;

2. ~~(b)~~ The cost of the project;

3. ~~(c)~~ The estimated nutrient load reduction of the project;

4. ~~(d)~~ The location of the project;

5. ~~(e)~~ The waterbody or waterbodies where the project will reduce nutrients; and

6. ~~(f)~~ The total cost share being provided for the project.

(b) The report must also include a status report on each project funded since 2021. The status report must, at a minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody.

(8) By July 1, 2025, the department must include the projects funded pursuant to this section on a user-friendly website or dashboard. The website or dashboard must allow the user to see the information provided in subsection (7) and must

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be updated at least annually.

Section 13. Paragraph (c) of subsection (1) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

(c)1. Notwithstanding this chapter or chapter 373, sewage disposal facilities may not dispose any wastes into the following waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department or a more stringent treatment standard if the department determines the more stringent standard is necessary to achieve the total maximum daily load or applicable water quality criteria:

a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay; Biscayne Bay; or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

b. Beginning July 1, 2025, Indian River Lagoon, or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

c. By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.

2. For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management

action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.

3. By July 1, 2034, any wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied within a nutrient basin management action plan or a reasonable assurance plan area must meet the advanced waste treatment standards for total nitrogen and total phosphorous as defined in paragraph (4)(a) if the department has determined in an applicable basin management action plan or reasonable assurance plan that the use of reclaimed water as described in this subparagraph is causing or contributing to the nutrient impairment being addressed in such plan. For such department determinations made in a nutrient basin management action plan or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced waste treatment standards described in this subparagraph within 10 years after such determination. This subparagraph does not prevent the department from requiring an alternative treatment standard, including a more stringent treatment standard, if the department determines the alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria. This subparagraph does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by the department or water

management district to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced waste treatment standards described above prior to entering groundwater or surface water.

Section 14. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative

hearing before the institution of a civil action.

(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than $1,000 per day per violation. The department may not impose administrative penalties in excess of $50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department

subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court

action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. Administrative penalties should not be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator’s time per case at $150 per hour. Upon notice from the

respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed $15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department’s authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory

maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 in penalties may be settled in the court action for less than $50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $3,000 for a Maximum Containment Level (MCL) violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,500 if the violation occurs at a community water system;

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and plus $1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of $2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized

construction of a stormwater management system plus $3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus $1,500 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of $3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the

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department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of $3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of $3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,500 for an unpermitted or unauthorized

air emission or an air-emission-permit exceedance, plus $4,500 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $7,500.

(b) For failure to install, maintain, or use a required

pollution control system or device, $6,000.

(c) For failure to obtain a required permit before construction or modification, $4,500.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,500.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, $750.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $1,000.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections (3)-(5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $3,000 or

more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years before the filing of the notice of violation will result in a 25-percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, must be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed $15,000.

(9) The administrative penalties assessed for any particular violation may not exceed $10,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000, or there are multiday violations. The total administrative penalties may not exceed $50,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections (3)-(5) may

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be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 15. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities,

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and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~;~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~;~~

(c) The estimated implementation timeline for each project.~~;~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~; and~~

(e) The projected costs of installing enhanced nutrient-

reducing onsite sewage treatment and disposal systems on buildable lots in priority focus areas to comply with s. 373.811.

Section 16. Subsection (5) of section 403.9301, Florida Statutes, is amended to read:

403.9301 Wastewater services projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January ~~1, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 17. Subsection (5) of section 403.9302, Florida Statutes, is amended to read:

403.9302 Stormwater management projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1~~, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

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1599 ========== T I T L E A M E N D M E N T ==========
1600 And the title is amended as follows:
1601 Delete lines 89 - 105
1602 and insert:
1603 applicability; amending s. 403.121, F.S.; revising
1604 department enforcement provisions; revising
1605 administrative penalty calculations for failure to
1606 obtain certain required permits and for certain
1607 violations; amending s. 403.0671, F.S.; conforming
1608 provisions to changes made by the act; amending ss.
1609 403.9301 and 403.9302, F.S.; requiring the Office of
1610 Economic and Demographic Research to provide a
1611 specified publicly accessible data visualization tool
1612 on its website; reenacting s. 327.73(1)(x),

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Calatayud

601-03260-24 20241386c1

A bill to be entitled

An act relating to the Department of Environmental Protection; amending s. 253.04, F.S.; revising the aquatic preserves within which a person may not operate a vessel outside a lawfully marked channel under certain circumstances; amending s. 258.39, F.S.; declaring the Kristin Jacobs Coral Reef Ecosystem Conservation Area an aquatic preserve area; amending s. 373.250, F.S.; requiring each water management district, in coordination with the department, to develop rules that promote the use of reclaimed water and encourage quantifiable potable water offsets; providing requirements for such rules; providing construction; amending s. 380.093, F.S.; defining the term "Florida Flood Hub"; revising the definition of the term "preconstruction activities"; revising the purposes for which counties and municipalities may use Resilient Florida Grant Program funds; revising vulnerability assessment requirements; revising requirements for the development and maintenance of the comprehensive statewide flood vulnerability and sea level rise data set and assessment; requiring the department to coordinate with the Chief Resilience Officer and the Florida Flood Hub to update the data set and assessment at specified intervals; revising requirements for the Statewide Flooding and Sea Level Rise Resilience Plan; revising the purposes of the funding for regional resilience entities; making technical changes; amending s. 381.0061, F.S.;

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revising the violations for which the department may impose a specified fine; providing legislative intent regarding a phased transfer of the Department of Health's Onsite Sewage Program to the Department of Environmental Protection; requiring the Department of Environmental Protection to coordinate with the Department of Health regarding the identification and transfer of certain equipment and vehicles under certain circumstances; prohibiting the Department of Health from implementing or collecting fees for the program when the Department of Environmental Protection begins implementing the program; providing exceptions; amending s. 381.0065, F.S.; requiring the Department of Environmental Protection to conduct enforcement activities for violations of certain onsite sewage treatment and disposal system regulations in accordance with specified provisions; specifying the department's authority with respect to specific provisions; requiring the department to adopt rules for a program for general permits for certain projects; providing requirements for such rules; revising department enforcement provisions; deleting certain criminal penalties; requiring the damages, costs, or penalties collected to be deposited into the Water Quality Assurance Trust Fund rather than the relevant county health department trust fund; requiring the department to establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program; authorizing the department to

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

contract with or delegate certain powers and duties to a county; amending s. 381.0066, F.S.; requiring certain fees to be deposited into the Florida Permit Fee Trust Fund after a specified timeframe; amending s. 403.061, F.S.; requiring counties to make certain services and facilities available upon the direction of the department; amending s. 403.064, F.S.; revising legislative findings; revising the domestic wastewater treatment facilities required to submit a reuse feasibility study as part of a permit application; revising the contents of a required reuse feasibility study; revising the domestic wastewater facilities required to implement reuse under certain circumstances; revising applicability; revising construction; amending s. 403.067, F.S.; requiring certain facilities and systems to include a domestic wastewater treatment plan as part of a basin management action plan for nutrient total maximum daily loads; amending s. 403.0673, F.S.; revising the information to be included in the water quality improvement grant program annual report; requiring the department to include specified information on a user-friendly website or dashboard by a specified date; providing requirements for the website or dashboard; amending s. 403.086, F.S.; requiring wastewater treatment facilities within a basin management action plan or reasonable assurance plan area which provide reclaimed water for specified purposes to meet advanced waste treatment or a more stringent treatment

standard under certain circumstances; providing applicability; amending s. 403.091, F.S.; authorizing certain department representatives to enter and inspect premises on which an onsite sewage treatment and disposal system is located or being constructed or installed or where certain records are kept; revising requirements for such access; revising the circumstances under which an inspection warrant may be issued; amending s. 403.121, F.S.; revising department enforcement provisions; revising administrative penalty calculations for failure to obtain certain required permits and for certain violations; amending ss. 403.9301 and 403.9302, F.S.; requiring the Office of Economic and Demographic Research to provide a publicly accessible data visualization tool on its website for comparative analyses of key information; amending s. 403.0671, F.S.; conforming provisions to changes made by the act; reenacting s. 327.73(1)(x), F.S., relating to noncriminal infractions, to incorporate the amendment made to s. 253.04, F.S., in a reference thereto; reenacting ss. 381.0072(4)(a) and (6)(a), 381.0086(4), 381.0098(7), and 513.10(2), F.S., relating to food service protection, penalties, biomedical waste, and operating without a permit, respectively, to incorporate the amendment made to s. 381.0061, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 253.04, Florida Statutes, is amended to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(3)(a) The duty to conserve and improve state-owned lands and the products thereof includes ~~shall include~~ the preservation and regeneration of seagrass, which is deemed essential to the oceans, gulfs, estuaries, and shorelines of the state. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve established in ss. 258.39-258.3991 ~~ss. 258.39-258.399~~, with the exception of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction, punishable as provided in s. 327.73. Each violation is a separate offense. As used in this subsection, the term:

1. "Seagrass" means Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).

2. "Seagrass scarring" means destruction of seagrass roots, shoots, or stems that results in tracks on the substrate commonly referred to as prop scars or propeller scars caused by the operation of a motorized vessel in waters supporting seagrasses.

Section 2. Subsection (33) is added to section 258.39, Florida Statutes, to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(33) Kristin Jacobs Coral Reef Ecosystem Conservation Area, as designated by chapter 2021-107, Laws of Florida, the boundaries of which consist of the sovereignty submerged lands and waters of the state offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Section 3. Subsection (9) is added to section 373.250, Florida Statutes, to read:

373.250 Reuse of reclaimed water.—

(9) To promote the use of reclaimed water and encourage quantifiable potable water offsets that produce significant water savings beyond those required in a consumptive use permit, each water management district, in coordination with the

department, shall develop rules by December 31, 2025, which provide all of the following:

(a) If an applicant proposes a water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a), as part of an application for consumptive use, the applicant is eligible for a permit duration of up to 30 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Rules developed pursuant to this paragraph must include, at a minimum:

1. A requirement that the permittee demonstrate how quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond a 20-year permit duration or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy; and

2. Guidelines for a district to follow in determining the permit duration based on the project's implementation.

This paragraph does not limit the existing authority of a water management district to issue a shorter duration permit to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

(b) Authorization for a consumptive use permittee to seek a permit extension of up to 10 years if the permittee proposes a

water supply development or water resource development project using reclaimed water that meets the advanced waste treatment standards for total nitrogen and total phosphorous as defined in s. 403.086(4)(a) during the term of its permit which results in the reduction of groundwater or surface water withdrawals or is completed to benefit a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy. Rules associated with this paragraph must include, at a minimum:

1. A requirement that the permittee be in compliance with the permittee's consumptive use permit;

2. A requirement that the permittee demonstrate how the quantifiable groundwater or surface water savings associated with the new water supply development or water resource development project either meets water demands beyond the issued permit duration or benefits a waterbody with a minimum flow or minimum water level with a recovery or prevention strategy;

3. A requirement that the permittee demonstrate a water demand for the permit's allocation through the term of the extension; and

4. Guidelines for a district to follow in determining the number of years extended, including a minimum year requirement, based on the project implementation.

This paragraph does not limit the existing authority of a water management district to protect from harm the water resources or ecology of the area, or to otherwise ensure compliance with the conditions for permit issuance.

Section 4. Present paragraphs (c) and (d) of subsection (2) of section 380.093, Florida Statutes, are redesignated as

paragraphs (d) and (e), respectively, a new paragraph (c) is added to that subsection, and present paragraph (c) of subsection (2), paragraphs (b), (c), and (d) of subsection (3), and subsections (4), (5), and (6) of that section are amended, to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

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

(c) "Florida Flood Hub" means the Florida Flood Hub for Applied Research and Innovation established pursuant to s. 380.0933.

(d) ~~(c)~~ "Preconstruction activities" means activities associated with a project that addresses the risks of flooding and sea level rise that occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys and data collection, site development, solicitation, public hearings, local code or comprehensive plan amendments, establishing local funding sources, and easement acquisition.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(b) Subject to appropriation, the department may provide grants to each of the following entities:

1. A county or municipality to fund:

a. The costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f).

b. Vulnerability assessments that identify or address risks of inland or coastal flooding and sea level rise.

c. Updates to the county's or municipality's inventory of critical assets, including regionally significant assets that are currently or reasonably expected to be impacted by flooding and sea level rise. The updated inventory must be submitted to the department and, at the time of submission, must reflect all such assets that are currently, or within 50 years may reasonably be expected to be, impacted by flooding and sea level rise.

d. The development of projects, plans, strategies, and policies that enhance community preparations ~~allow communities to prepare~~ for threats from flooding and sea level rise, including adaptation plans that help local governments prioritize project development and implementation across one or more jurisdictions in a manner consistent with departmental guidance.

e.~~d.~~ Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan. Only a county or municipality eligible for a reduced cost share as defined in paragraph (5)(e) is eligible for such preconstruction activities ~~that are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website~~.

f.~~e.~~ Feasibility studies ~~and the cost of permitting~~ for nature-based solutions that reduce the impact of flooding and sea level rise.

g. The cost of permitting for projects designed to achieve reductions in the risks or impacts of flooding and sea level rise using nature-based solutions.

2. A water management district identified in s. 373.069 to support local government adaptation planning, which may be conducted by the water management district or by a third party on behalf of the water management district. Such grants must be used for the express purpose of supporting the Florida Flood Hub ~~for Applied Research and Innovation~~ and the department in implementing this section through data creation and collection, modeling, and the implementation of statewide standards. Priority must be given to filling critical data gaps identified by the Florida Flood Hub ~~for Applied Research and Innovation~~ under s. 380.0933(2)(a).

(c) A vulnerability assessment conducted pursuant to paragraph (b) must encompass the entire county or municipality; include all critical assets owned or maintained by the grant applicant; and use the most recent publicly available Digital Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department all of the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system (GIS) data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. An inventory ~~A list~~ of critical assets, including regionally significant assets, that are currently, or within 50 years are reasonably expected to be, impacted by flooding and sea level rise.

(d) A vulnerability assessment conducted pursuant to paragraph (b) must do ~~include~~ all of the following:

1. Include peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Commerce ~~Economic Opportunity~~.

2. Make use of the best available information through the Florida Flood Hub as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer, including, as ~~If~~ applicable, analyzing impacts related to the depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding ~~using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data~~. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset or regionally significant asset. Publicly available National Oceanic and Atmospheric Administration (NOAA) or Federal Emergency Management Agency storm surge data may be used in the absence of applicable data from the Florida Flood Hub.

c. To the extent practicable, rainfall-induced flooding using a GIS-based spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea level rise and high tide conditions. Vulnerability assessments for rainfall-induced flooding must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Future rainfall conditions should be used, if available. Noncoastal communities must perform a rainfall-induced flooding assessment.

d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. Apply the following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. For a vulnerability assessment initiated after July 1, 2024, at a minimum ~~least two local sea level rise scenarios~~, ~~which must include~~ the 2022 NOAA ~~2017 National Oceanic and Atmospheric Administration~~ intermediate-low and intermediate ~~intermediate-high~~ sea level rise scenarios or the statewide sea level rise projections developed pursuant to paragraph (4)(a) ~~projections~~.

c. At least two planning horizons identified in the following table which correspond with the appropriate comprehensive statewide flood vulnerability and sea level rise assessment for which the department, at the time of award, determines such local vulnerability assessment will be incorporated:

Year of assessment	20-year planning horizon	50-year planning horizon
2024	2040	2070
2029	2050	2080
2034	2055	2085
2039	2060	2090

2044 2065 2095

2049 2070 2100

~~that include planning horizons for the years 2040 and 2070.~~

d. Local sea level data maintained by the Florida Flood Hub which reflect the best available scientific information as certified by the Chief Science Officer, in consultation with the Chief Resilience Officer. If such data is not available, local sea level data may be ~~that has been~~ interpolated between the two closest NOAA ~~National Oceanic and Atmospheric Administration~~ tide gauges; however, such~~. Local sea level~~ data may be taken from only one of the two closest NOAA tide gauges ~~such gauge~~ if the gauge has a higher mean sea level or may be~~. Data~~ taken from an alternate tide gauge ~~may be used~~ with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA LEVEL RISE DATA SET AND ASSESSMENT.—

(a) ~~By July 1, 2023,~~ The department shall develop and maintain ~~complete the development of~~ a comprehensive statewide flood vulnerability and sea level rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea level rise assessment. In developing and maintaining the data set, the department shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~for Applied Research and Innovation~~, compile, analyze, and incorporate, as appropriate, information related to vulnerability assessments

and critical asset inventories submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with the Chief Resilience Officer and the Florida Flood Hub ~~necessary experts and resources~~, develop statewide sea level rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) ~~By July 1, 2024,~~ The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall complete a comprehensive statewide flood vulnerability and sea level rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state which ~~that~~ are vulnerable to flooding and sea level rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea level rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are

essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

4. The assessment must include the 20-year and 50-year projected sea level rise at each active NOAA tidal gauge off the coast of this state as derived from the statewide sea level rise projections developed pursuant to paragraph (a).

(c) The department, in coordination with the Chief Resilience Officer and the Florida Flood Hub, shall update the comprehensive statewide flood vulnerability and sea level rise data set with the best available information each year and shall update the assessment at least every 5 years. ~~The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.~~

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(a) By December 1 of~~, 2021, and~~ each year ~~December 1 thereafter~~, the department shall develop a Statewide Flooding and Sea Level Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea level rise to coastal and inland communities in the state.

All eligible projects submitted to the department pursuant to this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a description of the methodology used to rank projects, the specific scoring system used, the project proposal application form, a copy of each submitted project proposal application form separated by eligible projects and ineligible projects, the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

(b) ~~The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea level rise assessment is completed, will be a preliminary plan that includes projects that address risks of flooding and sea level rise identified in available local government vulnerability assessments and projects submitted by water management districts that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates to the preliminary plan.~~ The plan submitted by December 1, 2024, and each plan submitted by December 1 thereafter:~~,~~

1. Shall primarily address risks of flooding and sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment; and

2. May include, at the discretion of the department in consultation with the Chief Resilience Officer, other projects

submitted pursuant to paragraph (d) which address risks of flooding and sea level rise to critical assets not yet identified in the comprehensive statewide flood vulnerability and sea level rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include all of the following information for each recommended project:

1. A description of the project.

2. The location of the project.

3. An estimate of how long the project will take to complete.

4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.

7. The project sponsor.

(d)1. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the department a list of proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3):

a. Counties.

b. Municipalities.

c. Special districts as defined in s. 189.012 which ~~that~~ are responsible for the management and maintenance of inlets and intracoastal waterways or for the operation and maintenance of a potable water facility, a wastewater facility, an airport, or a seaport facility.

d. Regional resilience entities acting on behalf of one or more member counties or municipalities.

For the plans submitted by December 1, 2024, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3) only if the entity is actively developing a vulnerability assessment that is either under a signed grant agreement with the department pursuant to subsection (3) or funded by another state or federal agency, or is self-funded and intended to meet the requirements of paragraph (3)(d) or the existing vulnerability assessment was completed using previously compliant statutory requirements. Projects identified from this category of vulnerability assessments are eligible for submittal until the prior vulnerability assessment has been updated to meet most recent statutory requirements ~~2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments that do not comply with subsection (3). A regional resilience entity may also submit proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities~~.

2. By September 1 of~~, 2021, and~~ each year ~~September 1 thereafter~~, all of the following entities may submit to the department a list of any proposed projects that address risks of flooding or sea level rise identified in the comprehensive statewide flood vulnerability and sea level rise assessment or vulnerability assessments that meet the requirements of subsection (3), or that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and

a corresponding evaluation of each project:

a. Water management districts.

b. Drainage districts.

c. Erosion control districts.

d. Flood control districts.

e. Regional water supply authorities.

3. Each project submitted to the department pursuant to this paragraph for consideration by the department for inclusion in the plan must include all of the following information:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to complete.

d. An estimate of the cost of the project.

e. The cost-share percentage available for the project.

f. The project sponsor.

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a ~~financially disadvantaged small~~ community eligible for a reduced cost share. For purposes of this section, the term "community eligible for a reduced cost share" ~~"financially disadvantaged small community"~~ means:

1. A municipality that has a population of 10,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

2. A county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; or

3. A municipality or a county with a per capita annual income that is equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce.

(f) ~~To be eligible for inclusion in the plan, a project must have been submitted pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.~~

~~(g)~~ Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with any of the following:

1. Aesthetic vegetation.

2. Recreational structures such as piers, docks, and boardwalks.

3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.

4. Maintenance and repair of over-walks.

5. Park activities and facilities, except expenses to

control flooding or erosion.

6. Navigation construction, operation, and maintenance activities.

7. Projects that provide only recreational benefits.

(g) ~~(h)~~ The department shall implement a scoring system for assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea level rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea level rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the

construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(h) ~~(i)~~ The total amount of funding proposed for each year of the plan may not be less than $100 million. Upon review and subject to appropriation, the Legislature shall approve funding

for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are available.

(i) ~~(j)~~ The department shall adopt rules ~~initiate rulemaking by August 1, 2021,~~ to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for all of the following purposes to regional entities, including regional planning councils and estuary partnerships, that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating and conducting activities authorized by subsection (3) with broad regional benefit or on behalf of multiple member counties and municipalities ~~multijurisdictional vulnerability assessments~~.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan.

Section 5. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine,

which may not exceed $500 for each violation, for a violation of s. 381.006(15) or ~~, s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part III of chapter 489,~~ for a violation of any rule adopted by the department under this chapter, or for a violation of chapter 386 not involving onsite sewage treatment and disposal systems. The department shall give an alleged violator a notice of intent to impose such fine ~~shall be given by the department to the alleged violator~~. Each day that a violation continues may constitute a separate violation.

Section 6. The Legislature intends that the transfer of the regulation of the Onsite Sewage Program from the Department of Health to the Department of Environmental Protection, as required by the Clean Waterways Act, chapter 2020-150, Laws of Florida, be completed in a phased approach.

(1) Before the phased transfer, the Department of Environmental Protection shall coordinate with the Department of Health to identify equipment and vehicles that were previously used to carry out the program in each county and that are no longer needed for such purpose. The Department of Health shall transfer the agreed-upon equipment and vehicles to the Department of Environmental Protection, to the extent that each county agrees to relinquish ownership of such equipment and vehicles to the Department of Health.

(2) When the Department of Environmental Protection begins implementing the program within a county, the Department of Health may no longer implement or collect fees for the program unless specified by separate delegation or contract with the Department of Environmental Protection.

Section 7. Paragraph (h) of subsection (3) and subsections

(5) and (7) of section 381.0065, Florida Statutes, are amended, paragraph (o) is added to subsection (3) of that section, and subsection (9) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:

(h) Conduct enforcement activities in accordance with part I of chapter 403, ~~including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders~~ for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted by the department under this section, part I of chapter 386, or part III of chapter 489. All references to part I of chapter 386 in this section relate solely to nuisances involving improperly built or maintained septic tanks or other onsite sewage treatment and disposal systems, and untreated or improperly treated or transported waste from onsite sewage treatment and disposal systems. The department shall have all the duties and authorities of the Department of Health in part I of chapter 386 for nuisances involving onsite sewage treatment and disposal systems. The department's authority under part I of chapter 386 is in addition to and may be pursued independently of or simultaneously with the enforcement remedies provided under this section and chapter 403.

(o) Adopt rules establishing and implementing a program of general permits for this section for projects, or categories of projects, which have, individually or cumulatively, a minimal adverse impact on public health or the environment. Such rules

must:

1. Specify design or performance criteria which, if applied, would result in compliance with appropriate standards; and

2. Authorize a person who complies with the general permit eligibility requirements to use the permit 30 days after giving notice to the department without any agency action by the department. Within the 30-day notice period, the department shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the department must notify the person.

(5) ENFORCEMENT; RIGHT OF ENTRY~~; CITATIONS~~.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction pursuant to the procedures of s. 403.091.

(b)~~1.~~ The department has all of the judicial and administrative remedies available to it pursuant to part I of chapter 403 ~~may issue citations that may contain an order of correction or an order to pay a fine, or both,~~ for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department~~, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action~~.

~~2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.~~

~~3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.~~

~~4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.~~

~~5. The department may reduce or waive the fine imposed by~~

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~~the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.~~

~~6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~7.~~ The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any damages, costs, or penalties ~~fines~~ it collects pursuant to this section and part I of chapter 403 in the Water Quality Assurance Trust Fund ~~county health department trust fund for use in providing services specified in those sections~~.

~~8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.~~

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards

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Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may contract with or delegate its powers and duties under this section to a county as provided in s. 403.061 or s. 403.182.

Section 8. Subsection (2) of section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, when performed by the department or a private provider inspector, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than $40, or more than $115.

(c) Biennial operating permit for aerobic treatment units or performance-based treatment systems: a fee of not more than $100.

(d) Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where

the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(e) Innovative technology: a fee not to exceed $25,000.

(f) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more than $200, per year.

(g) Application for variance: a fee of not less than $150, or more than $300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $15, or more than $30.

(i) Aerobic treatment unit or performance-based treatment system maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(k) Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

(l) Annual operating permit, including annual inspection and any required sampling and laboratory analysis of effluent, for an engineer-designed performance-based system: a fee of not

less than $150, or more than $300.

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department ~~a trust fund administered by the department, to be used for the purposes stated in this section and ss. 381.0065 and 381.00655~~.

Section 9. Subsection (4) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies and counties, upon direction of the department, shall make these services and facilities available.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 10. Subsections (1), (2), (14), and (15) of section

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403.064, Florida Statutes, are amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems and encouraging its best and most beneficial use. The Legislature further finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety. The Legislature encourages the development of incentive-based programs for reuse implementation.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility ~~located within, serving a population located within, or discharging within a water resource caution area~~ shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies must ~~shall~~ be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of the estimated water savings resulting from different types of ~~if~~ reuse, if ~~is~~ implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

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(d) Evaluation of environmental and water resource benefits associated with the different types of reuse.

(e) Evaluation of economic, environmental, and technical constraints associated with the different types of reuse, including any constraints caused by potential water quality impacts.

(f) A schedule for implementation of reuse. The schedule must ~~shall~~ consider phased implementation.

(14) After conducting a feasibility study under subsection (2), a domestic wastewater treatment facility ~~facilities~~ that disposes ~~dispose~~ of effluent by Class I deep well injection~~,~~ as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or other method to dispose of effluent or a portion thereof must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study, with consideration given to direct ecological or public water supply benefits afforded by any disposal. Applicable permits issued by the department must ~~shall~~ be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection as defined in 40 C.F.R. s. 144.6(a), surface water discharge, land application, or another method to dispose of effluent or a portion thereof for backup use only ~~facility as backup for a reclaimed water reuse system~~.

(b) ~~This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

~~(15) After conducting a feasibility study under subsection~~

~~(2), domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse to the degree that reuse is feasible, based upon the applicant's reuse feasibility study.~~ This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. ~~Applicable permits issued by the department shall be consistent with the requirements of this subsection.~~

~~(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.~~

~~(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.~~

Section 11. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the

state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin

management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions

needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project

identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities

or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which ~~that~~ addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated

cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 12. Paragraph (f) of subsection (2) and subsection (7) of section 403.0673, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

403.0673 Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.

(2) The department may provide grants for all of the following types of projects that reduce the amount of nutrients entering those waterbodies identified in subsection (1):

(f) Projects identified in a domestic wastewater treatment plan or an onsite sewage treatment and disposal system remediation plan developed pursuant to s. 403.067(7)(a)9.a. and b.

(7) Beginning January 15, 2024, and each January 15

thereafter, the department shall submit a report regarding the projects funded pursuant to this section to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(a) The report must include a list of those projects receiving funding and the following information for each project:

1. ~~(a)~~ A description of the project;

2. ~~(b)~~ The cost of the project;

3. ~~(c)~~ The estimated nutrient load reduction of the project;

4. ~~(d)~~ The location of the project;

5. ~~(e)~~ The waterbody or waterbodies where the project will reduce nutrients; and

6. ~~(f)~~ The total cost share being provided for the project.

(b) The report must also include a status report on each project funded since 2021. The status report must, at a minimum, identify which projects have been completed and, if such information is available, provide nutrient load improvements or water quality testing data for the waterbody.

(8) By July 1, 2025, the department must include the projects funded pursuant to this section on a user-friendly website or dashboard. The website or dashboard must allow the user to see the information provided in subsection (7) and must be updated at least annually.

Section 13. Paragraph (c) of subsection (1) of section 403.086, Florida Statutes, is amended to read:

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)

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(c)1. Notwithstanding this chapter or chapter 373, sewage disposal facilities may not dispose any wastes into the following waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department or a more stringent treatment standard if the department determines the more stringent standard is necessary to achieve the total maximum daily load or applicable water quality criteria:

a. Old Tampa Bay; Tampa Bay; Hillsborough Bay; Boca Ciega Bay; St. Joseph Sound; Clearwater Bay; Sarasota Bay; Little Sarasota Bay; Roberts Bay; Lemon Bay; Charlotte Harbor Bay; Biscayne Bay; or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

b. Beginning July 1, 2025, Indian River Lagoon, or any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto.

c. By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.

2. For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.

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3. By July 1, 2034, a wastewater treatment facility providing reclaimed water that will be used for commercial or residential irrigation or be otherwise land applied within a nutrient basin management action plan or reasonable assurance plan area must meet the advanced waste treatment standards for total nitrogen and total phosphorous as defined in paragraph (4)(a) if the department has determined in an applicable basin management action plan or reasonable assurance plan that the use of reclaimed water as described in this subparagraph is causing or contributing to the nutrient impairment being addressed in such plan. For such department determinations made in a nutrient basin management action plan or reasonable assurance plan after July 1, 2024, an applicable wastewater treatment facility must meet the requisite advanced waste treatment standards described in this subparagraph within 10 years after such determination. This subparagraph does not prevent the department from requiring an alternative treatment standard, including a more stringent treatment standard, if the department determines that the alternative standard is necessary to achieve the total maximum daily load or applicable water quality criteria. This subparagraph does not apply to reclaimed water that is otherwise land applied as part of a water quality restoration project or water resource development project approved by the department to meet a total maximum daily load or minimum flow or level and where such reclaimed water will be at or below the advanced waste treatment standards described above before entering groundwater or surface water.

Section 14. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida

Statutes, are amended to read:

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. An onsite sewage treatment and disposal system as defined in s. 381.0065(2)(m);

4. Any facility, as defined in s. 376.301; or

5.~~4.~~ A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner’s or operator’s property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-

376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489, or department rules.

(3)

(b) Upon proper affidavit being made, an inspection warrant may be issued under ~~the provisions of~~ this chapter or ss. 376.30-376.317:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of ~~any of the provisions of~~ this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317, ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, or part III of chapter 489 and any rules adopted thereunder.

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Section 15. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1), ss. 381.0065-381.0067, part I of chapter 386 for purposes of onsite sewage treatment and disposal systems, part III of chapter 489, or any rule promulgated thereunder.

(1) Judicial Remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $15,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) Except as provided in paragraph (2)(c), it is not a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing before the institution of a civil action.

(2) Administrative Remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any

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injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $50,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 may not be less than $1,000 per day per violation. The department may not impose administrative penalties in excess of $50,000 in a notice of violation. The department may not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. If the department is unable

to effect service by certified mail, the notice of violation may be hand delivered or personally served in accordance with chapter 48. The notice shall specify the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action, penalty assessment, or damages may be included with the notice. When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived. However, an order is not effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period constitutes a waiver thereof, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to

as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. Administrative penalties should not be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent may not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the initial order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida

Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent is entitled to an award of attorney fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). An award of attorney fees as provided by this subsection may not exceed $15,000.

(g) This section does not prevent any other legal or administrative action in accordance with law and does not limit the department's authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $50,000 for

violations not specifically included in the administrative penalty schedule, or for multiple or multiday violations alleged to exceed a total of $50,000. The department also retains the authority provided in ss. 403.131, 403.141, and this section to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $50,000 in penalties may be settled in the court action for less than $50,000.

(h) Chapter 120 applies to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $3,000 for a Maximum Containment Level (MCL) violation; plus $1,500 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,500 if the violation occurs at a community water system; and plus $1,500 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter before placing a drinking water system into service when the system would not have been eligible for clearance, the

department shall assess a penalty of $4,500.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, or obtain an onsite sewage treatment and disposal system permit, or for a violation of s. 381.0065, or the creation of or maintenance of a nuisance related to an onsite sewage treatment and disposal system under part I of chapter 386, or for a violation of part III of chapter 489, or any rule properly promulgated thereunder, the department shall assess a penalty of $2,000. For a domestic or industrial wastewater violation, not involving a surface water or groundwater quality violation, the department shall assess a penalty of $4,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance or for failure to comply with s. 403.061(14) or s. 403.086(7) or rules adopted thereunder. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, the department shall assess a penalty of $10,000. Each day the cause of an unauthorized discharge of domestic wastewater or sanitary nuisance is not addressed constitutes a separate offense.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,500 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $3,000 if the dredging or filling occurs in an aquatic preserve, an Outstanding Florida Water, a conservation easement, or a Class I or Class II surface water, plus $1,500 if the area dredged or

filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,500 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule does not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $4,500 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, the department shall assess a penalty of $3,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling. For purposes of this paragraph, the preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $7,500 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328. For purposes of this paragraph, the

preparation or signing of a permit application by a person currently licensed under chapter 471 to practice as a professional engineer does not make that person an agent of the owner or tenant.

(e) For solid waste violations, the department shall assess a penalty of $3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,500 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections. The department shall assess a penalty of $3,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,500 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $4,500 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,500 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $7,500 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $4,500 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $3,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,500 for failure to properly operate, maintain, or close a storage tank system.

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $7,500.

(b) For failure to install, maintain, or use a required pollution control system or device, $6,000.

(c) For failure to obtain a required permit before construction or modification, $4,500.

(d) For failure to conduct required monitoring or testing;

failure to conduct required release detection; or failure to construct in compliance with a permit, $3,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,500.

(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, $750.

(5) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $1,000.

(6) For each additional day during which a violation occurs, the administrative penalties in subsections (3)-(5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $3,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years before the filing of the notice of violation will result in a 25-percent

per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years before the filing of the notice of violation will result in a 50-percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years before the filing of the notice of violation will result in a 100-percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, must be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, may not exceed $15,000.

(9) The administrative penalties assessed for any particular violation may not exceed $10,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation as described in subsection (8) exceeds $10,000, or there are multiday violations. The total administrative penalties may not exceed $50,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsections (3)-(5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply before or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by

circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section must ~~shall~~ be deposited into the Water Quality Assurance Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsections (3)-(7) may not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 16. Subsection (5) of section 403.9301, Florida Statutes, is amended to read:

403.9301 Wastewater services projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1~~, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this

section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 17. Subsection (5) of section 403.9302, Florida Statutes, is amended to read:

403.9302 Stormwater management projections.—

(5) The Office of Economic and Demographic Research shall evaluate the compiled documents from the counties for the purpose of developing a statewide analysis for inclusion in the assessment due the following January 1~~, 2023~~, pursuant to s. 403.928. Beginning July 1, 2024, and by the July 1 following subsequent publications of the analysis required by this section, the Office of Economic and Demographic Research shall provide a publicly accessible data visualization tool on its website which allows for comparative analyses of key information.

Section 18. Subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily

loads required under s. 403.067. The report must include all of the following:

(a) Projects to:

1. Replace onsite sewage treatment and disposal systems with enhanced nutrient-reducing onsite sewage treatment and disposal systems.

2. Install or retrofit onsite sewage treatment and disposal systems with enhanced nutrient-reducing technologies.

3. Construct, upgrade, or expand domestic wastewater treatment facilities to meet the domestic wastewater treatment plan required under s. 403.067(7)(a)9.

4. Connect onsite sewage treatment and disposal systems to domestic wastewater treatment facilities.~~;~~

(b) The estimated costs, nutrient load reduction estimates, and other benefits of each project.~~;~~

(c) The estimated implementation timeline for each project.~~;~~

(d) A proposed 5-year funding plan for each project and the source and amount of financial assistance the department, a water management district, or other project partner will make available to fund the project.~~; and~~

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on buildable lots in priority focus areas to comply with s. 373.811.

Section 19. For the purpose of incorporating the amendment made by this act to section 253.04, Florida Statutes, in a reference thereto, paragraph (x) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, $100.

2. For a second offense occurring within 12 months after a prior conviction, $250.

3. For a third offense occurring within 36 months after a prior conviction, $500.

4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, $1,000.

Any person cited for a violation of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is $100, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation, in addition to the charge relating to the violation of the boating laws of this state, must be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 20. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in

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

references thereto, paragraph (a) of subsection (4) and paragraph (a) of subsection (6) of section 381.0072, Florida Statutes, are reenacted to read:

381.0072 Food service protection.—

(4) LICENSES REQUIRED.—

(a) *Licenses; annual renewals.*—Each food service establishment regulated under this section shall obtain a license from the department annually. Food service establishment licenses shall expire annually and are not transferable from one place or individual to another. However, those facilities licensed by the department's Office of Licensure and Certification, the Child Care Services Program Office, or the Agency for Persons with Disabilities are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal is not required.

(6) FINES; SUSPENSION OR REVOCATION OF LICENSES; PROCEDURE.—

(a) The department may impose fines against the establishment or operator regulated under this section for violations of sanitary standards, in accordance with s. 381.0061. All amounts collected shall be deposited to the credit of the County Health Department Trust Fund administered by the department.

Section 21. For the purpose of incorporating the amendment

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

made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (4) of section 381.0086, Florida Statutes, is reenacted to read:

381.0086 Rules; variances; penalties.—

(4) A person who violates any provision of ss. 381.008-381.00895 or rules adopted under such sections is subject either to the penalties provided in ss. 381.0012 and 381.0061 or to the penalties provided in s. 381.0087.

Section 22. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (7) of section 381.0098, Florida Statutes, is reenacted to read:

381.0098 Biomedical waste.—

(7) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.0012 and 381.0061. However, an administrative fine not to exceed $2,500 may be imposed for each day such person or public body is in violation of this section. The department may deny, suspend, or revoke any biomedical waste permit or registration if the permittee violates this section, any rule adopted under this section, or any lawful order of the department.

Section 23. For the purpose of incorporating the amendment made by this act to section 381.0061, Florida Statutes, in a reference thereto, subsection (2) of section 513.10, Florida Statutes, is reenacted to read:

513.10 Operating without permit; enforcement of chapter; penalties.—

(2) This chapter or rules adopted under this chapter may be

enforced in the manner provided in s. 381.0012 and as provided in this chapter. Violations of this chapter and the rules adopted under this chapter are subject to the penalties provided in this chapter and in s. 381.0061.

Section 24. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24 — Meeting Date

DEP

SB 1346 — Bill Number or Topic

Fiscal — Committee

Amendment Barcode (if applicable)

Name Kate Wesner

Phone 561 722 3659

Address 159 Cat Rock Lane
Street
Jupiter FL 33458
City State Zip

Email kate@floodcoalition.com

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 Flood Coalition

☐ 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. 2020-2022JointRules.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

2/22/2024
Meeting Date

FISCAL POLICY
Committee

1386
Bill Number or Topic

Amendment Barcode (if applicable)

Name ELIZABETH ALVI (AUDUBON)

Phone 850-999-1628

Address
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Email Beth.Alvi@AUDUBON.ORG

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:
AUDUBON 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	SB 1396
INTRODUCER:	Senators Gruters and Yarborough
SUBJECT:	Security for Jewish Day Schools and Preschools
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Bouck	ED	**Favorable**
2.	Gray	Elwell	AED	**Favorable**
3.	Bouck	Yeatman	FP	**Favorable**

I. Summary:

SB 1396 establishes a program under the Department of Education to provide recurring funds for school hardening of facilities at Jewish day schools and preschools. The bill specifies that, based on a risk assessment, funds may be used for:

- Security cameras, lighting, fencing, and shatter-resistant glass.
- Licensed security personnel.
- Transportation expenses that minimize security exposure.
- Nonhardening security measures such as detection, prevention, and security services.

The funding is as determined in the General Appropriations Act. See Section V, Fiscal Impact Statement.

The bill takes effect on July 1, 2024.

II. Present Situation:

Funding for School Safety

Safe School Allocation

A safe schools allocation was created in 2017[1] to provide funding to assist school districts in their compliance with laws relating to student discipline and school safety,[2] with priority given to establishing a school resource officer program.

Under the safe schools allocation each school district receives a minimum amount provided in the General Appropriations Act (GAA), with the balance allocated to school districts based on

[1] Chapter 2017-116, s. 4, Laws of Fla.
[2] Sections 1006.07-1006.148, F.S. (2017)

the most recent official Florida Crime Index and two-thirds based on each school district's proportionate share of the state's total unweighted full-time equivalent (FTE) student enrollment.[3] In every year of the allocation each school districts has received a minimum of $250,000.

Fiscal Year	Safe Schools Allocation
2023-2024	$250 million[4]
2022-2023	$210 million[5]
2021-2022	$180 million[6]
2020-2021	$180 million[7]
2019-2020	$180 million[8]
2018-2019	$161,956,019[9]

School Hardening Grant Program

The School Hardening Grant Program (grant) provides awards to schools for fixed capital outlay costs to improve the physical security for school buildings based on the security risk assessment under the Florida Safe Schools Assessment Tool (FSSAT).[10] School districts and charter schools receiving the grant must report to the Department of Education the total estimated costs of their unmet school campus hardening needs as identified by the FSSAT. Funds are awarded based on district application, and are allocated initially based on each district's capital outlay FTE student membership and charter school FTE. Each school district allocation is no less than $42,000.

Fiscal Year	School Hardening Grant
2022-2023	$20 million[11]
2021-2022	$42 million[12]
2020-2021	$42 million[13]
2019-2020	$50 million[14]
2018-2019	$98,962,286[15]

[3] Section 1011.62(12), F.S. Distribution of funds is also contingent upon the school district's compliance with reporting requirements related to bullying and harassment. Section 1006.147(7), F.S.
[4] Specific Appropriation 80, ch. 2023-239, Laws of Fla.
[5] Specific Appropriation 86, ch. 2022-156, Laws of Fla.
[6] Specific Appropriation 90, ch. 2021-36, Laws of Fla.
[7] Specific Appropriation 92, ch. 2020-111, Laws of Fla.
[8] Specific Appropriation 93, ch. 2019-115, Laws of Fla.
[9] Specific Appropriation 92, ch. 2018-9, Laws of Fla. Chapter 2018-3, s. 42, Laws of Fla.
[10] *See e.g.* Specific Appropriation 108, ch. 2022-156, Laws of Fla. Florida Department of Education, *Florida Safe Schools Assessment Tool (FSSAT)*, https://www.fldoe.org/safe-schools/fssat-tool.stml (last visited Feb. 4, 2024). The FSSAT must help school officials identify threats, vulnerabilities, and appropriate safety controls for the schools that they supervise, pursuant to the public school security risk assessment required in law. Section 1006.1493, F.S.
[11] Specific Appropriation 108, ch. 2022-156, Laws of Fla.
[12] Specific Appropriation 113A, ch. 2021-36, Laws of Fla.
[13] Specific Appropriation 117A, ch. 2020-111, Laws of Fla.
[14] Specific Appropriation 116A, ch. 2019-115, Laws of Fla.
[15] Chapter 2018-3, s. 44, Laws of Fla.

Nonprofit Security Grant Program

During the 2023 regular session, the Legislature directed the Division of Emergency Management (DEM) to establish a state Nonprofit Security Grant Program (NSGP) similar to the federal NSGP.[16] The state NSGP made funds available to houses of worship, schools, museums, and community centers that are at high risk for violent attacks or hate crimes. The grants ranged from $10,000 to $150,000 and could be used to increase security and safety, including, but not limited to:

- The purchase and installation of security infrastructure, perimeter lighting, materials for door hardening, security camera systems, perimeter fencing, barriers and bollards, and blast-resistant film and shatter-resistant glass for windows.
- Hiring security personnel.
- Training for security personnel and staff on threat awareness, emergency procedures, and first aid.

DEM rules to administer the grant program must include prioritizing applicants that are houses of worship or whose facilities are frequented by children or students on a daily basis.

The state NSGP did not receive an appropriation during the 2023 regular legislative session. However, in the 2023C special session the state NSGP was appropriated $20 million for the 2023-2024 fiscal year.[17]

Security Funding for Jewish Day Schools

Generally, security funding for Jewish day schools has been appropriated each year as projects in the GAA, as follows:

Fiscal Year	Amount
2023-2024	$5 million[18]
2022-2023	$4 million[19]
2021-2022	$4 million[20]
2020-2021	$2.5 million[21]
2019-2020	$2.5 million[22]
2018-2019	$2 million[23]
2017-2018	$654,491[24]

[16] Chapter 2023-180, Laws of Fla.; codified as s. 252.3712, F.S.
[17] Chapter 2023-352, s. 3, Laws of Fla.
[18] Specific Appropriations 100 and 105, ch. 2023-239, Laws of Fla.
[19] Specific Appropriations 104 and 109, ch. 2022-156, Laws of Fla.
[20] Specific Appropriations 110 and 114, ch. 2021-36, Laws of Fla.
[21] Specific Appropriation 118, ch. 2020-111, Laws of Fla.
[22] Specific Appropriation 117, ch. 2019-115, Laws of Fla.
[23] Specific Appropriation 116, ch. 2018-9, Laws of Fla.
[24] Specific Appropriation 114, ch. 2017-70, Laws of Fla.

Additionally, in the 2023 special session for the 2023-2024 fiscal year, the Legislature appropriated the following nonrecurring funds:

- Fixed capital outlay of $15,000,000 to provide grants to full-time Jewish day schools and Jewish preschools for hardening security measures, including the purchase and installation of security infrastructure, perimeter lighting, materials for door hardening, security camera systems, perimeter fencing, barriers and bollards, and blast-resistant film and shatter-resistant glass for windows.[25]
- Grants totaling $10,000,000 to full-time Jewish day schools and Jewish preschools for nonhardening security measures, including hiring security personnel and training for security personnel and staff on threat awareness, emergency procedures, and first aid.[26]

III. Effect of Proposed Changes:

This bill creates s. 1001.2921, F.S., to establish a program under the Department of Education (DOE) to provide recurring funds to enhance the security of full-time Jewish day schools and preschools with professional security hardening for school facilities.

The bill specifies that based on a risk assessment by a law enforcement agency or a private security company, recurring funds must be used for any of the following:

- The purchase and installation of security cameras, perimeter lighting, perimeter fencing, and shatter-resistant glass for windows.
- Hiring or contracting with security personnel who are licensed and regulated by the state and insured.
- Expenses relating to transportation to minimize security exposure of staff, parents, and students.
- Other nonhardening security measures, including, but not limited to, providing professional detection, prevention, and security services to such schools and preschools.

The bill authorizes the State Board of Education to adopt rules to implement the program.

The bill takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[25] Chapter 2023-352, s. 4, Laws of Fla.
[26] Chapter 2023-352, s. 5, Laws of Fla.

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 specifies funding will be as determined in the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1001.2921 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.

By Senator Gruters

22-01116A-24 20241396__

A bill to be entitled

An act relating to security for Jewish day schools and preschools; creating s. 1001.2921, F.S.; subject to and consistent with funds appropriated from the General Appropriations Act, requiring the Department of Education to establish a program to provide funds to full-time Jewish day schools and preschools for specified security purposes; providing authorized uses for specified funds; authorizing the State Board of Education to adopt rules; providing an effective date.

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

Section 1. Section 1001.2921, Florida Statutes, is created to read:

1001.2921 Security funding for Jewish day schools and preschools.—

(1) As authorized by and consistent with funds appropriated in the General Appropriations Act, the Department of Education shall establish a program to provide funds to make full-time Jewish day schools and preschools in this state secure with professional security hardening, as needed, to better secure facilities of such schools and preschools and to protect their students. Based on a risk assessment by a law enforcement agency or a private security company, recurring funds must be used for any of the following:

(a) The purchase and installation of security cameras, perimeter lighting, perimeter fencing, and shatter-resistant glass for windows.

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

22-01116A-24 20241396__

(b) Hiring or contracting with security personnel who are licensed and regulated by the state and insured.

(c) Expenses relating to transportation to minimize security exposure of staff, parents, and students.

(d) Other nonhardening security measures, including, but not limited to, providing professional detection, prevention, and security services to such schools and preschools.

(2) The State Board of Education may adopt rules to administer this section.

Section 2. This act shall take effect July 1, 2024.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1422
INTRODUCER:	Appropriations Committee on Agriculture, Environment, and General Government; Senators Burgess and Rouson
SUBJECT:	Food Recovery
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	**Favorable**
2.	Blizzard	Betta	AEG	**Fav/CS**
3.	Becker	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1422 directs the Department of Agriculture and Consumer Services (department), subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price. The bill authorizes food recovery entities to negotiate the price for fresh food products and requires the department to reimburse them for each negotiated purchase of fresh food products produced, purchased, and distributed in this state.

The bill directs the department to submit a report on the program to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2025, and to submit an updated report by January 1, 2026. The bill grants the department rulemaking authority for the program.

The bill has an indeterminate fiscal impact on the department. See Section V., Fiscal Impact Statement.

This bill takes effect July 1, 2024.

II. Present Situation:

Section 595.420, F.S., provides legislative intent and powers of the Department of Agriculture and Consumer Services (department) regarding food recovery. The Legislature finds that millions of pounds of surplus and slightly blemished fruits and vegetables are destroyed each year, while many Floridians go without food.[1] The Legislature further finds that the state, through the Commissioner of Agriculture, should assist food recovery programs, when needed, to aid in their establishment and to support their continued and efficient operation.[2] In helping to coordinate the establishment of food recovery programs, the department may: identify suppliers, volunteers, and nonprofit organizations in the community to ascertain the level of interest in establishing a food recovery program; provide facilities and other resources for initial organizational meetings; and provide direct and indirect support for the fledgling program, upon demonstration of serious interest at the local level.[3]

Approximately one-fifth of Floridians are food insecure, including over one million children. The department's Food Recovery Program works to recover food by working with farmers (volunteers visit the farms and collect surplus produce in a process called gleaning) and by working with schools (the department provides Florida Schools with guidance on food waste audits, share tables, food donations, and composting).[4]

Food distribution programs are funded by the legislature through the Food Recovery Program within the department. Partnerships for the 2022-2023 fiscal year include:

- Feeding Florida's Farmers Feeding Florida Program, which purchases cosmetically blemished produce from local agricultural producers and provides it to households in need through Feeding Florida's member food banks.
- The Farm Share Program, which provides food free of charge to local community partner agencies as well as directly to families, children, senior citizens, and individuals in need to address food insecurity throughout the state.[5]

III. Effect of Proposed Changes:

CS/SB 1422 creates s. 595.420(8), F.S., and directs the department to implement a program to provide incentives to agricultural companies to sell fresh products to food recovery entities. It creates definitions for "current wholesale market price," "discounted price," "food producer," "food recovery entity," "fresh food products," and "high-quality fresh food products." The bill specifies that a "food recovery entity" must have been in operation for 10 years in this state and received a minimum of 10 million pounds of perishable produce annually within the last three years to qualify for the program.

Subject to appropriation, the bill directs the department to implement a program to incentivize food producers to sell high-quality fresh food products to food recovery entities at a discounted

[1] Section 595.420(1)(a), F.S.
[2] Section 595.420(1)(c), F.S.
[3] Section 595.420(3), F.S.
[4] Florida Department of Agriculture and Consumer Services Food Recovery Program *see* https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Food-Recovery-Program (last visited January 17, 2024).
[5] *Id.*

price with the goal of reducing human hunger in this state. The bill authorizes food recovery entities to negotiate the price for fresh food products and requires the department to reimburse them for each negotiated purchase of fresh food products produced, purchased, and distributed in this state. To receive a reimbursement, a food entity must:

- Certify in writing to the department that all of the fresh food products on an invoice meet the food recovery entity's food quality standards and that the fresh food products received will not be sold at wholesale, retail, or secondary markets for monetary gain; and
- Submit the invoice and any other documents provided by the food producer to the department. The invoice must include the shipment date; shipment location, by shipper and city; each fresh food product purchased at the discounted price; total number of packages shipped and the price of each product; total price paid for each product; total invoice price paid; and total pounds shipped.

The bill requires the department submit a report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025, and to submit an updated report by January 1, 2026. The reports must include an itemized list of all of the following:

- Each fresh food product by package size, the total number of packages, and the average price paid per package.
- The total weight in pounds of each fresh food product type, the price paid per pound for each fresh food product type, and the total spent per fresh food product type.
- The total amount spent and the total amount spent per major fresh food product.

The bill grants the department rulemaking authority to implement the bill.

This act shall take effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Food producers may benefit from having an additional market for their produce and Floridians may benefit from the increased availability of fresh produce from food recovery entities.

C. Government Sector Impact:

Funding for the food recovery program is contingent upon specific appropriation by the Legislature. The department may incur an indeterminate increase in costs related to workload, depending on the amount of the annual appropriation and number of food recovery entities associated with the program. These costs will need to be funded through the overall appropriation for the program. The bill does not provide funding for the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 595.420 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 Appropriations Committee on Agriculture, Environment, and General Government on February 14, 2024:
The committee substitute:

- Provides a definition for "current wholesale market price" and discounted price;"
- Specifies a food recovery entity must have been in operation for 10 years instead of 20 years as required in the original bill;
- Requires an invoice to include each fresh food product purchased at the discounted price; and
- Removes the $5 million appropriation.

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 Appropriations Committee on Agriculture, Environment, and General Government; and Senators Burgess and Rouson

601-03261-24 20241422c1

A bill to be entitled

An act relating to food recovery; amending s. 595.420, F.S.; defining terms; directing the Department of Agriculture and Consumer Services, subject to legislative appropriation, to implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities at a discounted price; providing a goal for the program; requiring food recovery entities to negotiate with food producers; providing shipping requirements; requiring the department to reimburse food recovery entities for certain costs; providing reimbursement invoice requirements; requiring the department to submit a report to the Governor and Legislature by specified dates; providing requirements for the report; requiring the department to adopt rules; providing an effective date.

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

Section 1. Subsection (8) is added to section 595.420, Florida Statutes, to read:

595.420 Food recovery; legislative intent; department functions.—

(8)(a) As used in this subsection, the term:

1. "Current wholesale market price" means the wholesale market price for each fresh food product on an invoice dated at the closest shipping point, as reported by the United States Department of Agriculture's USDA Market News.

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601-03261-24 20241422c1

2. "Discounted price" means a price for fresh food products sold by each food producer at a price that is at least 50 percent below the current wholesale market price.

3. "Food producer" means an agricultural company that produces fresh food products in this state or the company's associated shipper.

4. "Food recovery entity" means a nonprofit association engaged in food recovery and distribution which has been in operation in this state for at least 10 years and has received a minimum of 10 million pounds of perishable produce annually within the last 3 years.

5. "Fresh food products" includes fresh fruits, vegetables, proteins, poultry, eggs, and dairy that are produced in this state by a food producer.

6. "High-quality fresh food products" means fresh food products that meet United States Department of Agriculture commodity standards and grades upon delivery to their final destination.

(b) Subject to legislative appropriation, the department shall implement a program to provide incentives to food producers to sell high-quality fresh food products to food recovery entities in this state at a discounted price. The goal of the program is to reduce human hunger in this state.

(c) A food recovery entity shall negotiate with a food producer to pay discounted prices for the producer's fresh food products. Any invoice, bill of lading, or other document provided by the food producer to the food recovery entity must include the harvest or processing date, the current wholesale market price of each product purchased, and the shipping

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destination.

(d) A food recovery entity may reject any product that fails to meet the entity's food quality standards.

(e) The department shall reimburse a food recovery entity for each negotiated purchase of fresh food products produced, purchased, and distributed in this state. To receive a reimbursement, a food recovery entity must:

1. Certify in writing to the department that all of the fresh food products on an invoice meet the food recovery entity's food quality standards and that the fresh food products received will not be sold at wholesale, retail, or secondary markets for monetary gain; and

2. Submit the invoice and any other documents provided by the food producer to the department. The invoice must include all of the following information:

a. Shipment date.

b. Shipment location, by shipper and city.

c. Each fresh food product purchased at the discounted price.

d. Total number of packages shipped and the price of each product.

e. Total price paid for each product.

f. Total invoice price paid.

g. Total pounds shipped, as determined by measured weight.

(f) The department shall also reimburse a food recovery entity for delivery and distribution costs in an amount equal to 2 cents per pound of fresh food products shipped, as indicated by invoice.

(g) The department shall submit a report on the program to

the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2025, and shall submit an updated report by January 1, 2026. The reports must include an itemized list of all of the following:

1. Each fresh food product by package size, the total number of packages, and the average price paid per package.

2. The total weight in pounds of each fresh food product type, the price paid per pound for each fresh food product type, and the total spent per fresh food product type.

3. The total amount spent and the total amount spent per major fresh food product.

(h) The department shall adopt rules to implement this subsection.

Section 2. This act shall take effect July 1, 2024.

2/22/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1422
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robby Holroyd

Phone 954-803-0231

Address 205 S. Adams St.
Street

Email Robby@tsecgov.com

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:
Palm Beach County Food Bank

☐ 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1530
INTRODUCER:	Fiscal Policy Committee; Judiciary Committee; and Senator Martin
SUBJECT:	Unauthorized Public Camping and Public Sleeping
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Favorable**
2.	Davis	Cibula	JU	**Fav/CS**
3.	Hackett	Yeatman	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1530 preempts counties and municipalities from authorizing individuals to regularly sleep or camp on public property, at public buildings, or on public rights-of-way within their jurisdictions. The bill authorizes counties and municipalities to allow public sleeping or camping on designated public property by issuing temporary permits to be used only at the designated area. The prohibitions against camping or sleeping on public property do not apply when the Governor has declared a state of emergency or when local officers have declared a local state of emergency under ch. 870, F.S.

A designated property may not be used continuously for longer than 1 year and must meet certain minimum standards and procedures. The Department of Children and Families must be notified when a property is designated, and then is responsible for inspecting the property and certifying the designation based on certain factors.

The bill additionally permits a resident, local business owner, or the Attorney General to bring a civil action against a county or municipality to enjoin practices of allowing unlawful sleeping or camping on public property. When filing an application for an injunction, the plaintiff must also file an affidavit demonstrating that the governmental entity has been notified of the problem and that the problem has not been cured. A prevailing plaintiff may recover reasonable expenses incurred in bringing the action.

Individuals who sleep or camp on public property without authorization are not subject to penalties under the bill.

The bill takes effect October 1, 2024.

II. Present Situation:

Estimates of Homeless Populations

According to the U.S. Department of Housing and Urban Development, on a single night in January 2023, approximately 653,104 people were homeless in the United States. This represents about 20 of every 10,000 people. Approximately 60 percent of those who were homeless were staying in shelters while 40 percent were unsheltered or staying in a location that was not intended for humans to live.[1] The report estimated Florida's homeless population on a single night to be 30,756.[2]

Legislation Related to Homeless Encampments

Several states and local governments recently have heard or passed legislation related to homeless encampments on public property. Some of these efforts have been directed at banning or removing homeless encampments,[3] while others have moved toward creating rights for homeless populations to camp on public property.[4]

Litigation Related to Homelessness

State and Federal Courts have opined on the constitutionality of these varied provisions on a case-by-case basis.[5] Significantly, the Ninth Circuit Court of Appeals found that an Oregon city's ordinance which precluded the use of bedding supplies when sleeping in public violated the Federal constitution's "cruel and unusual punishments" clause[6] as applied to individuals who were involuntarily experiencing homelessness and who lacked shelter in which to lawfully sleep.[7] On January 12, 2024, the U.S. Supreme Court agreed to take up the Oregon case to

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[1] The U.S. Department of Housing and Urban Development, Office of Community Planning and Development, *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress*, 12 (Dec. 2023). https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf.

[2] *Id.*, at 16. Additionally, the Annual Report of Florida's Council on Homelessness estimated the population for one night in January to be 30,809. See the report, page 2, Florida's Council On Homelessness Annual Report *available at* Florida's Council On Homelessness Annual Report 2023.pdf (myflfamilies.com).

[3] *See e.g.*, 2023 Georgia Senate Bill No. 62, *available at* https://legiscan.com/GA/bill/SB62/2023#:~:text=A%20BILL%20to%20be%20entitled,Title%2050%20of%20the%20O.C.G.A.%2C; 2024 Kentucky House Bill No. 5, *available at* https://apps.legislature.ky.gov/record/24rs/hb5.html.

[4] *See e.g.*, 2017 Colorado House Bill No. 17-1314 *available at* https://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017a_1314_01.pdf.

[5] *See e.g.*, 2022 Missouri House Bill No. 1606, available at https://house.mo.gov/billtracking/bills221/hlrbillspdf/3703H.08T.pdf ; *Frank v. City of St. Louis*, 458 F. Supp. 3d 1090, 1092 (E.D. Mo. 2020).

[6] U.S. CONST. amend. VIII.

[7] *Johnson v. City of Grants Pass*, 72 F.4th 868, 890 (9th Cir. 2023), cert. granted sub nom. *Grants Pass, OR v. Johnson*, No. 23-175, 2024 WL 133820 (Jan. 12, 2024).

determine whether the enforcement of generally applicable laws regulating camping on public property is constitutional.[8]

In contrast to the Ninth Circuit, the Eleventh Circuit previously upheld similar restrictions in 2000. A homeless man challenged a municipal ordinance of the City of Orlando that prohibited any "camping" on public property. Among other findings, the court noted that "Homeless persons are not a suspect class, nor is sleeping out-of-doors a fundamental right."[9]

Local Legislation in Florida

Numerous local governments in Florida have passed local legislation banning camping. Miami Beach, for example, provides that it is unlawful for any person to engage in camping on any public place within the city unless specifically authorized for that purpose by the city manager or his designee.[10] The ordinance defines camping as:

- Sleeping in a temporary shelter out-of-doors or otherwise being in a temporary shelter out-of-doors; or
- Cooking over an open flame or fire out-of-doors or using non-city designated cooking facilities outdoors.

The Miami Beach ordinance is enforceable by requiring an offender to vacate the area. The willful refusal to vacate the area is punishable with a fine not exceeding $500 or by imprisonment for up to 60 days. If the official encounters a person camping who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to enter a homeless shelter or similar facility, if available. If no such facility is available, an arrest may not be made.

III. Effect of Proposed Changes:

The bill creates s. 125.0231, F.S., to preempt counties and municipalities from permitting individuals to regularly sleep or camp on public property, at public buildings, or on public rights-of-way.

"Public camping or sleeping" is defined to mean lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be, or recreational camping on property designated for such purposes.

Designation of a County or Municipal Property

A county may, by majority vote of its governing body, designate public property for use for public camping or sleeping for no longer than one continuous year. If the property is within a

[8] *Id.*
[9] *Joel v. City of Orlando*, 232 F.3d 1353, 1357 (11th Cir. 2000).
[10] *See* section 70-45, Miami Beach Code of Ordinances, available at https://library.municode.com/fl/miami_beach/codes/code_of_ordinances?nodeId=SPAGEOR_CH70MIOF_ARTIIPUPL_DIV1GE_S70-45CAPR.

municipality, the municipality's governing body must concur with the designation by majority vote.

Such designation may not become effective until the designation is submitted to and certified by the Department of Children and Families (DCF). Certification must be completed by DCF within 45 days of receipt of a complete submission, and requires the following findings:

- There are not sufficient open beds in homeless shelters in the county for the homeless population;
- The designated property is not contiguous to residential use property as shown by the local government comprehensive plans;
- The designated property would not adversely and materially affect the value, safety, or security of existing residential and commercial property in the county; and
- The county has developed a plan to satisfy the minimum standards for such designated property.

If a county designates county or municipal property for public camping or sleeping, it must establish and maintain minimum standards and procedures to:

- Ensure the safety and security of the property and persons lodging or residing there.
- Maintain sanitation, which includes providing access to clean and operable restrooms and running water.
- Coordinate with the local continuum of care to provide access to behavioral health services, including substance abuse and mental health treatment resources.
- Prohibit illegal drug and alcohol use on the property and enforce the prohibitions.

These standards must be published on the county's and any applicable municipality's website for the duration of the designation. Except for prohibiting drugs and alcohol, the minimum maintenance standards do not apply in a fiscally constrained county if the governing board makes a finding that compliance would result in financial hardship.

DCF may inspect any designated property at any time, and the secretary of DCF may provide notice to the county recommending closure of the designated property if any requirement is no longer satisfied. Such notice must be publicly available on the county's and municipality's website within 5 days of receipt.

Legal Recourse to Enjoin Violations

The bill permits a resident of the county, a business owner, or the Attorney General to bring a civil action in any court of competent jurisdiction against a county or municipality to enjoin practices of allowing unlawful sleeping or camping on public property. A successful plaintiff may recover reasonable expenses including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

When a plaintiff applies for an injunction, he or she must also provide an accompanying affidavit attesting that:

- He or she has provided written notice of the alleged violation to the governing board of the county or municipality.

- The county or municipality was provided 5 business days to cure the alleged violation.
- The county or municipality has not cured the alleged violation within 5 business days of receiving written notice of the alleged violation.

States of Emergency

The provisions of the bill do not apply when the Governor has declared a state of emergency in the county or another county immediately adjacent to the county and has suspended the law, or when a local state of emergency has been declared under ch. 870, F.S., in the county. Chapter 870, F.S., authorizes local officers to declare a state of emergency within a county or municipality when overt acts of violence or the imminent threat of violence occurs and the Governor has not declared a state of emergency to exist.[11]

The bill contains a finding of important state interest.

The bill takes effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates restrictions likely do not apply, as the bill does not directly require local governments to spend funds or to take an action requiring the expenditure of funds. A county or municipality may, but is not required to, designate certain public properties for public sleeping or public camping as provided by the bill, which would likely require expenditures.

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.

[11] Section 870.041, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

A prevailing plaintiff in a lawsuit against a county or municipality is entitled to recover reasonable expenses against the local government. This cost is indeterminate and could have a fiscal impact on local governments.

The Department of Children and Families may see costs related to certification and inspection of public property designated for public sleeping and camping. Total costs will depend on utilization of the designation throughout the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 125.0231of 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 Fiscal Policy on February 22, 2024:
The committee substitute:

- Amends the definitions of public camping and sleeping, providing that the term does not include recreational camping;
- Unifies the two separate sections for county and municipal provisions;
- Permits a county to designate property for public sleeping, and a municipality to concur in the designation;
- Requires certification by DCF that certain criteria, including an insufficient number of open beds in the county's homeless shelters and the designated property not being contiguous to residential property, have been met before property may be designated for public sleeping;
- Permits DCF to inspect designated property and recommend closure;
- Permits the Attorney General to bring suit related to property designated for public sleeping; and
- Revises applicability during declared states of emergency to require suspension of the statute, rather than automatic suspension during emergency.

CS by Judiciary on February 5, 2024:
The committee substitute is an expansion of the underlying bill and differs significantly from the original bill by:

- Providing definitions of "public camping" and "public sleeping."
- Restricting how long a public property may be used for public camping or sleeping.
- Requiring the governmental entity to post on its website the minimum standards and procedures governing the public property.
- Expanding the Department of Children and Families' oversight role to inspect the property and issue a report.
- Exempting a fiscally constrained county or a municipality in a fiscally constrained county from certain minimum standards and procedures concerning the public property if it would result in a financial hardship.
- Requiring a plaintiff or affected resident business owner to submit an affidavit concerning certain facts when applying for an injunction.
- Authorizing local officers to declare a state of emergency as an additional basis for when the provisions of the bill do not apply.

B. Amendments:

None.

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

952260

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 125.0231, Florida Statutes, is created to read:

125.0231 Public camping and public sleeping.—

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

(a) "Department" means the Department of Children and Families.

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(b) "Public camping or sleeping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings, or means lodging or residing overnight in an outdoor space without a tent or other temporary shelter. The term does not include:

1. Lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

2. Camping for recreational purposes on property designated for such purposes.

(2) Except as provided in subsection (3), a county or municipality may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including, but not limited to, any public building or its grounds and any public right-of-way under the jurisdiction of the county or municipality, as applicable.

(3) A county may, by majority vote of the county's governing body, designate property owned by the county or a municipality within the boundaries of the county to be used for a continuous period of no longer than 1 year for the purposes of public camping or sleeping. If the designated property is within the boundaries of a municipality, the designation is contingent upon the concurrence of the municipality, by majority vote of the municipality's governing body.

(a) A county designation is not effective until the department certifies the designation. To obtain department certification, the county shall submit a request to the

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secretary of the department which shall include certification of, and documentation proving, the following:

1. There are not sufficient open beds in homeless shelters in the county for the homeless population of the county;

2. The designated property is not contiguous to property designated for residential use by the county or municipality in the local government comprehensive plan and future land use map;

3. The designated property would not adversely and materially affect the property value or safety and security of other existing residential or commercial property in the county or municipality and would not negatively affect the safety of children; and

4. The county has developed a plan to satisfy the requirements of paragraph (b).

Upon receipt of a county request to certify a designation, the department shall notify the county of the date of receiving the request, and of any omission or error, within 10 days of receipt by the department. The department shall certify the designation within 45 days of receipt of a complete submission from the county, and the designation shall be deemed certified on the 45th day if the department takes no action.

(b) Except as provided in paragraph (e), if a county designates county or municipal property to be used for public camping or public sleeping, it must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

952260

2. Maintaining sanitation, which must include, at a minimum, providing access to clean and operable restrooms and running water.

3. Coordinating with the regional managing entity to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.

4. Prohibiting illegal substance use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after certification of a designation by the department, the county must publish the minimum standards and procedures required under paragraph (b) on the county and, if applicable, the municipality publicly accessible website. The county and municipality must continue to make such policies and procedures publicly available for as long as any county or municipal property remains designated under paragraph (a).

(d) The department may inspect any designated property at any time, and the secretary may provide notice to the county recommending closure of the designated property if the requirements of this section are no longer satisfied. A county, and municipality, if applicable, must publish any such notice issued by the department on the county and municipality publicly accessible websites within 5 business days of receipt of the notice.

(e) A fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1.-3. if the governing board of the county makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the county, an owner of a business

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located in the county, or the Attorney General may bring a civil action in any court of competent jurisdiction against the county or applicable municipality to enjoin a violation of subsection (2). If the resident or business owner prevails in a civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the county or applicable municipality.

2. The applicant has provided the county or applicable municipality with 5 business days to cure the alleged violation.

3. The county or applicable municipality has failed to take all reasonable actions within the limits of its governmental authority to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a county during any time period in which:

(a) The Governor has declared a state of emergency in the county or another county immediately adjacent to the county and has suspended the provisions of this section pursuant to s. 252.36.

(b) A state of emergency has been declared in the county under chapter 870.

Section 2. The Legislature hereby determines and declares that this act fulfills an important state interest of ensuring

952260

the health, safety, welfare, quality of life, and aesthetics of Florida communities while simultaneously making adequate provision for the homeless population of this state.

Section 3. This act shall take effect October 1, 2024

========== 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 unauthorized public camping and public sleeping; creating s. 125.0231, F.S.; defining terms; prohibiting counties and municipalities from authorizing or otherwise allowing public camping or sleeping on public property without certification of designated public property by the Department of Children and Families; authorizing counties to designate certain public property for such uses for a specified time period; requiring the Department of Children and Families to certify such designation; requiring a county to submit a request to the secretary of the department which includes certification of and documentation proving certain information; requiring counties to establish specified standards and procedures relating to such property; authorizing the department to conduct inspections of such property and the secretary to issue notice; providing applicability; providing an exception to applicability during specified emergencies; providing

952260

a declaration of important state interest; providing an effective date.

By the Committee on Judiciary; and Senator Martin

590-02929-24 20241530c1

A bill to be entitled

An act relating to unauthorized public camping and public sleeping; creating ss. 125.0231 and 166.0453, F.S.; defining the terms "public camping" and "public sleeping"; prohibiting counties and municipalities, respectively, from authorizing or otherwise permitting public sleeping or public camping on public property without a specified permit; authorizing counties and municipalities to designate certain public property for such purpose for a specified time period; requiring counties and municipalities to establish specified standards and procedures relating to such property; requiring a county to take certain action within 30 days after designating property as authorized; requiring the Department of Children and Families to conduct inspections of such property at specified intervals and to produce a report; providing an exemption from certain requirements for a fiscally constrained county or municipality; providing a cause of action for a resident or business owner in a county or municipality; requiring an application for injunction be accompanied by an affidavit attesting specified information; providing an exception to applicability during specified emergencies; providing a declaration of important state interest; providing an effective date.

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

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

590-02929-24 20241530c1

Section 1. Section 125.0231, Florida Statutes, is created to read:

125.0231 Unauthorized public camping and public sleeping.—

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

(a) "Public camping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

(b) "Public sleeping" means lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

(2) Except as provided in subsection (3), a county may not authorize or otherwise permit any person to regularly engage in public camping or public sleeping on any public property, public building, or public right-of-way under the county's jurisdiction, unless such person has been lawfully issued a temporary permit authorizing such activity by the county.

(3)(a) A county may, in its discretion, designate property owned by the county to be used for a continuous period of no longer than 1 year for the purpose of public camping or public sleeping. A property designated for such purpose may not be located in an area where such designation would adversely and materially affect the property value or safety and security of other existing residential or commercial property.

(b) Except as provided in paragraph (e), if a county designates county property to be used for public camping or public sleeping, it must establish and maintain minimum

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

standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

2. Maintaining sanitation, which must include providing access to clean and operable restrooms and running water.

3. Coordinating with the local continuum of care to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.

4. Prohibiting illegal drug use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after designating county property as authorized in paragraph (a), the county must:

1. Provide notice to the Department of Children and Families that property has been designated for such purpose and provide the location of such property.

2. Post the minimum standards and procedures required under paragraph (b) to the county's publicly accessible website. Such policies and procedures must continue to be publicly available as long as any county property remains designated for the purpose authorized in paragraph (a).

(d) Within 90 days following the designation of county property as authorized in paragraph (a), and at least once more after 180 days if the property remains so designated, the Department of Children and Families shall inspect the property and issue a report to the county which may include recommendations to assist the county in maintaining the minimum standards and procedures required under paragraph (b). A county must post any inspection report issued pursuant to this

paragraph to the county's publicly accessible website within 5 business days after receiving the report.

(e) A fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1., 2., and 3. if the governing board of the county makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the county or an owner of a business located in the county may bring a civil action in any court of competent jurisdiction against the county to enjoin a violation of subsection (2). If the resident or business owner prevails in a civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the county.

2. The applicant has provided the county with 5 business days to cure the alleged violation.

3. The county has failed to cure the alleged violation within 5 business days after receiving written notice of the alleged violation.

(5) This section does not apply to a county during any time period in which:

(a) The Governor has declared a state of emergency in the county or another county immediately adjacent to the county.

(b) A state of emergency has been declared in the county under chapter 870.

Section 2. Section 166.0453, Florida Statutes, is created to read:

166.0453 Unauthorized public camping and public sleeping.—

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

(a) "Public camping" means lodging or residing overnight in a temporary outdoor habitation used as a dwelling or living space and evidenced by the erection of a tent or other temporary shelter, the presence of bedding or pillows, or the storage of personal belongings. The term does not include lodging or residing overnight in a motor vehicle that is registered, insured, and located in a place where it may lawfully be.

(b) "Public sleeping" means lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

(2) Except as provided in subsection (3), a municipality may not authorize or otherwise permit any person to regularly engage in public camping or public sleeping on any public property, public building, or public right-of-way under the municipality's jurisdiction, unless such person has been lawfully issued a temporary permit authorizing such activity by the municipality.

(3)(a) A municipality may, in its discretion, designate property owned by the municipality to be used for a continuous period of no longer than 1 year for the purpose of public camping or public sleeping. A property designated for such purpose may not be located in an area where such designation would adversely and materially affect the property value or safety and security of other existing residential or commercial

property.

(b) Except as provided in paragraph (e), if a municipality designates municipal property to be used for public camping or public sleeping, it must establish and maintain minimum standards and procedures related to the designated property for the purposes of:

1. Ensuring the safety and security of the designated property and the persons lodging or residing on such property.

2. Maintaining sanitation, which must include providing access to clean and operable restrooms and running water.

3. Coordinating with the local continuum of care to provide access to behavioral health services, which must include substance abuse and mental health treatment resources.

4. Prohibiting illegal drug use and alcohol use on the designated property and enforcing such prohibition.

(c) Within 30 days after designating municipal property as authorized in paragraph (a), the municipality must:

1. Provide notice to the Department of Children and Families that property has been designated for such purpose and provide the location of such property.

2. Post the minimum standards and procedures required under paragraph (b) to the municipality's publicly accessible website. Such policies and procedures must continue to be publicly available as long as any municipal property remains designated for the purpose authorized in paragraph (a).

(d) Within 90 days following the designation of municipal property as authorized in paragraph (a), and at least once more after 180 days if the property remains so designated, the Department of Children and Families shall inspect the property

and issue a report to the municipality which may include recommendations to assist the municipality in maintaining the minimum standards and procedures required under paragraph (b). A municipality must post any inspection report issued pursuant to this paragraph to the municipality's publicly accessible website within 5 business days after receiving the report.

(e) A municipality located within a fiscally constrained county is exempt from the requirement to establish and maintain minimum standards and procedures under subparagraphs (b)1., 2., and 3. if the governing board of the municipality makes a finding that compliance with such requirements would result in a financial hardship.

(4)(a) A resident of the municipality or an owner of a business located in the municipality may bring a civil action in any court of competent jurisdiction against the municipality to enjoin a violation of subsection (2). If the resident or business owner prevails in the civil action, the court may award reasonable expenses incurred in bringing the civil action, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(b) An application for injunction filed pursuant to this subsection must be accompanied by an affidavit attesting that:

1. The applicant has provided written notice of the alleged violation of subsection (2) to the governing board of the municipality.

2. The applicant has provided the municipality with 5 business days to cure the alleged violation.

3. The municipality has failed to cure the alleged violation within 5 business days after receiving written notice

of the alleged violation.

(5) This section does not apply to a municipality during any time period in which:

(a) The Governor has declared a state of emergency in the county in which the municipality is located or another county immediately adjacent to the county in which the municipality is located.

(b) A state of emergency has been declared in the county in which the municipality is located under chapter 870.

Section 3. The Legislature hereby determines and declares that this act fulfills an important state interest.

Section 4. This act shall take effect October 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2-22-24
Meeting Date

Fiscal
Committee

1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Spike Poma

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:

Vice Ch

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2/22/24
Meeting Date

Fiscal
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tsi Day Smyth

Phone

Address [redacted] Voices of Florida

Email tsi@wksufl.com

Street

Sarasota

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: Voices 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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02/22/24
Meeting Date

Fiscal Policy
Committee

1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sarah Parker

Phone

Address

Street

Email admin@wusuf1.com

Sarasota FL 34234
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. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Lee

Phone

Address
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:

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aurelie Colon (ow-ray-lee)

Phone 9548818825

Address 403 Washington Ave
Street

Montgomery AL
City State Zip

Email aurelie.colon-larrauri@splcactionfund.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: SPLC Action Fund

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Janel Edwards Mickles

Phone

Address
Street

Email

Miramar FL 33025
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:
Dream Defenders

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-22-24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Trenton Brooks

Phone

Address

Email

Street

Gainesville FL 32641
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:
Death Defenders

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Marjua Estevez

Phone

Address
Street

Email

Sunrise FL 33351
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:
Dream Defenders

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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/22/2024
Meeting Date

Fiscal Policy
Committee

1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive
Street

Email mdunagan@flsheriffs.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 Sheriffs 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Call St.
Street

Tallahassee FL 32301
City State Zip

Email fcfep@yahoo.com

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 Center for Fiscal & Economic Policy

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shré Jethwani

Phone

Address

Email

Street

Ocala 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:

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

The Dream Defenders

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. 2020-2022JointRules.pdf (flsenate.gov)

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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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2-22-24
Meeting Date

Fiscal
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Matthew Grochowske

Phone 8632247501

Address 500 Ollie Ave
Street

Email Matthewforfl@gmail.com

Winter Park FL 32784
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. 2020-2022JointRules.pdf (flsenate.gov)

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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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2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio 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: Six Action

☐ 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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2/22/24
Meeting Date

Fiscal
Committee

1530
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laura Munoz

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:
FFSP

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

2/22/24		1530
Meeting Date		Bill Number or Topic
Fiscal Policy		
Committee		Amendment Barcode (if applicable)

Name Martha Are Phone 919-559-6193

Address 142 E Jackson St Email martha.are@hsnetl.org

Street

Orlando FL 32801

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:

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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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1544
INTRODUCER:	Fiscal Policy Committee; Regulated Industries Committee; and Senator Hooper
SUBJECT:	Department of Business and Professional Regulation
DATE:	February 26, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.	Davis	Betta	AEG	**Favorable**
3.	Oxamendi	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1544 revises the licensing process and other requirements for several licensees and permittees regulated by the Department of Business and Professional Regulation (DBPR). The bill requires persons and entities to create and maintain an online system account for the purpose of processing license, permit, or registration applications, as applicable, and to function as the primary means of contact between the regulating agency and the licensee, permittee, or registrant. Under the bill, the regulating agency may not process an application for the following licenses, permits, or registrations unless it is submitted through the online system:

- Licenses and permits for persons and entities licensed or permitted by the DBPR's Division of Alcoholic Beverages and Tobacco (DABT) under ch. 210, F.S., relating to the taxation of tobacco products;
- Alcoholic beverage licenses issued by the DABT; and
- Retail tobacco products dealer and a retail nicotine products dealer permits issued by the DABT.

The following persons must create and maintain an online account with the agency as a primary means of contact:

- Certified elevator inspectors, certified elevator technicians, or elevator companies registered with the Division of Hotels and Restaurants; and
- Certified public accountants licensed by the Board of Accountancy;

Regarding the Florida Homeowners' Construction Recovery Fund (recovery fund), the bill doubles the maximum amounts payable to claimants for claims that may be made against contractors from the recovery fund.

Under the bill, beginning January 1, 2025, for Division I and Division II contracts entered into on, or after, July 1, 2024, payment from the recovery fund is subject to a $100,000 maximum payment for each Division I claim ($50,000 maximum currently), and a $30,000 maximum payment for each Division II claim ($15,000 maximum currently)

The bill also increases the lifetime aggregate limits for claims made against a single licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total lifetime aggregate cap of $2 million for each Division I claim ($500,000 maximum currently), and a $600,000 maximum payment for each Division II claim ($150,000 maximum currently).

The bill:

- Regarding pilots of navigable waters, repeals the requirement for:
  - Pilots and pilots in port to establish a competency-based mentor program for minority persons as defined in s. 288.703, F.S.;
  - The DBPR to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing information on the mentor programs; and
  - The DBPR to give consideration to minority and female state applicants when qualifying deputy pilots for certification.
- Authorizes the DBPR to exercise all the powers and duties of the Board of Employee Leasing if at any time the board lacks a quorum of appointed members under s. 455.207, F.S., which provides that 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum.
- Revises the criteria for determining financial responsibility when licensing asbestos abatement consultants and contractors.
- Revises the engineer license exemption in this provision to apply the exemption to regular full-time employees of a business organization (instead of a corporation) not engaged in the practice of engineering as such, whose practice of engineering for such business organization (instead of corporation) is limited to the design or fabrication of manufactured products or servicing of such products.
- Regarding barber and cosmetologists, repeals duplicative provisions allowing licensure by endorsement of persons licensed in another state for at least one year.
- Regarding construction contracting, authorizes local jurisdiction enforcement bodies to recommend to the Construction Industry Licensing Board (CILB) a recommended penalty of restitution, in addition to the recommended penalties that a local jurisdiction enforcement body is authorized to recommend to the CILB in current law.
- Includes the maintenance of nonelectrical advertising signs (in addition to electrical advertising signs) within the scope of practice of a specialty electrical or alarm system contractor.
- Provides additional types of work experience to qualify for certification as a designated representative of an entity licensed under the Drug and Cosmetic Act in part I of ch. 499, F.S.

- Reduces from 15 years to 10 years the disqualification for an alcoholic beverage license based on a conviction for a felony in Florida, any other state, or the United States.

The bill has a negative, indeterminate fiscal impact on state expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Department of Business and Professional Regulation

Licensure, Generally

The Department of Business and Professional Regulation (DBPR) has 11 divisions that are tasked with the licensure and general regulation of several professions and businesses in Florida.[1] Fifteen boards and programs exist within the Division of Professions,[2] two boards exist within the Division of Real Estate,[3] and one board exists in the Division of Certified Public Accounting.[4]

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.[5] When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.[6]

In Fiscal Year 2022-2023, there were 950,380 active licensees regulated by the DBPR or a board within the department, including 39,336 active licensees in the Division of Certified Public Accounting, 486,178 active licensees in the Division of Professions, and 67,827 active licensees under the Board of Professional Engineers.[7]

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[1] *See* s. 20.165, F.S, creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

[2] Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481, F.S.; Florida Board of Auctioneers, part VI of ch. 468, F.S.; Barbers' Board, ch. 476, F.S.; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.; Construction Industry Licensing Board, part I of ch. 489, F.S.; Board of Cosmetology, ch. 477, F.S.; Electrical Contractors' Licensing Board, part II of ch. 489, F.S.; Board of Employee Leasing Companies, part XI of ch. 468, F.S.; Board of Landscape Architecture, part II of ch. 481, F.S.; Board of Pilot Commissioners, ch. 310, F.S.; Board of Professional Engineers, ch. 471, F.S.; Board of Professional Geologists, ch. 492, F.S.; Board of Veterinary Medicine, ch. 474, F.S.; Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

[3] *See* s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

[4] *See* s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

[5] Section 455.219(1), F.S.

[6] Section 455.01(4) and (5), F.S.

[7] *See* Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2022-2023*, p. 18, available at

Other Relevant Topics

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described in Section III of this analysis, followed immediately by an associated section detailing the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Taxation of Tobacco products

Present Situation

Part II of ch. 210, F.S., imposes a tax and a surcharge tax on tobacco products other than cigarettes or cigars. Cigarettes are taxed under part I of ch. 210, F.S. Cigars are not subject to a tax.

Section 210.15, F.S., requires every person, firm, or corporation desiring to engage in business as a manufacturer, importer, exporter, distributing agent or wholesale dealer of cigarettes within this state to file with the Division of Alcoholic Beverages and Tobacco (DABT) an application for a cigarette permit for each place of business located within this state or, in the absence of such place of business in this state, for wherever its principal place of business is located. Every application for a cigarette permit must be made on forms furnished by the DABT and set forth the name under which the applicant transacts or intends to transact business, the location of the applicant's place of business within the state, if any, and such other information as the DABT may require.

Distributors of tobacco products other than cigarettes must be licensed by the DABT.[8] Section 210.40, F.S., provides a $25 application fee for a license as a distributor of tobacco products other than cigarettes. The license application must be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties, and accrued interest that may be due to the state. The required bond must be in the sum of $1,000 and in a form prescribed by the DABT.[9] If the DABT determines that the bond given by a licensee is inadequate in amount to fully protect the state, the DABT must require an additional bond in an amount deemed sufficient. A separate application for a license must be made for each place of business at which a distributor proposes to engage in business as a distributor of tobacco products other than cigarettes, but an applicant may provide one bond in an amount determined by the DABT for all applications made by the distributor.

Effect of Proposed Changes

Section 1 revises s. 210.15(1), F.S., relating to the taxation of cigarettes under part I of ch. 210, F.S., and **Section 2** creates s. 210.32, F.S., relating to the taxation of tobacco products

Division Annual Report FY 22-23.pdf (myfloridalicense.com) (last visited Jan. 15, 2024).

[8] Section 210.35, F.S.

[9] Wholesale dealers, agents, or distributing agents of cigarettes must file with the division a surety bond, certificate of deposit, or irrevocable letter of credit acceptable to the division in an amount equal to 110 percent of the estimated tax liability for 30 days, but not less than $2,000. Section 210.08, F.S.

other than cigarettes, to require every person or entity licensed or permitted under ch. 210, F.S., to require all persons or entities licensed or permitted by the DABT, or applying for a cigarette, tobacco product, nicotine, or cigar license or permit within Florida, to create and maintain an account with the DABT's online system.

An email address must be supplied by the licensee, permittee, or applicant, and will function as the primary means of contact between the DABT and the licensee, permittee, or applicant. The licensee, permittee, and applicant is responsible for maintaining accurate contact information on file with the DABT.

The bill requires all persons or entities seeking a license or permit from the DABT to use forms furnished by the DABT which are filed through the DABT's online system before commencing operations. Under the bill, the DABT may not process an application or a permit unless it is submitted through the online system.

Section 3 revises s. 210.40, F.S., to increase the required tobacco product distributor corporate surety bond to $25,000 from $1,000. The bill revises the term "surety bond" to "corporate surety bond." The bill requires the DABT to review the amount of a corporate surety bond on a semiannual basis to ensure that the bond is adequate to protect the state.

Under the bill, the DABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The DABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state. A corporate surety bond, with the sum determined by the DABT in accordance with the paragraph, is required for the renewal of a distributor's license.

The bill authorizes the DABT to prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

The DABT may decrease a corporate security bond upon a distributor's showing of good cause. In determining the amount of the surety bond:

- "Good cause" means a consistent pattern of responsible financial behavior by the distributor over a period of at least the preceding four years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding four years.
- "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding four years.

The bill prohibits the DABT from reducing a corporate surety bond amount when a licensee:

- Is in default of any tax liabilities, penalties, or interest due to the state;
- Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;

- Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or
- Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

The bill provides that such a matter is "fully resolved" if the criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

The bill requires the DABT to notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date the distributor's audited tax assessments become final.

The bill states that these provisions governing corporate surety bonds are not subject to s. 120.60, F.S., of the Administrative Procedure Act, which sets forth the administrative process for agency review of license application, including deadlines for the approval and denial of license applications.

The bill allows DABT to adopt rules related to surety bonds.

Section 22 amends s. 210.16(2), to conform a cross-reference to s. 210.15(1)(d)1.-6., F.S.

Pilots of Navigable Waters

Present Situation

Chapter 310, F.S., relates to the regulation of the pilots of vessels utilizing the navigable waters of Florida. The term "pilot" means "a licensed state pilot or a certificated deputy pilot." The term "piloting" means the acts of pilots in conducting vessels through the navigable waters of Florida.

The qualifications for a pilot's license include being at least 21 years of age, being of good physical and mental health, having at least two years of service as a certified deputy pilot, and satisfactorily completing the examination required under s. 310.081, F.S.[10] The qualifications for a deputy pilot certificate include being at least 21 years of age, having specified maritime experience, and satisfactorily completing the examination required under s. 310.081, F.S.[11]

Section 310.0015(3)(d)2., F.S., requires the pilot or pilots in a port to establish a competency-based mentor program by which minority persons as defined in s. 288.703, F.S., may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The Department of Business and Professional Regulation (DBPR) must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons who have participated

[10] Section 310.073, F.S.
[11] Section 310.071, F.S.

in each mentor program, who are licensed state pilots or certificated deputy pilots, and who have applied for state pilot licensure or deputy pilot certification.

Effect of Proposed Changes

Section 4 revises s. 310.0015, F.S., to delete the requirement that pilot or pilots in port must establish a competency-based mentor program for minority persons as defined in s. 288.703, F.S., and that the DBPR submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing information on the mentor programs.

Section 5 revises s. 310.081(2), F.S., to remove the requirement that the DBPR give consideration to minority and female state applicants when qualifying as deputy pilots, in the interest of ensuring diversification within the state piloting profession.

Certified Elevator Inspectors

Present Situation

Chapter 399, F.S., provides for the regulation of elevators in Florida, including the requirements of certified elevator inspectors,[12] certified elevator technicians,[13] or elevator companies[14] to register with the DBPR's Division of Hotels and Restaurants (DHR).

Effect of Proposed Changes

Section 6 creates s. 399.18, F.S., to require any certified elevator inspector, certified elevator technician, or registered elevator company, and any person applying for such certification or registration, to:

- Create and maintain an online account with the DHR;
- Provide an e-mail address to function as the primary means of contact for all communication from the DHR; and
- Maintain accurate contact information on file with the DHR.

The bill authorizes the DHR to adopt rules to implement the provisions of the bill.

Employee Leasing Companies

Present Situation

Part XI of ch. 468, F.S., provide for the regulation of employee leasing companies. Section 468.521, F.S., creates the Board of Employee Leasing Companies within the DBPR, to regulate the profession of employee leasing, including licensure and discipline, and to adopt rules to implement the provisions of part XI of ch. 468, F.S. The Board of Employee Leasing Companies consists of seven members who are appointed by the Governor and confirmed by the Senate.[15]

[12] Section 399.17, F.S., relating to the registration requirement for certified elevator inspectors.
[13] Section 399.01(14), F.S.
[14] Section 399.03, F.S.
[15] Section 468.521, F.S.

The controlling person of an employee leasing company must be licensed by the DBPR. Generally, the term "employee leasing" means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client.[16] An employee leasing company may be a sole proprietorship, partnership, corporation, or other form of business entity engaged in employee leasing.[17]

Effect of Proposed Changes

Section 7 amends s. 468.521, to authorize the DBPR to exercise all of the powers and duties of the Board of Employee Leasing Companies if at any time the board lacks a quorum of appointed members under s. 455.207, F.S., which provides that 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum.

Asbestos Consultants and Contractors

Present Situation

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement consultants and contractors. The Asbestos Licensing Unit is a program located in the Division of Professions, which processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work,[18] unless exempted.[19] A person must be a licensed asbestos consultant to conduct an asbestos survey, develop an operation and maintenance plan, monitor and evaluate asbestos abatement, or prepare asbestos abatement specifications.[20] Prerequisite qualifications for licensure as an asbestos consultant require that the applicant be actively licensed as an architect, professional engineer, or professional geologist; is a diplomat of the American Board of Industrial Hygiene; or has been designated as a Certified Safety Professional by the Board of Certified Safety Professionals.[21]

In addition, for applicants who wish to engage in consulting or contracting as a partnership, corporation, business trust, or other legal entity, or in any name other than the applicant's legal name, the applicant's legal entity must apply for licensure through a qualifying agent or the individual applicant must apply for licensure under the fictitious name as a business organization.

[16] Section 468.520(4), F.S.
[17] Section 468.520(5), F.S.
[18] Section 469.003(3), F.S.
[19] Section 469.002, F.S., provides that in limited circumstances, certain governmental employees with required training may engage in asbestos abatement work solely for maintenance purposes.
[20] Section 469.003, F.S.
[21] Section 469.004(1), F.S.

Applicants for licensure as an asbestos abatement professional or as an asbestos abatement business organization must provide evidence of financial stability.[22] Section 469.006(2)(c)2., F.S., requires the DBPR to adopt rules to determine the financial stability of applicants for a license as an asbestos abatement business organization, which must include, but is not limited to, credit history and the limits of bondability and credit.

Effect of Proposed Changes

Section 8 revises s. 469.006(2)(c)2., F.S., to delete the requirement that criteria for bondability and credit be included in the DBPR's rule for determining an asbestos consultant or contractor applicant's financial responsibility.

Engineers

Present Situation

The practice of engineering is regulated by the Florida Board of Professional Engineers (FBPE). Unlike most professions regulated by the DBPR, the administrative, investigative, and prosecutorial services for the FBPE are not provided by the DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.[23]

In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must graduate from an approved engineering science or engineering technology curriculum of four years or more in an FBPE-approved school, college, or university, and have a record of four years of active engineering experience.[24]

Section 471.003(2), F.S., provides exemptions from the license requirement for engineers, including, in relevant part, a licensure exemption for regular full-time employees of a corporation not engaged in the practice of engineering, whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products or servicing of such products

Effect of Proposed Changes

Section 9 amends s. 471.003(2)(c), F.S., to revise the engineer license exemption in this provision to apply the exemption to regular full-time employees of a business organization (instead of a corporation) not engaged in the practice of engineering as such, whose practice of engineering for such business organization (instead of such corporation) is limited to the design or fabrication of manufactured products or servicing of such products.

[22] Section 469.006(2)(c)2., F.S.
[23] Section 471.038(3), F.S.
[24] Section 471.013, F.S.

Certified Public Accountants

Present Situation

The Board of Accountancy within the DBPR is charged with regulating the practice of public accountancy in Florida.[25] A person wishing to practice accounting[26] must be licensed as a Florida certified public accountant (CPA) and apply to the DBPR to take a licensure examination.[27] To sit for the license examination, a person must be of good moral character, pass the licensure exam, and have at least 120 semester hours or 180 quarter hours of education, with a focus on accounting and business.[28] To be licensed as a CPA, a person must have specified qualifications, including at least 150 hours of education. CPA firms must also be licensed.[29]

Effect of Proposed Changes

Sections 10 and 11 revise ss. 473.306(2) and 473.308, F.S., to require persons applying to take the CPA licensure examination, applying for a CPA license, and applying for a CPA firm license to:

- Create and maintain an online account with the DBPR;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DBPR;
- Maintain accurate contact information on file with the DBPR; and
- Submit any change in the applicant's e-mail address or home address within 30 days after any contact information changes. All changes must be submitted through the DBPR's online system.

Barbering

Present Situation

The Barbers' Board is responsible for licensing and regulating barbers.[30]

The term "barbering" in ch. 476, F.S., the Barbers' Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.[31]

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must be at least 16 years old, pay the application fee, and either:

- Have held an active valid license in another state for at least one year;
- Complete a minimum of 900 hours of training; or

[25] Section 473.303, F.S., creating the Board of Accountancy.
[26] *See* s. 473.302(8), F.S., defining the terms "practice of," "practicing public accountancy," or "public accounting."
[27] Section 473.306, F.S.
[28] Sections 473.308(2)-(5), F.S.
[29] *Id.*
[30] Section 476.054, F.S., creating the Barber's Board.
[31] *See* s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.

- Passes the licensure examination after completing a minimum of 600 hours actual hours of school education.[32]

Additionally, ch. 2020-160, Laws of Fla., amended s. 476.144(5), F.S., relating to the licensing of barbers, to provide licensure by endorsement of persons who hold a current active license to practice barbering in another state for at least one year.

A person may also apply for and receive a "restricted license" to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers' Board.[33]

The Barber's Board may also license by endorsement barbering practitioners who desire to be licensed in this state who hold a current active license in another country and who have met qualifications that are substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.[34]

Effect of Proposed Changes

Section 12 revises s. 476.114(2), F.S., to delete a conflicting provision for licensure by endorsement, and allows barbers licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction as authorized s. 476.411, F.S.

Section 23 of the bill amends s. 476.144(6), F.S., to correct a cross-reference to s. 476.114(2)(c), F.S.

Cosmetology

Present Situation

Chapter 477, F.S., governs the licensure and regulation of cosmetologists, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state by the Board of Cosmetology, within the DBPR.

Persons may not engage in the practice of cosmetology without a license issued by the Board of Cosmetology.[35] Individuals are also prohibited from providing manicures, pedicures, nail painting services, or facials in Florida without a registration with the Board of Cosmetology.[36]

To qualify for a cosmetologist license, the applicant must be at least 16 years of age or have received a high school diploma, pay nonrefundable application and examination fees, and successfully complete a license examination.

[32] *See* s. 476.114(2), F.S.
[33] *See* s. 476.144(6), F.S.
[34] Section 476.144(5), F.S.
[35] Section 477.014, F.S.
[36] *See* ss. 477.013(6) and 477.0201, F.S.

In addition, s. 477.019(2), F.S., provides that an applicant for a cosmetologist license must either:

- Be authorized to practice cosmetology in another state or country for at least one year, and not qualify for licensure by endorsement as provided for in s. 477.019(5), F.S.; or
- Have received a minimum of 1,200 hours of training as established by the Board of Cosmetology.

However, s. 477.019(5), F.S., does not provide for licensure by endorsement.
Section 477.019(6), F.S., allows the Board of Cosmetology to certify as qualified for licensure by endorsement as a cosmetologist in this state an applicant who holds a current active license to practice cosmetology in another state.

Effect of Proposed Changes

Section 13 revises s. 477.019(2), F.S., to delete a conflicting provision for licensure by endorsement, and allows cosmetologists licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction as authorized s. 477.019(6), F.S.

Construction Contracting

Present Situation

Contractor Discipline (Penalties, Fines, and Other Penalties)

Section 489.131(7), F.S., relating to compliance with regulatory policies by licensed contractors, authorizes a local jurisdiction enforcement body to enforce its local ordinances and the provisions of part I of ch. 489, F.S., relating to construction contracting, against locally licensed or registered contractors. Fines and other penalties are authorized to ensure compliance with state laws and local jurisdiction ordinances.

The local jurisdiction enforcement body may conduct disciplinary proceedings and may require restitution, impose a suspension or revocation of a local license, or a fine not to exceed $5,000, or a combination thereof, against the locally licensed or registered contractor, and may assess reasonable investigative and legal costs for the prosecution of the violation.

In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body must issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof.

The local jurisdiction enforcement body must inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, the rights to appeal, and the consequences should an appeal not be taken. The local jurisdiction enforcement body must, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

The DBPR, the disciplined contractor, or the complainant may challenge the local jurisdiction enforcement body's recommended penalty for board action to the Construction Industry Licensing Board (CILB). A challenge must be filed within 60 days after the issuance of the recommended penalty to the CILB, and if challenged, there is a presumptive finding of probable cause which allows the case to proceed without the need for a probable cause hearing.

Failure of the DBPR, the disciplined contractor, or the complainant to challenge the local jurisdiction's recommended penalty within the required time period constitutes a waiver of the right to a hearing before the CILB. A waiver of the right to a hearing before the CILB is deemed an admission of the violation, and the penalty recommended to the CILB becomes a final order without further board action, in accordance with procedures developed by CILB rule. The disciplined contractor may appeal this action to the district court.

The DBPR may investigate any complaint made to it, but may not initiate or pursue any complaint against a registered contractor who is not also a certified contractor where a local jurisdiction enforcement body has jurisdiction over the complaint, unless summary procedures are initiated by the secretary pursuant to s. 455.225(8), F.S., or unless the local jurisdiction enforcement body has failed to investigate and prosecute a complaint, or make a finding of no violation, within six months of receiving the complaint. The DBPR must refer the complaint to the local jurisdiction enforcement body for investigation, and if appropriate, prosecution. However, the DBPR may investigate such complaints to the extent necessary to determine whether summary procedures should be initiated.

Upon a recommendation by the DBPR, the CILB may make conditional, suspend, or rescind its determination of the adequacy of the local government enforcement body's disciplinary procedures granted under s. 489.117(2), F.S. However, local jurisdictions may not exercise disciplinary authority over certified contractors.

Florida Homeowners' Construction Recovery Fund

The Florida Homeowners' Construction Recovery Fund (recovery fund) was created by the Legislature in 1993 after Hurricane Andrew.[37] The recovery fund is the last resort to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building, and residential contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.[38] A homeowner must have engaged a contractor for construction or improvement of the homeowner's Florida residence, and the damage must have been caused by a Division I licensee or a Division II licensee.[39]

[37] *See* ch. 93-166, s. 21, Laws of Fla. and *see* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 414* at 2 (Nov. 20, 2023) (on file with the Senate Committee on Regulated Industries).
[38] *See* ss. 489.140-489.144, F.S.
[39] Section 489.1402, F.S., defines the term "residence" to mean "a single-family residence, an individual residential condominium or cooperative unit, or a residential building containing not more than two residential units in which the owner contracting for the improvement is residing or will reside 6 months or more each calendar year upon completion of the improvement."

A claim must involve an act by a contractor under specific statutory provisions relating to mismanagement, abandonment of a project, and actions that give rise to disciplinary actions by the CILB against contractors, as follows:

- Section 489.129(1)(g), F.S., allows disciplinary proceedings for committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when the contractor fails to remove a valid lien after payment; the contractor has abandoned the job and has been paid for more than is completed; and the customer is made to pay more than the contract price.
- Section 489.129(1)(j), F.S., allows disciplinary proceedings for abandoning a construction project, under certain conditions.
- Section 489.129(1)(k), F.S, allows disciplinary proceedings for signing a false statement with respect to a project or contract indicating that the work is bonded, subcontractors have been paid, or workers' compensation and public liability insurance are provided.
- Section 713.35, F.S., provides for criminal penalties for any person who knowingly and intentionally makes an affidavit, a waiver or release of lien, or other document, whether or not under oath, with false information about the payment status of subcontractors, sub-subcontractors, or suppliers.

If a final judgment, CILB-issued restitution order, or arbitration award is not expressly based on s. 489.129(1)(g), (j), or (k), F.S., the claimant must present to the CILB sufficient evidence to show that the contractor engaged in activity described in those subsections.[40]

The recovery fund is financed by a 1.5 percent surcharge on all building permit fees associated with the enforcement of the Florida Building Code.[41] The local government that collects the permit fees retains 10 percent of the surcharge, and the net surcharge proceeds are then allocated equally to the recovery fund and the operations of the Building Code Administrators and Inspectors Board.[42]

Duty of Contractor to Give Notice of Rights under Recovery Fund

Section 489.1425, F.S., creates a duty for a contractor to provide notice to a customer of rights under the recovery fund. Any agreement or contract for repair, restoration, improvement, or construction to residential real property must contain a written statement explaining the consumer's rights under the recovery fund, except where the value of all labor and materials does not exceed $2,500, and must be substantially in the form required by statute.

Requirements to Make a Claim

The claimant must have obtained a final judgment, arbitration award, or CILB-issued restitution order against the contractor for damages that are a direct result of a compensable violation. The statute of limitations to make a claim is one year after the conclusion of an action or award in

[40] Fla. Admin. Code R. 61G4-21.003.
[41] Section 468.631(1), F.S.
[42] The DBPR has the authority to transfer excess cash to the recovery fund if it determines it is not needed to support the operation of the Building Code Administrators and Inspectors Board; the amount transferred cannot exceed the amount appropriated in the General Appropriations Act or approved by the Legislative Budget Commission for payment of claims from the fund. *Id.*

arbitration that is based on the misconduct.[43]Certain persons are not eligible to make a claim against the recovery fund.[44]

Limits

Section 489.143, F.S., relating to payment from the recovery fund, provides that an eligible claimant from the recovery fund will be an amount equal to the judgment, award, or restitution order or $25,000, whichever is less, or an amount equal to the unsatisfied portion of such person's judgment, award, or restitution order, but only to the extent and amount of actual damages suffered by the claimant, and subject to the maximum per-claim amount and a total lifetime per-licensee maximum.[45]

The maximum amounts payable for recovery fund claims and the total lifetime aggregate limits are set forth in s. 489.143, F.S.,[46] as follows:

- Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, recovery fund claims are limited to a $50,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of $500,000 for each Division I licensee.
- Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, (the date that claims against Division II licensees were first authorized to be filed), recovery fund claims are limited to a $15,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of $150,000 for each Division II licensee.

Claims are paid in the order that they are filed, up to the lifetime aggregate limits for each transaction and licensee, and to the limits of amounts appropriated to pay claims against the recovery fund.[47] Payments may not exceed the total claim limits or lifetime aggregate limits.[48]

As of July 31, 2023, the overall recovery fund balance was $23,235,064.00. For fiscal years 2020-2021, 2021-2022, and 2022-2023, the average amount of revenue going into the fund from the surcharge per fiscal year was $6,188,495.00, and the average amount of claims awarded was $2,882,184 per fiscal year. However, between FY 2020-21 and FY 2022-23, the number of claims presented and awarded each year more than doubled. In FY 2022-2023, 232 claims were awarded for a total amount of $4,449,552.00. Of the 232 claims, 125 were against Division I contractors, and 107 were against Division II contractors.[49]

Appropriations; Excess Funds; License Suspension

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[43] Section 489.141(1)(f), F.S.

[44] Section 489.141(2), F.S., provides certain persons are precluded from making a claim for recovery under the fund, if: (a) The claimant is the spouse of the judgment debtor or licensee or a personal representative of such spouse; (b) The claimant is a licensee who acted as the contractor in the transaction that is the subject of the claim; (c) The claim is based upon a construction contract in which the licensee was acting with respect to the property owned or controlled by the licensee; (d) The claim is based upon a construction contract in which the contractor did not hold a valid and current license at the time of the construction contract; or (e) The claimant was associated in a business relationship with the licensee other than the contract at issue.

[45] Section 489.143(2), F.S.

[46] For fund claims for contracts entered into before July 1, 2004, see s. 489.143(6), F.S.

[47] Section 489.143(7), F.S.

[48] *Id*.

[49] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 1335* at 3 (January 8, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

Section 489.143(8), F.S., provides that if the annual appropriation is exhausted with claims pending, the pending claims must be carried over to the next fiscal year. Monies in excess of pending claims must be paid in accordance with s. 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund.

Section 489.143(9), F.S., provides that, upon payment of any amount from the recovery fund in settlement of a claim in satisfaction of a judgment, award, or restitution order against a licensee, the license of such licensee is automatically suspended, without further administrative action, upon the date of payment from the recovery fund. The license may not be reinstated until the licensee has repaid in full the amount paid from the recovery fund, plus interest.

Effect of Proposed Changes

Section 14 revises s. 489.131, F.S., relating to compliance with regulatory policies by licensed contractors, to authorize a local jurisdiction enforcement body to recommend that the CILB require restitution from the local contractor, in addition to the recommended penalties that a local jurisdiction enforcement body is authorized to recommend to the CILB in current law. The bill also requires that a recommended penalty specify the violations of ch. 489, F.S., relating to contracting, upon which the recommendation is based.

Section 15 revises s. 489.143, F.S., to double the maximum amounts payable to claimants for claims that may be made against contractors from the Florida Homeowners' Construction Recovery Fund (recovery fund).

Under the bill, beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a $100,000 maximum payment for each Division I claim ($50,000 maximum currently), and a $30,000 maximum payment for each Division II claim ($15,000 maximum currently).

The bill also increases the lifetime aggregate limits for claims made against a single licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total lifetime aggregate cap of $2 million for each Division I claim ($500,000 maximum currently), and a $600,000 maximum payment for each Division II claim ($150,000 maximum currently).

Electrical and Alarm System Contractors

Present Situation

Electrical and alarm system contractors are regulated by part II of ch. 489, F.S., and licensed by the Electrical Contractors' Licensing Board (ECLB). A person may not practice electrical or alarm system contracting without a valid certification or registration issued by the ECLB.[50]

In order to become an electrical contractor or alarm system contractor, a person must submit an application to the DBPR and must:

- Be at least 18 years of age;

[50] Section 489.531(1)(b), F.S.

- Be of good moral character;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to a combination of education and experience as approved by the ECLB.[51]

A "specialty contractor" is a contractor whose scope of practice is limited to a specific segment of electrical or alarm system contracting established in a category adopted by ECLB rule, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical advertising signs together with the interrelated parts and supports thereof.[52]

The ECLB must, by rule, designate those types of specialty electrical or alarm system contractors who may be certified under part II of ch. 489, F.S. A certified specialty contractor category exists as an optional statewide licensing category. The qualification for certification in a specialty category created by rule are the same as set forth in s. 489.511(1)(b), which establishes the requirements to qualify to take certification examination.

Effect of Proposed Changes

Section 16 amends s. 489.505(19), F.S., to include the maintenance of nonelectrical advertising signs (in addition to electrical advertising signs) within the scope of practice of a specialty electrical or alarm system contractor.

Florida Drug and Cosmetic Act

Present Situation

The Division of Drugs, Devices and Cosmetics safeguards the health, safety, and welfare of the citizens of the state of Florida from injury due to the use of adulterated, contaminated, misbranded drugs, drug ingredients and cosmetics by administering the provisions of the Florida Drug and Cosmetic Act in part I of ch. 499, F.S. A permit is required before a person or establishment may engage in specified activities, including operating as a prescription drug manufacturer, device manufacturer, or cosmetic manufacturer.[53]

In pertinent part, each establishment that is issued an initial or renewal permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to the DBPR at least one natural person to serve as the designated representative of the wholesale distributor. Such person must have an active certification as a designated representative from the DBPR.
To be certified as a designated representative, a natural person must:

- Submit an application on a form furnished by the DBPR and pay the appropriate fees.
- Be at least 18 years of age.
- Have at least two years of verifiable full-time:

[51] Sections 489.511(1)(a) and (b), F.S.
[52] Section 489.505(19), F.S.
[53] See s. 499.01, F.S.

- Work experience in a pharmacy licensed in this state or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;
- Managerial experience with a prescription drug wholesale distributor licensed in this state or in another state; or
- Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs.

In addition, the person must receive a passing score of at least 75 percent on an examination given by the DBPR regarding federal laws governing distribution of prescription drugs and part I of ch. 499, F.S., and the rules adopted by the DBPR governing the wholesale distribution of prescription drugs.

Effect of Proposed Changes

Section 17 revises s. 499.012(15), F.S., relating to the requirements to be a certified designated representative, to provide the following additional types of work experience to qualify for certification:

- Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; or
- Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

Alcoholic Beverage Licenses

Present Situation

The DABT within the DBPR administers and enforces the Beverage Law,[54] which regulates the manufacture, distribution, and sale of wine, beer, and liquor.

Section 561.14, F.S., requires a license issued by the DABT to be a manufacturer,[55] distributor,[56] or vendor[57] of alcoholic beverages. A license is also required to be a broker or sales agent,[58] importer,[59] bottle club,[60] or exporter.[61]

Section 562.12(1), F.S., prohibits the sale of alcoholic beverages without a license issued by the division. An alcoholic beverage licensee may only sell alcoholic beverages in the manner permitted by her or his license. In addition, a licensee or other person who keeps or possesses

[54] Section 561.01(6), F.S., provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[55] Section 561.14(1), F.S., relating to the license classification for "manufacturers."
[56] Section 561.14(2), F.S., relating to the license classification for "distributors."
[57] Section 561.14(3), F.S., relating to the license classification for "vendors."
[58] Section 561.14(4), F.S., relating to the license classification for "brokers or sales agents."
[59] Section 561.14(5), F.S., relating to the license classification for "importers."
[60] Section 561.01(15), F.S., defining the term "bottle club," and s. 561.14(6), F.S., relating to the license classification for "bottle clubs."
[61] Section 561.14(7), F.S., relating to the license classification for "exporters."

alcoholic beverages not permitted to be sold by her or his license, or not permitted to be sold without a license, with intent to sell or dispose of same unlawfully, or who keeps and maintains a place where alcoholic beverages are sold unlawfully, is guilty of a misdemeanor of the second degree.[62]

Section 562.12(2), F.S., provides that it is unlawful for any person to operate as an exporter[63] of alcoholic beverages within the state without registering as an exporter pursuant to s. 561.17, F.S. A person who violates this prohibition is guilty of a misdemeanor of the second degree.[64]

Section 561.15, F.S., provides qualifications for an alcoholic beverage license. To qualify for an alcoholic beverage license, s. 561.15(1), F.S., requires alcoholic beverage licensees to be person be of good moral character and be 21 years of age or older. If the license is issued to a corporation, the corporation's officers must also be of good moral character and not less than 21 years of age. In addition, s. 561.15(2), F.S., provides that an alcoholic beverage license may not be issued to any person who:

- Has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state;
- Has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or of any criminal violation of ch. 893, F.S., or the controlled substance act of any other state or the Federal Government; or
- Has been convicted in the last past 15 years of any felony in this state or any other state or the United States; or to a corporation, any of the officers of which shall have been so convicted.

The term "conviction" includes an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.[65]

Section 561.01(4)(a), F.S., defines the term "alcoholic beverages" to mean distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.

Section 561.17, F.S., provides the process for applying with the DABT for a license or registration under the Beverage Law.

Effect of Proposed Changes

Section 18 amends s. 561.15(2), F.S., to reduce from 15 years to 10 years the disqualification for an alcoholic beverage license based on a conviction for a felony in Florida, any other state, or the United States.

[62] Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed $500.
[63] Section 561.01(16), F.S., defines an "exporter" as "any person that sells alcoholic beverages to persons for use outside the state and includes a ship's chandler and a duty-free shop."
[64] Section 561.17(4), F.S., requires persons to register with the division before engaging in the business of exporting alcoholic beverages.
[65] Section 561.15(2), F.S.

Section 19 revises s. 561.17(5), F.S., to require persons or entities licensed or permitted by the DABT, or applying for a license or permit to:

- Create and maintain an online account with the DABT;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DABT; and
- Apply using forms prepared by DABT and filed through DABT's online system before engaging in any business for which a license or permit is required.

Under the bill, the DABT may not process an application for alcoholic beverage license unless the application is submitted through the DABT's online system.

Regulation of Tobacco Products and Nicotine Dispensing Devices

Present Situation

The DABT within the DBPR is the state agency responsible for the regulation and enforcement of tobacco products under part I of ch. 569, F.S., and nicotine products under part II of ch. 569, F.S.

A person must obtain a retail tobacco products dealer permit from the division for each place of business where tobacco products are sold, including sales made through a vending machine.[66] The fee for an annual permit is established by the division in rule at an amount to cover the regulatory costs of the program, not to exceed $50. The fees are deposited into the Alcoholic Beverage and Tobacco Trust Fund within the DBPR.[67]

A retail nicotine products dealer permit from the division is required for each place of business where nicotine products are sold, including sales made through a vending machine.[68] There is no fee for the permit. A person must be 21 years of age to qualify for a retail nicotine products dealer permit.[69]

Effect of Proposed Changes

Sections 20 and 21 create ss. 569.00256 and 569.3156, F.S., relating to application for a retail tobacco products dealer permit and a retail nicotine products dealer permit, respectively, to require applicants for these permits to:

- Create and maintain an online account with the DABT;
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from the DABT; and
- Apply using forms prepared by DABT and filed through DABT's online system before engaging in any business for which a license or permit is required.

[66] Section 569.003, F.S.
[67] Section 569.003(1)(c), F.S.
[68] Section 569.32, F.S.
[69] Section 569.32(2)(a), F.S.

Each applicant is responsible for maintaining accurate contact information. Under the bill, the DABT may not process an application for alcoholic beverage license unless the application is submitted through the DABT's online system.

Effective Date

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes the Division of Alcoholic Beverages and Tobacco (DABT) to increase the corporate surety bond amount before renewing a license for a distributor or tobacco products other than cigarettes or after completing its semiannual review of the bond amount.

Regarding asbestos removal contractors, the removal of the bond/credit requirement will reduce the cost to license applicants, which the Department of Business and Professional Regulation (DBPR) estimates to be $100 per applicant.[70]

[70] See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 1544* (Jan. 12, 2024) (on file with the Senate Regulated Industries Committee).

Regarding the Florida Homeowners' Construction Recovery Fund (recovery fund), the bill doubles the maximum amounts payable to claimants for claims that may be made against contractors from the recovery fund.

C. Government Sector Impact:

Regarding the recovery fund, the DBPR states that there is an indeterminate fiscal impact due to the increase of the aggregate cap lifetime per licensee and per-claim cap for each contract. It anticipates an increase in the number of claimants who receive compensation from the recovery fund.[71]

Since recovery fund claims under the recovery fund are required to be based on contracts for eligible work, and must be based on either a final order, judgment, or decree, any fiscal impact from the increase in the caps will likely not occur for at least a year, July 2025, at the earliest.[72]

Modifications to DBPR's licensing system, Versa: Regulation (VR), and online system, Versa: Online (VO), related to creating and maintaining online accounts and changes to licensure processes, are required. The DBPR states these changes can be made using existing resources.[73]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 210.15, 210.16, 210.40, 310.0015, 310.081, 468.521, 469.006, 471.003, 473.306, 473.308, 476.114, 477.019, 489.131, 489.143, 489.505, 499.012, 561.15, and 561.17.

This bill creates the following sections of the Florida Statutes: 210.32, 399.18, 569.00256, and 569.3156.

[71] *Id.*
[72] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for HB 1335* at 3 (January 8, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).
[73] *Id.*

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 Fiscal Policy on February 22, 2024:
The committee substitute (CS):

- Removes from the bill the provision deleting the requirement that, if an applicant for a real estate broker or sale associate license fails to pass the required examination within two years of completing the required education course, the applicant's successful course completion is invalid for licensure.
- Reduces from 15 years to 10 years the disqualification for an alcoholic beverage license based on a conviction for a felony in Florida, any other state, or the United States.
- Removes from the bill the provisions eliminating the Board of Employee Leasing Companies and providing for its functions and duties to be performed by an employee leasing companies licensing program to be administered by the Department of Business and Professional Regulation. Instead, the CS authorizes the Department of Business and Professional Regulation to exercise all the powers and duties of the Board of Employee Leasing Companies if at any time the board lacks a quorum of appointed members under s. 455.207, F.S., which provides that 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum.
- Includes the maintenance of nonelectrical advertising signs (in addition to electrical advertising signs) within the scope of practice of a specialty electrical or alarm system contractor.
- Revises the engineer license exemption to apply the exemption to regular full-time employees of a business organization (instead of a corporation) not engaged in the practice of engineering as such, whose practice of engineering for such business organization (instead of such corporation) is limited to the design or fabrication of manufactured products or servicing of such products.

CS by Regulated Industries Committee on February 5, 2024:
The committee substitute removes from the bill:

- The repeal of s. 723.0611, F.S., which established the Florida Mobile Home Relocation Corporation (corporation);
- The revisions to ss. 723.061, 723.06115, 723.06116, and 723.0612, F.S., providing for the Division of Condominiums, Timeshares, and Mobile Homes to administer the duties and functions of the corporation.
- The reenacting of ss. 48.184(1), 723.031, 723.004(5), 723.004(5), 723.032(1), 723.085(2), 723.085(2), 723.08015(1), F.S., to incorporate into those provisions the revisions in the bill related to the repeal of s. 723.0611, 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.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 304 - 316.
Delete lines 696 - 731.
Delete lines 739 - 1167.
Delete lines 1191 - 1197.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 43 - 105
and insert:

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amending s. 469.006, F.S.; revising requirements for department rules governing evidence of financial responsibility of applicants seeking licensure as a business organization under ch. 469, F.S.; amending s. 473.306, F.S.; requiring applicants for the accountancy licensure examination to create and maintain an online account with the department and provide an e-mail address; requiring applicants to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; conforming cross-references; amending s. 473.308, F.S.; requiring a person seeking licensure as a Florida certified public accountant, or a firm seeking to engage in public accountancy, to create and maintain an online account with the department and provide an e-mail address; requiring certified public accountants and accounting firms to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; amending s. 475.181, F.S.; revising conditions regarding issuance of a licensure under part I of ch. 475, F.S.; amending s. 476.114, F.S.; revising eligibility requirements for licensure as a barber; making technical changes; amending s. 477.019, F.S.; revising eligibility requirements for licensure by examination to practice cosmetology; amending s. 489.131, F.S.; revising the types of penalties that may be

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recommended by a local jurisdiction enforcement body against a contractor; specifying requirements for any such recommended penalties; amending s. 489.143, F.S.; revising payment limitations for payments made from the department's Florida Homeowners' Construction Recovery Fund; amending s. 499.012, F.S.; revising requirements for certification as a designated representative of a prescription drug wholesale distributor; amending s. 561.17, F.S.; requiring persons or entities licensed or permitted by the Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; creating ss. 569.00256 and 569.3156, F.S.; requiring certain persons or entities licensed or permitted by the division, or applying for such a license or permit, to create and maintain an account with the division's online system; requiring licensees, permittees, and applicants to provide the division with an e-mail address and maintain accurate contact information; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; amending ss. 210.16 and 476.144, F.S.; conforming cross-references and

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete line 316
and insert:
Section 8. Subsection (4) is added to section 468.521, Florida Statutes, to read:
468.521 Board of Employee Leasing Companies; membership; appointments; terms.—
(4) If at any time a sufficient number of appointed board members does not exist to constitute a quorum pursuant to s. 455.207, the department may, only during the absence of such

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quorum, exercise all powers and duties granted to the board pursuant to chapter 455 and this chapter.

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

And the title is amended as follows:

Delete lines 45 - 47

and insert:

department; providing legislative intent; amending s. 468.521, F.S.; authorizing the department to exercise all powers and duties granted to the Board of Employee Leasing Companies if the board lacks the number of appointed members needed to constitute a quorum; amending s. 469.006, F.S.;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Hutson) recommended the following:

Senate Amendment (with title amendment)

Between lines 335 and 336
insert:

Section 10. Paragraph (c) of subsection (2) of section 471.003, Florida Statutes, is amended to read:

471.003 Qualifications for practice; exemptions.—

(2) The following persons are not required to be licensed under the provisions of this chapter as a licensed engineer:

(c) Regular full-time employees of a business organization

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~~corporation~~ not engaged in the practice of engineering as such, whose practice of engineering for such business organization ~~corporation~~ is limited to the design or fabrication of manufactured products and servicing of such products.

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

And the title is amended as follows:

Delete line 51

and insert:

469, F.S.; amending s. 471.003, F.S.; expanding an exemption from certain engineering licensing requirements under ch. 471, F.S., to include regular full-time employees of certain business organizations, rather than regular full-time employees of certain corporations licensed under ch. 471, F.S.; amending s. 473.306, F.S.; requiring

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete lines 453 - 642
and insert:

Section 12. Subsections (2) and (3) of section 476.114, Florida Statutes, are amended to read:

476.114 Examination; prerequisites.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

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(b) Pays the required application fee; and

(c) ~~1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or~~

~~2.~~ Has received a minimum of 900 hours of training in sanitation, safety, and laws and rules, as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

1.~~a.~~ A school of barbering licensed pursuant to chapter 1005;

2.~~b.~~ A barbering program within the public school system; or

3.~~c.~~ A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600 actual school hours. If the person passes the examination, she or he has ~~shall have~~ satisfied this requirement; but if the person fails the examination, she or he may ~~shall~~ not be qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in paragraph (2)(c) ~~subparagraphs (2)(c)1. and 2.~~ who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board may specify by rule reasonable timeframes for rescheduling the examination and

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additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

Section 13. Subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice cosmetology if the applicant:

(a) Is at least 16 years of age or has received a high school diploma;

(b) Pays the required application fee, which is not refundable, and the required examination fee, which is refundable if the applicant is determined to not be eligible for licensure for any reason other than failure to successfully complete the licensure examination; and

(c)~~1. Is authorized to practice cosmetology in another state or country, has been so authorized for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (5); or~~

~~2.~~ Has received a minimum of 1,200 hours of training as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

1.~~a.~~ A school of cosmetology licensed pursuant to chapter 1005.

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2.~~b.~~ A cosmetology program within the public school system.

3.~~c.~~ The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.

4.~~d.~~ A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she has ~~shall have~~ satisfied this requirement; but if the person fails the examination, he or she may ~~shall~~ not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 14. Paragraph (c) of subsection (7) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(7)

(c) In addition to any action the local jurisdiction enforcement body may take against the individual’s local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, restitution, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The recommended penalty must specify the violations of this chapter upon which the recommendation is

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based. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

Section 15. Subsections (3) and (6) of section 489.143, Florida Statutes, are amended to read:

489.143 Payment from the fund.—

(3) Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject to a $50,000 maximum payment for each Division I claim. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject to a $15,000 maximum payment for each Division II claim. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a $100,000 maximum payment for each Division I claim and a $30,000 maximum payment for each Division II claim.

(6) For contracts entered into before July 1, 2004, payments for claims against any one licensee may not exceed, in the aggregate, $100,000 annually, up to a total aggregate of $250,000. For any claim approved by the board which is in excess of the annual cap, the amount in excess of $100,000 up to the total aggregate cap of $250,000 is eligible for payment in the next and succeeding fiscal years, but only after all claims for

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the then-current calendar year have been paid. Payments may not exceed the aggregate annual or per claimant limits under law. Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject only to a total aggregate cap of $500,000 for each Division I licensee. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject only to a total aggregate cap of $150,000 for each Division II licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total aggregate cap of $2 million for each Division I licensee and $600,000 for each Division II licensee.

Section 16. Paragraph (b) of subsection (15) of section 499.012, Florida Statutes, is amended to read:

499.012 Permit application requirements.—

(15)

(b) To be certified as a designated representative, a natural person must:

1. Submit an application on a form furnished by the department and pay the appropriate fees.

2. Be at least 18 years of age.

3. Have at least 2 years of verifiable full-time:

a. Work experience in a pharmacy licensed in this state or another state, where the person’s responsibilities included, but were not limited to, recordkeeping for prescription drugs;

b. Managerial experience with a prescription drug wholesale distributor licensed in this state or in another state; ~~or~~

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c. Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs;

d. Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; or

e. Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

4. Receive a passing score of at least 75 percent on an examination given by the department regarding federal laws governing distribution of prescription drugs and this part and the rules adopted by the department governing the wholesale distribution of prescription drugs. This requirement shall be effective 1 year after the results of the initial examination are mailed to the persons that took the examination. The department shall offer such examinations at least four times each calendar year.

5. Provide the department with a personal information statement and fingerprints pursuant to subsection (9).

Section 17. Subsection (2) of section 561.15, Florida Statutes, is amended to read:

561.15 Licenses; qualifications required.—

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(2) A ~~No~~ license under the Beverage Law may not ~~shall~~ be issued to any person who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state; who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or of any criminal violation of chapter 893 or the controlled substance act of any other state or the Federal Government; or who has been convicted in the last past 10 ~~15~~ years of any felony in this state or any other state or the United States; or to a corporation, any of the officers of which ~~shall~~ have been so convicted. The term "conviction" includes ~~shall include~~ an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

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

And the title is amended as follows:

Delete lines 68 - 84

and insert:

within a specified timeframe; amending s. 476.114, F.S.; revising eligibility requirements for licensure as a barber; making technical changes; amending s. 477.019, F.S.; revising eligibility requirements for licensure by examination to practice cosmetology; amending s. 489.131, F.S.; revising the types of penalties that may be recommended by a local jurisdiction enforcement body against a contractor; specifying requirements for any such recommended

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penalties; amending s. 489.143, F.S.; revising payment limitations for payments made from the department's Florida Homeowners' Construction Recovery Fund; amending s. 499.012, F.S.; revising requirements for certification as a designated representative of a prescription drug wholesale distributor; amending s. 561.15, F.S.; revising the requirements for the issuance of a license under the Beverage Law; making technical changes; amending s.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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The Committee on Fiscal Policy (Hooper) recommended the following:

Senate Amendment (with title amendment)

Between lines 601 and 602
insert:

Section 17. Subsection (19) of section 489.505, Florida Statutes, is amended to read:

489.505 Definitions.—As used in this part:

(19) "Specialty contractor" means a contractor whose scope of practice is limited to a specific segment of electrical or alarm system contracting established in a category adopted by

610464

board rule, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical and nonelectrical advertising signs together with the interrelated parts and supports thereof.

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

And the title is amended as follows:

Between lines 81 and 82

insert:

amending s. 489.505, F.S.; revising the definition of the term "specialty contractor";

By the Committee on Regulated Industries; and Senator Hooper

580-02901-24 20241544c1

A bill to be entitled

An act relating to the Department of Business and Professional Regulation; amending s. 210.15 and creating s. 210.32, F.S.; requiring persons or entities licensed or permitted by the department's Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system and provide an e-mail address to the division; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; amending s. 210.40, F.S.; revising the amount of an initial corporate surety bond required as a condition of licensure as a tobacco product distributor; requiring the division to review corporate surety bond amounts on a specified basis; authorizing the division to increase a bond amount, subject to specified conditions; authorizing the division to adjust bond amounts by rule; authorizing the division to reduce a bond amount upon a showing of good cause; defining terms; requiring the division to notify distributors in writing if their corporate surety bond requirements change; providing applicability; prohibiting the division from reducing a bond amount under specified circumstances; authorizing the division to adopt rules; amending s. 310.0015, F.S.; deleting a provision requiring a competency-based mentor program at ports; deleting a requirement that the department submit an annual

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580-02901-24 20241544c1

report on the mentor program; amending s. 310.081, F.S.; deleting a requirement that the department consider certain characteristics for applicants for certification as a deputy pilot; making technical changes; creating s. 399.18, F.S.; requiring certain persons or entities certified or registered under the Elevator Safety Act, or applying for such certifications or registrations, to create and maintain an online account with the department's Division of Hotels and Restaurants and provide an e-mail address to the division; requiring such persons and entities to maintain the accuracy of their contact information; requiring the division to adopt rules; creating s. 468.519, F.S.; creating the employee leasing companies licensing program under the department; providing legislative intent; repealing s. 468.521, F.S., relating to the department's Board of Employee Leasing Companies; amending s. 469.006, F.S.; revising requirements for department rules governing evidence of financial responsibility of applicants seeking licensure as a business organization under ch. 469, F.S.; amending s. 473.306, F.S.; requiring applicants for the accountancy licensure examination to create and maintain an online account with the department and provide an e-mail address; requiring applicants to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; conforming cross-

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references; amending s. 473.308, F.S.; requiring a person seeking licensure as a Florida certified public accountant, or a firm seeking to engage in public accountancy, to create and maintain an online account with the department and provide an e-mail address; requiring certified public accountants and accounting firms to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; amending s. 475.181, F.S.; revising conditions regarding issuance of a licensure under part I of ch. 475, F.S.; amending s. 476.114, F.S.; revising eligibility requirements for licensure as a barber; making technical changes; amending s. 477.019, F.S.; revising eligibility requirements for licensure by examination to practice cosmetology; amending s. 489.131, F.S.; revising the types of penalties that may be recommended by a local jurisdiction enforcement body against a contractor; specifying requirements for any such recommended penalties; amending s. 489.143, F.S.; revising payment limitations for payments made from the department's Florida Homeowners' Construction Recovery Fund; amending s. 499.012, F.S.; revising requirements for certification as a designated representative of a prescription drug wholesale distributor; amending s. 561.17, F.S.; requiring persons or entities licensed or permitted by the Division of Alcoholic Beverages and Tobacco, or applying for such license or permit,

to create and maintain an account with the division's online system; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; creating ss. 569.00256 and 569.3156, F.S.; requiring certain persons or entities licensed or permitted by the division, or applying for such a license or permit, to create and maintain an account with the division's online system; requiring licensees, permittees, and applicants to provide the division with an e-mail address and maintain accurate contact information; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; amending ss. 20.165, 210.16, 212.08, 440.02, 448.26, 468.520, 468.522, 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529, 468.530, 468.531, 468.532, 476.144, and 627.192, F.S.; conforming cross-references and provisions to changes made by the act; providing an effective date.

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

Section 1. Present paragraphs (a) through (h) of subsection (1) of section 210.15, Florida Statutes, are redesignated as paragraphs (b) through (i), respectively, and a new paragraph (a) is added to that subsection, to read:

210.15 Permits.—

(1)

(a) A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under this part unless the application is submitted through the division's online system.

Section 2. Section 210.32, Florida Statutes, is created to read:

210.32 Account; online system.—A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or a permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under

this part unless the application is submitted through the division's online system.

Section 3. Section 210.40, Florida Statutes, is amended to read:

210.40 License fees; surety bond; application for each place of business.—

(1) Each application for a distributor's license must ~~shall~~ be accompanied by a fee of $25. The application must ~~shall~~ also be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties, and accrued interest which may be due the state. The initial corporate surety bond shall be in the sum of $25,000 ~~$1,000~~ and in a form prescribed by the division.

(a) The division shall review the amount of a corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state.

(b) The division may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount.

(c) The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

(2) A corporate surety bond, with the sum determined by the division in accordance with paragraph (1)(c), is required for renewal of a distributor's license.

(3) The division may prescribe by rule increases in the corporate surety bond amounts required as a condition of

licensure.

(4)(a) The division may reduce the amount of a corporate surety bond upon a distributor's showing of good cause. For purposes of this subsection, the term:

1. "Fully resolved" means that criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

2. "Good cause" means a consistent pattern of responsible financial behavior by the distributor over a period of at least the preceding 4 years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding 4 years.

3. "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding 4 years.

(b) The division may not reduce a corporate surety bond amount when a licensee:

1. Is in default of any tax liabilities, penalties, or interest due to the state;

2. Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;

3. Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or

4. Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

(5) The division shall notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date on which the distributor's audited tax assessments become final.

(6) The provisions of this section governing corporate surety bonds are not subject to s. 120.60 ~~Whenever it is the opinion of the division that the bond given by a licensee is inadequate in amount to fully protect the state, the division shall require an additional bond in such amount as is deemed sufficient~~.

(7) A separate application for a license must ~~shall~~ be made for each place of business at which a distributor proposes to engage in business as a distributor under this part, but an applicant may provide one corporate surety bond in an amount determined by the division for all applications made by the distributor consistent with the requirements of this section.

(8) The division may adopt rules to administer this section.

Section 4. Paragraph (d) of subsection (3) of section 310.0015, Florida Statutes, is amended to read:

310.0015 Piloting regulation; general provisions.—

(3) The rate-setting process, the issuance of licenses only in numbers deemed necessary or prudent by the board, and other aspects of the economic regulation of piloting established in this chapter are intended to protect the public from the adverse

effects of unrestricted competition which would result from an unlimited number of licensed pilots being allowed to market their services on the basis of lower prices rather than safety concerns. This system of regulation benefits and protects the public interest by maximizing safety, avoiding uneconomic duplication of capital expenses and facilities, and enhancing state regulatory oversight. The system seeks to provide pilots with reasonable revenues, taking into consideration the normal uncertainties of vessel traffic and port usage, sufficient to maintain reliable, stable piloting operations. Pilots have certain restrictions and obligations under this system, including, but not limited to, the following:

(d)~~1.~~ The pilot or pilots in a port shall train and compensate all member deputy pilots in that port. Failure to train or compensate such deputy pilots constitutes ~~shall constitute~~ a ground for disciplinary action under s. 310.101. Nothing in this subsection may ~~shall~~ be deemed to create an agency or employment relationship between a pilot or deputy pilot and the pilot or pilots in a port.

~~2. The pilot or pilots in a port shall establish a competency-based mentor program by which minority persons as defined in s. 288.703 may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The department shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons as defined in s. 288.703 who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who~~

~~have applied for state pilot licensure or deputy pilot certification.~~

Section 5. Subsection (2) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(2) The department shall similarly examine persons who file applications for certificate as deputy pilot, and, if upon examination to determine proficiency the department finds them qualified, the department must ~~shall~~ certify as qualified all applicants who pass the examination, provided that not more than five persons who passed the examination are certified for each declared opening. If more than five applicants per opening pass the examination, the persons having the highest scores must ~~shall~~ be certified as qualified up to the number of openings times five. ~~The department shall give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession.~~ The department shall appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state. A deputy pilot shall be authorized by the department to pilot vessels within the limits and specifications established by the licensed state pilots at the port where the deputy is appointed to serve.

Section 6. Section 399.18, Florida Statutes, is created to read:

399.18 Online services account.—

(1) A certified elevator inspector, certified elevator

technician, or registered elevator company; a person or entity seeking to become certified or registered as such; a person who has been issued an elevator certificate of competency; a person who is seeking such certificate; a person or entity who has been issued an elevator certificate of operation; and a person or entity who is seeking such a certificate must create and maintain an online account with the division and provide an e-mail address to the division to function as the primary means of contact for all communication from the division. Each person or entity is responsible for maintaining accurate contact information on file with the division.

(2) The division shall adopt rules to implement this section.

Section 7. Section 468.519, Florida Statutes, is created, and incorporated into part XI of chapter 468, Florida Statutes, to read:

468.519 Employee leasing companies licensing program; purpose.—

(1) There is created within the department the employee leasing companies licensing program.

(2) The Legislature finds it necessary in the interest of the public safety and welfare to ensure that consumers of employee leasing companies can rely on the competence and integrity of such companies through the licensing requirements of this part.

Section 8. Section 468.521, Florida Statutes, is repealed.

Section 9. Paragraph (c) of subsection (2) of section 469.006, Florida Statutes, is amended to read:

469.006 Licensure of business organizations; qualifying

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agents.—

(2)

(c) As a prerequisite to the issuance of a license under this section, the applicant shall submit the following:

1. An affidavit on a form provided by the department attesting that the applicant has obtained workers' compensation insurance as required by chapter 440, public liability insurance, and property damage insurance, in amounts determined by department rule. The department shall establish by rule a procedure to verify the accuracy of such affidavits based upon a random sample method.

2. Evidence of financial responsibility. The department shall adopt rules to determine financial responsibility which must ~~shall~~ specify grounds on which the department may deny licensure. Such criteria must ~~shall~~ include, but is not ~~be~~ limited to, credit history ~~and limits of bondability and credit~~.

Section 10. Section 473.306, Florida Statutes, is amended to read:

473.306 Examinations.—

(1) A person desiring to be licensed as a Florida certified public accountant shall apply to the department to take the licensure examination.

(2) A person applying to the department to take the licensure examination must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication to the applicant from the department. Each applicant is responsible for maintaining accurate contact information on file with the department and must submit any change in the applicant's e-mail

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address or home address within 30 days after the change. All changes must be submitted through the department's online system.

(3) An applicant is entitled to take the licensure examination to practice in this state as a certified public accountant if:

(a) The applicant has completed 120 semester hours or 180 quarter hours from an accredited college or university with a concentration in accounting and business courses as specified by the board by rule; and

(b) The applicant shows that she or he has good moral character. For purposes of this paragraph, the term "good moral character" has the same meaning as provided in s. 473.308(7)(a) ~~s. 473.308(6)(a)~~. The board may refuse to allow an applicant to take the licensure examination for failure to satisfy this requirement if:

1. The board finds a reasonable relationship between the lack of good moral character of the applicant and the professional responsibilities of a certified public accountant; and

2. The finding by the board of lack of good moral character is supported by competent substantial evidence.

If an applicant is found pursuant to this paragraph to be unqualified to take the licensure examination because of a lack of good moral character, the board shall furnish to the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a

rehearing and appeal.

(4)~~(3)~~ The board shall have the authority to establish the standards for determining and shall determine:

(a) What constitutes a passing grade for each subject or part of the licensure examination;

(b) Which educational institutions, in addition to the universities in the State University System of Florida, shall be deemed to be accredited colleges or universities;

(c) What courses and number of hours constitute a major in accounting; and

(d) What courses and number of hours constitute additional accounting courses acceptable under s. 473.308(4) ~~s. 473.308(3)~~.

(5)~~(4)~~ The board may adopt an alternative licensure examination for persons who have been licensed to practice public accountancy or its equivalent in a foreign country so long as the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has ratified an agreement with that country for reciprocal licensure.

(6)~~(5)~~ For the purposes of maintaining the proper educational qualifications for licensure under this chapter, the board may appoint an Educational Advisory Committee, which shall be composed of one member of the board, two persons in public practice who are licensed under this chapter, and four academicians on faculties of universities in this state.

Section 11. Present subsections (3) through (9) of section 473.308, Florida Statutes, are redesignated as subsections (4) through (10), respectively, a new subsection (3) is added to that section, and subsection (2), paragraph (b) of present subsection (4), and present subsection (8) of that section are

amended, to read:

473.308 Licensure.—

(2) The board shall certify for licensure any applicant who successfully passes the licensure examination and satisfies the requirements of subsections (4), (5), and (6) ~~(3), (4), and (5)~~, and shall certify for licensure any firm that satisfies the requirements of ss. 473.309 and 473.3101. The board may refuse to certify any applicant or firm that has violated any of the provisions of s. 473.322.

(3) A person desiring to be licensed as a Florida certified public accountant or a firm desiring to engage in the practice of public accounting must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication from the department. Certified public accountants and firms are responsible for maintaining accurate contact information on file with the department and must submit any change in an e-mail address or street address within 30 days after the change. All changes must be submitted through the department's online system.

(5) ~~(4)~~

(b) However, an applicant who completed the requirements of subsection (4) ~~(3)~~ on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, is exempt from the requirements of this subsection.

(9) ~~(8)~~ If the applicant has at least 5 years of experience in the practice of public accountancy in the United States or in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal

Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States, or has at least 5 years of work experience that meets the requirements of subsection (5) ~~(4)~~, the board must ~~shall~~ waive the requirements of subsection (4) ~~(3)~~ which are in excess of a baccalaureate degree. All experience that is used as a basis for waiving the requirements of subsection (4) ~~(3)~~ must be while licensed as a certified public accountant by another state or territory of the United States or while licensed in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States. The board shall have the authority to establish the standards for experience that meet this requirement.

Section 12. Subsection (2) of section 475.181, Florida Statutes, is amended to read:

475.181 Licensure.—

(2) The commission shall certify for licensure any applicant who satisfies the requirements of ss. 475.17, 475.175, and 475.180. The commission may refuse to certify any applicant who has violated any of the provisions of s. 475.42 or who is subject to discipline under s. 475.25. The application shall expire 2 years after the date received if the applicant does not pass the appropriate examination. ~~Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful~~

~~course completion is invalid for licensure.~~

Section 13. Subsections (2) and (3) of section 476.114, Florida Statutes, are amended to read:

476.114 Examination; prerequisites.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c)~~1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or~~

~~2.~~ Has received a minimum of 900 hours of training in sanitation, safety, and laws and rules, as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

1.~~a.~~ A school of barbering licensed pursuant to chapter 1005;

2.~~b.~~ A barbering program within the public school system; or

3.~~c.~~ A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 600 actual school hours. If the person passes the examination, she or he has ~~shall have~~ satisfied this requirement; but if the person fails the examination, she or he may ~~shall~~ not be

qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in paragraph (2)(c) ~~subparagraphs (2)(c)1. and 2.~~ who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board may specify by rule reasonable timeframes for rescheduling the examination and additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

Section 14. Subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice cosmetology if the applicant:

(a) Is at least 16 years of age or has received a high school diploma;

(b) Pays the required application fee, which is not refundable, and the required examination fee, which is refundable if the applicant is determined to not be eligible for licensure for any reason other than failure to successfully complete the licensure examination; and

(c)~~1. Is authorized to practice cosmetology in another state or country, has been so authorized for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (5); or~~

~~2.~~ Has received a minimum of 1,200 hours of training as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

1.~~a.~~ A school of cosmetology licensed pursuant to chapter 1005.

2.~~b.~~ A cosmetology program within the public school system.

3.~~c.~~ The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.

4.~~d.~~ A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she has ~~shall have~~ satisfied this requirement; but if the person fails the examination, he or she may ~~shall~~ not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 15. Paragraph (c) of subsection (7) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(7)

(c) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the

local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, restitution, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The recommended penalty must specify the violations of this chapter upon which the recommendation is based. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

Section 16. Subsections (3) and (6) of section 489.143, Florida Statutes, are amended to read:

489.143 Payment from the fund.—

(3) Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject to a $50,000 maximum payment for each Division I claim. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject to a $15,000 maximum payment for each Division II claim. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a $100,000 maximum payment for each Division I claim and a $30,000 maximum payment for each Division II claim.

(6) For contracts entered into before July 1, 2004, payments for claims against any one licensee may not exceed, in the aggregate, $100,000 annually, up to a total aggregate of $250,000. For any claim approved by the board which is in excess of the annual cap, the amount in excess of $100,000 up to the total aggregate cap of $250,000 is eligible for payment in the next and succeeding fiscal years, but only after all claims for the then-current calendar year have been paid. Payments may not exceed the aggregate annual or per claimant limits under law. Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject only to a total aggregate cap of $500,000 for each Division I licensee. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject only to a total aggregate cap of $150,000 for each Division II licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total aggregate cap of $2 million for each Division I licensee and $600,000 for each Division II licensee.

Section 17. Paragraph (b) of subsection (15) of section 499.012, Florida Statutes, is amended to read:

499.012 Permit application requirements.—

(15)

(b) To be certified as a designated representative, a natural person must:

1. Submit an application on a form furnished by the department and pay the appropriate fees.

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2. Be at least 18 years of age.

3. Have at least 2 years of verifiable full-time:

a. Work experience in a pharmacy licensed in this state or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;

b. Managerial experience with a prescription drug wholesale distributor licensed in this state or in another state; ~~or~~

c. Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs;

d. Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; or

e. Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

4. Receive a passing score of at least 75 percent on an examination given by the department regarding federal laws governing distribution of prescription drugs and this part and the rules adopted by the department governing the wholesale distribution of prescription drugs. This requirement shall be effective 1 year after the results of the initial examination are mailed to the persons that took the examination. The

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

department shall offer such examinations at least four times each calendar year.

5. Provide the department with a personal information statement and fingerprints pursuant to subsection (9).

Section 18. Subsection (5) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(5) Any person or entity licensed or permitted by the division, or applying for a license or permit, must create and maintain an account with the division's online system and provide an e-mail ~~electronic mail~~ address to the division to function as the primary means of contact for all communication by the division to the licensee, ~~or~~ permittee, or applicant. Licensees, ~~and~~ permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application for an alcoholic beverage license unless the application is submitted through the division's online system.

Section 19. Section 569.00256, Florida Statutes, is created to read:

569.00256 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail

address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in tobacco products unless the application is submitted through the division's online system.

Section 20. Section 569.3156, Florida Statutes, is created to read:

569.3156 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in nicotine products unless the application is submitted through the division's online system.

Section 21. Paragraph (a) of subsection (4) of section

20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(4)(a) The following boards and programs are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. Barbers' Board, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

6. Board of Cosmetology, created under chapter 477.

7. Electrical Contractors' Licensing Board, created under part II of chapter 489.

8. Employee leasing companies licensing program ~~Board of Employee Leasing Companies~~, created under part XI of chapter 468.

9. Board of Landscape Architecture, created under part II of chapter 481.

10. Board of Pilot Commissioners, created under chapter 310.

11. Board of Professional Engineers, created under chapter 471.

12. Board of Professional Geologists, created under chapter 492.

13. Board of Veterinary Medicine, created under chapter 474.

14. Home inspection services licensing program, created under part XV of chapter 468.

15. Mold-related services licensing program, created under part XVI of chapter 468.

Section 22. Subsection (2) of section 210.16, Florida Statutes, is amended to read:

210.16 Revocation or suspension of permit.—

(2) The division shall revoke the permit or permits of any person who would be ineligible to obtain a new license or renew a license by reason of any of the conditions for permitting provided in s. 210.15(1)(d)1.-6. ~~s. 210.15(1)(c)1.-6.~~

Section 23. Paragraph (uuu) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is

otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(uuu) *Small private investigative agencies.*—

1. As used in this paragraph, the term:

a. "Private investigation services" has the same meaning as "private investigation," as defined in s. 493.6101(17).

b. "Small private investigative agency" means a private investigator licensed under s. 493.6201 which:

(I) Employs three or fewer full-time or part-time employees, including those performing services pursuant to an employee leasing arrangement as defined in s. 468.520(3) ~~s. 468.520(4)~~, in total; and

(II) During the previous calendar year, performed private investigation services otherwise taxable under this chapter in which the charges for the services performed were less than $150,000 for all its businesses related through common ownership.

2. The sale of private investigation services by a small private investigative agency to a client is exempt from the tax imposed by this chapter.

3. The exemption provided by this paragraph may not apply

in the first calendar year a small private investigative agency conducts sales of private investigation services taxable under this chapter.

Section 24. Paragraph (a) of subsection (19) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(19)(a) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. The term also includes employee leasing companies, as defined in s. 468.520(4) ~~s. 468.520(5)~~, and employment agencies that provide their own employees to other persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 25. Section 448.26, Florida Statutes, is amended to read:

448.26 Application.—Nothing in this part shall exempt any client of any labor pool or temporary help arrangement entity as defined in s. 468.520(3)(a) ~~s. 468.520(4)(a)~~ or any assigned employee from any other license requirements of state, local, or federal law. Any employee assigned to a client who is licensed, registered, or certified pursuant to law shall be deemed an

employee of the client for such licensure purposes but shall remain an employee of the labor pool or temporary help arrangement entity for purposes of chapters 440 and 443.

Section 26. Subsection (2) of section 468.520, Florida Statutes, is amended to read:

468.520 Definitions.—As used in this part:

~~(2) "Board" means the Board of Employee Leasing Companies.~~

Section 27. Section 468.522, Florida Statutes, is amended to read:

468.522 Rules ~~of the board~~.—The department may ~~board has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this part. Every licensee shall be governed and controlled by this part and the rules adopted by the department ~~board~~.

Section 28. Subsections (2) and (4) of section 468.524, Florida Statutes, are amended to read:

468.524 Application for license.—

(2) The department ~~board~~ may require information and certifications necessary to determine that the applicant is of good moral character and meets other licensure requirements of this part.

(4) An applicant or licensee is ineligible to reapply for a license for a period of 1 year following final agency action on the denial or revocation of a license applied for or issued under this part. This time restriction does not apply to administrative denials or revocations entered because:

(a) The applicant or licensee has made an inadvertent error or omission on the application;

(b) The experience documented to the department ~~board~~ was

insufficient at the time of the previous application;

(c) The department is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency;

(d) The applicant or licensee has failed to submit required fees; or

(e) An applicant or licensed employee leasing company has been deemed ineligible for a license because of the lack of good moral character of an individual or individuals when such individual or individuals are no longer employed in a capacity that would require their licensing under this part.

Section 29. Section 468.5245, Florida Statutes, is amended to read:

468.5245 Change of ownership.—

(1) A license or registration issued to any entity under this part may not be transferred or assigned. The department ~~board~~ shall adopt rules to provide for a licensee's or registrant's change of name or location.

(2) A person or entity that seeks to purchase or acquire control of an employee leasing company or group licensed or registered under this part must first apply to the department ~~board~~ for a certificate of approval for the proposed change of ownership. However, prior approval is not required if, at the time the purchase or acquisition occurs, a controlling person of the employee leasing company or group maintains a controlling person license under this part. Notification must be provided to the department ~~board~~ within 30 days after the purchase or

acquisition of such company in the manner prescribed by the department ~~board~~.

(3) Any application that is submitted to the department ~~board~~ under this section is ~~shall be~~ deemed approved if the department ~~board~~ has not approved the application or rejected the application, and provided the applicant with the basis for a rejection, within 90 days after the receipt of the completed application.

(4) The department ~~board~~ shall establish filing fees for a change-of-ownership application in accordance with s. 468.524(1).

Section 30. Subsections (2) and (3) of section 468.525, Florida Statutes, are amended to read:

468.525 License requirements.—

(2)(a) As used in this part, "good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for the laws of this state and nation. A thorough background investigation of the individual's good moral character shall be instituted by the department. Such investigation shall require:

1. The submission of fingerprints, for processing through appropriate law enforcement agencies, by the applicant and the examination of police records by the department ~~board~~.

2. Such other investigation of the individual as the department ~~board~~ may deem necessary.

(b) The department ~~board~~ may deny an application for licensure or renewal citing lack of good moral character. Conviction of a crime within the last 7 years does ~~shall~~ not

automatically bar any applicant or licensee from obtaining a license or continuing as a licensee. The department ~~board~~ shall consider the type of crime committed, the crime's relevancy to the employee leasing industry, the length of time since the conviction and any other factors deemed relevant by the department ~~board~~.

(3) Each employee leasing company licensed by the department shall have a registered agent for service of process in this state and at least one licensed controlling person. In addition, each licensed employee leasing company shall comply with the following requirements:

(a) The employment relationship with workers provided by the employee leasing company to a client company shall be established by written agreement between the leasing company and the client, and written notice of that relationship shall be given by the employee leasing company to each worker who is assigned to perform services at the client company's worksite.

(b) An applicant for an initial employee leasing company license shall have a tangible accounting net worth of not less than $50,000.

(c) An applicant for initial or renewal license of an employee leasing company license or employee leasing company group shall have an accounting net worth or shall have guaranties, letters of credit, or other security acceptable to the department ~~board~~ in sufficient amounts to offset any deficiency. A guaranty will not be acceptable to satisfy this requirement unless the applicant submits sufficient evidence to satisfy the department ~~board~~ that the guarantor has adequate resources to satisfy the obligation of the guaranty.

(d) Each employee leasing company shall maintain an accounting net worth and positive working capital, as determined in accordance with generally accepted accounting principles, or shall have guaranties, letters of credit, or other security acceptable to the department ~~board~~ in sufficient amounts to offset any deficiency. A guaranty will not be acceptable to satisfy this requirement unless the licensee submits sufficient evidence, as defined by rule, that the guarantor has adequate resources to satisfy the obligation of the guaranty. In determining the amount of working capital, a licensee shall include adequate reserves for all taxes and insurance, including plans of self-insurance or partial self-insurance for claims incurred but not paid and for claims incurred but not reported. Compliance with the requirements of this paragraph is subject to verification by department ~~or board~~ audit.

(e) Each employee leasing company or employee leasing company group shall submit annual financial statements audited by an independent certified public accountant, with the application and within 120 days after the end of each fiscal year, in a manner and time prescribed by the department ~~board~~, provided however, that any employee leasing company or employee leasing company group with gross Florida payroll of less than $2.5 million during any fiscal year may submit financial statements reviewed by an independent certified public accountant for that year.

(f) The licensee shall notify the department ~~or board~~ in writing within 30 days after any change in the application or status of the license.

(g) Each employee leasing company or employee leasing

company group shall maintain accounting and employment records relating to all employee leasing activities for a minimum of 3 calendar years.

Section 31. Subsections (3) and (5) of section 468.526, Florida Statutes, are amended to read:

468.526 License required; fees.—

(3) Each employee leasing company and employee leasing company group licensee shall pay to the department upon the initial issuance of a license and upon each renewal thereafter a license fee not to exceed $2,500 to be established by the department ~~board~~. In addition to the license fee, the department ~~board~~ shall establish an annual assessment for each employee leasing company and each employee leasing company group sufficient to cover all costs for regulation of the profession pursuant to this chapter, chapter 455, and any other applicable provisions of law. The annual assessment shall:

(a) Be due and payable upon initial licensure and subsequent renewals thereof and 1 year before the expiration of any licensure period; and

(b) Be based on a fixed percentage, variable classes, or a combination of both, as determined by the department ~~board~~, of gross Florida payroll for employees leased to clients by the applicant or licensee during the period beginning five quarters before and ending one quarter before each assessment. It is the intent of the Legislature that the greater weight of total fees for licensure and assessments should be on larger companies and groups.

(5) Each controlling person licensee shall pay to the department upon the initial issuance of a license and upon each

renewal thereafter a license fee to be established by the department ~~board~~ in an amount not to exceed $2,000.

Section 32. Subsection (1) of section 468.527, Florida Statutes, is amended to read:

468.527 Licensure and license renewal.—

(1) The department shall license any applicant who the department ~~board~~ certifies is qualified to practice employee leasing as an employee leasing company, employee leasing company group, or controlling person.

Section 33. Subsection (2) of section 468.5275, Florida Statutes, is amended to read:

468.5275 Registration and exemption of de minimis operations.—

(2) A registration is valid for 1 year. Each registrant shall pay to the department upon initial registration, and upon each renewal thereafter, a registration fee to be established by the department ~~board~~ in an amount not to exceed:

(a) Two hundred and fifty dollars for an employee leasing company.

(b) Five hundred dollars for an employee leasing company group.

Section 34. Subsections (2), (4), and (5) of section 468.529, Florida Statutes, are amended to read:

468.529 Licensee's insurance; employment tax; benefit plans.—

(2) An initial or renewal license may not be issued to any employee leasing company unless the employee leasing company first files with the department ~~board~~ evidence of workers' compensation coverage for all leased employees in this state.

Each employee leasing company shall maintain and make available to its workers' compensation carrier the following information:

(a) The correct name and federal identification number of each client company.

(b) A listing of all covered employees provided to each client company, by classification code.

(c) The total eligible wages by classification code and the premiums due to the carrier for the employees provided to each client company.

(4) An initial or renewal license may not be issued to any employee leasing company unless the employee leasing company first provides evidence to the department ~~board~~, as required by department ~~board~~ rule, that the employee leasing company has paid all of the employee leasing company's obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. All disputed amounts must be disclosed in the application.

(5) The provisions of this section are subject to verification by department ~~or board~~ audit.

Section 35. Subsections (3) and (4) of section 468.530, Florida Statutes, are amended to read:

468.530 License, contents; posting.—

(3) No license shall be valid for any person or entity who engages in the business under any name other than that specified in the license. A license issued under this part is ~~shall~~ not ~~be~~ assignable, and no licensee may conduct a business under a fictitious name without prior written authorization of the department ~~board~~ to do so. The department ~~board~~ may not authorize the use of a name which is so similar to that of a

public officer or agency, or of that used by another licensee, that the public may be confused or misled thereby. No licensee shall be permitted to conduct business under more than one name unless it has obtained a separate license. A licensee desiring to change its licensed name at any time except upon license renewal shall notify the department ~~board~~ and pay a fee not to exceed $50 for each authorized change of name.

(4) Each employee leasing company or employee leasing company group licensed under this part shall be properly identified in all advertisements, which must include the license number, licensed business name, and other appropriate information in accordance with department rules ~~established by the board~~.

Section 36. Subsection (1) of section 468.531, Florida Statutes, is amended to read:

468.531 Prohibitions; penalties.—

(1) No person or entity shall:

(a) Practice or offer to practice as an employee leasing company, an employee leasing company group, or a controlling person unless such person or entity is licensed pursuant to this part;

(b) Practice or offer to practice as an employee leasing company or employee leasing company group unless all controlling persons thereof are licensed pursuant to this part;

(c) Use the name or title "licensed employee leasing company," "employee leasing company," "employee leasing company group," "professional employer," "professional employer organization," "controlling person," or words that would tend to lead one to believe that such person or entity is registered

pursuant to this part, when such person or entity has not registered pursuant to this part;

(d) Present as his or her own or his or her entity's own the license of another;

(e) Knowingly give false or forged evidence to the department ~~board or a member thereof~~; or

(f) Use or attempt to use a license that has been suspended or revoked.

Section 37. Subsections (1), (2), and (4) of section 468.532, Florida Statutes, are amended to read:

468.532 Discipline.—

(1) The following constitute grounds for which disciplinary action against a licensee may be taken by the department ~~board~~:

(a) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, bribery, fraud, or willful misrepresentation in obtaining, attempting to obtain, or renewing a license.

(b) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the operation of an employee leasing business or the ability to engage in business as an employee leasing company.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the classification of employees pursuant to chapter 440.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the establishment or maintenance of

self-insurance, be it health insurance or workers' compensation insurance.

(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the operation of an employee leasing company.

(f) Conducting business without an active license.

(g) Failing to maintain workers' compensation insurance as required in s. 468.529.

(h) Transferring or attempting to transfer a license issued pursuant to this part.

(i) Violating any provision of this part or any lawful order or rule issued under the provisions of this part or chapter 455.

(j) Failing to notify the department ~~board~~, in writing, of any change of the primary business address or the addresses of any of the licensee's offices in the state.

(k) Having been confined in any county jail, postadjudication, or being confined in any state or federal prison or mental institution, or when through mental disease or deterioration, the licensee can no longer safely be entrusted to deal with the public or in a confidential capacity.

(l) Having been found guilty for a second time of any misconduct that warrants suspension or being found guilty of a course of conduct or practices which shows that the licensee is so incompetent, negligent, dishonest, or untruthful that the money, property, transactions, and rights of investors, or those with whom the licensee may sustain a confidential relationship, may not safely be entrusted to the licensee.

(m) Failing to inform the department ~~board~~ in writing within 30 days after being convicted or found guilty of, or entering a plea of nolo contendere to, any felony, regardless of adjudication.

(n) Failing to conform to any lawful order of the department ~~board~~.

(o) Being determined liable for civil fraud by a court in any jurisdiction.

(p) Having adverse material final action taken by any state or federal regulatory agency for violations within the scope of control of the licensee.

(q) Failing to inform the department ~~board~~ in writing within 30 days after any adverse material final action by a state or federal regulatory agency.

(r) Failing to meet or maintain the requirements for licensure as an employee leasing company or controlling person.

(s) Engaging as a controlling person any person who is not licensed as a controlling person by the department ~~board~~.

(t) Attempting to obtain, obtaining, or renewing a license to practice employee leasing by bribery, misrepresentation, or fraud.

(2) When the department ~~board~~ finds any violation of subsection (1), it may do one or more of the following:

(a) Deny an application for licensure.

(b) Permanently revoke, suspend, restrict, or not renew a license.

(c) Impose an administrative fine not to exceed $5,000 for every count or separate offense.

(d) Issue a reprimand.

(e) Place the licensee on probation for a period of time and subject to such conditions as the department ~~board~~ may specify.

(f) Assess costs associated with investigation and prosecution.

(4) The department ~~board~~ shall specify the penalties for any violation of this part.

Section 38. Paragraph (a) of subsection (6) of section 476.144, Florida Statutes, is amended to read:

476.144 Licensure.—

(6) A person may apply for a restricted license to practice barbering. The board shall adopt rules specifying procedures for an applicant to obtain a restricted license if the applicant:

(a)1. Has successfully completed a restricted barber course, as established by rule of the board, at a school of barbering licensed pursuant to chapter 1005, a barbering program within the public school system, or a government-operated barbering program in this state; or

2.a. Holds or has within the previous 5 years held an active valid license to practice barbering in another state or country or has held a Florida barbering license which has been declared null and void for failure to renew the license, and the applicant fulfilled the requirements of s. 476.114(2)(c) ~~s. 476.114(2)(c)2.~~ for initial licensure; and

b. Has not been disciplined relating to the practice of barbering in the previous 5 years; and

The restricted license shall limit the licensee's practice to those specific areas in which the applicant has demonstrated

competence pursuant to rules adopted by the board.

Section 39. Paragraph (a) of subsection (2) of section 627.192, Florida Statutes, is amended to read:

627.192 Workers' compensation insurance; employee leasing arrangements.—

(2) For purposes of the Florida Insurance Code:

(a) "Employee leasing" shall have the same meaning as set forth in s. 468.520(3) ~~s. 468.520(4)~~.

Section 40. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

SB 1544
Bill Number or Topic

Amendment Barcode (if applicable)

Name Derek Miller

Phone (850) 487-4827

Address 260 1 Blair Stone Road
Street

Email Derek.Miller@myfloridalicense.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:

DBPR

☐ 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. 2020-2022JointRules.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

2-22-24
Meeting Date

Fiscal Policy
Committee

1544
Bill Number or Topic

114064
Amendment Barcode (if applicable)

Name DAVID DANIEL

Phone 224-5081

Address 311 EAST PARK AVE
Street

Email

TLH 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 ASSOCIATION FOR PROFESSIONAL EMPLOYER ORGANIZATIONS

☐ 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. 2020-2022JointRules.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

2.22.24
Meeting Date

FISCAL POLICY
Committee

1544
Bill Number or Topic

721376
Amendment Barcode (if applicable)

Name DAVIS DANIEL Phone 224-5091

Address 311 EAST PARK AVENUE Email
Street

TLH 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 ASSOCIATION FOR PROFESSIONAL EMPLOYER ORGANIZATIONS

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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

2/22/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1544
Bill Number or Topic

610464
Amendment Barcode (if applicable)

Name Robby Holroyd

Phone 954-803-0231

Address 205 S. Adams St.
Street

Email Robby@tsecgov.com

TLH 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:

International Sign 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/CS/SB 1628
INTRODUCER:	Fiscal Policy Committee, Community Affairs Committee and Senator Collins
SUBJECT:	Local Government Actions
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Fav/CS**
2.	Hackett	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1628 provides that local governments must complete a business impact statement prior to adopting and implementing a comprehensive plan amendment or land development regulation, other than those amendments initiated by a private party.

The bill takes effect October 1, 2024.

II. Present Situation:

Local Ordinances

The governing body of a county or municipality has broad legislative powers to enact ordinances, local laws, to perform governmental functions and exercise power to promote the health, welfare, safety, and quality of life of a local government's residents. Ordinances address a wide variety of local issues, from government structure and zoning laws to speed limits and noise ordinances. Procedures for passing local ordinances are prescribed by the Legislature and differ only slightly between counties and municipalities.

Procedures for Enacting Ordinances

A board of county commissioners must notice its intent to consider an ordinance or amendment to an ordinance 10 days before the meeting at which the ordinance will be considered. The notice, placed in a newspaper of general circulation, should include the date, time, and place of the meeting, the proposed ordinance title, and instructions for how to view the language. The

board may then vote to pass the ordinance at the meeting, and upon passage, must send a certified copy of the ordinance to the Florida Department of State (DOS).[1] County ordinances take effect upon filing with the DOS, unless otherwise prescribed in the ordinance.[2]

Similarly, municipalities must notice intent to consider an ordinance 10 days before adoption. However, municipalities must also read the ordinance by title or in full on at least 2 separate days before adoption by vote.[3] An ordinance passed by a municipality becomes effective 10 days after passage, unless otherwise prescribed in the ordinance.[4]

Emergency Ordinances

A board of county commissioners may adopt an emergency ordinance that bypasses the notice requirements if the governing body declares that an emergency exists requiring the immediate enactment of the ordinance and the ordinance is approved by a four-fifths vote of the membership.[5] A municipality may bypass reading and notice requirements to pass an emergency ordinance by a two-thirds vote of the governing body.[6] An emergency ordinance may not be used to adopt zoning and land use changes.[7]

Business Impact Estimate

A local government must also produce a business impact estimate prior to passing an ordinance.[8] The business impact estimate must include the following:[9]

- A summary of the proposed ordinance, including a estimate of the public purpose to be served by the proposed ordinance;
- An estimate of the direct economic impact of the proposed ordinance on private for-profit businesses in the county or city, including:
  - An estimate of direct compliance costs for businesses;
  - Identification of new charges and fees; and
  - An estimate of the county's or city's regulatory costs.
- A good faith estimate of the number of businesses likely impacted; and
- Any additional information deemed useful.

A business impact estimate is not required for the following types of ordinances: [10]

- Emergency ordinances;
- Growth policy, county and municipal planning, and land development regulations under part II of ch. 163, F.S.;
- Building code ordinances under s. 553.73, F.S.;
- Fire prevention code ordinances under s. 633.202, F.S;

[1] Section 125.66(2), F.S.
[2] *Id.*
[3] Section 166.041(3)(a), F.S.
[4] Section 166.041(4), F.S.
[5] Section 125.66(4), F.S.
[6] Section 166.041(3)(b), F.S.
[7] *Supra* notes 5 and 6.
[8] Sections 125.66(3) and 166.041(4), F.S.
[9] Sections 125.66(3)(a) and 166.041(4)(a), F.S.
[10] Sections 125.66(3)(c) and 166.041(4)(c), F.S.

- Ordinances establishing or terminating Community Development Districts under ss. 190.005 and 190.046, F.S.;
- Ordinances required to comply with federal or state law or regulation;
- Ordinances relating to financial obligations or issuance and refinancing of debt;
- Ordinances related to the adoption of county or municipal budgets or budget amendments; or
- Ordinances required to implement a contract or agreement, to include federal, state, local, or private grants and other financial assistance.

Comprehensive Plans

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future land development of the area and reflect community commitments to implement the plan. The Community Planning Act intends that local governments manage growth through comprehensive land use plans that facilitate adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services.[11]

The comprehensive plan is implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other land use-related ordinances, which are consistent with and implement its adopted comprehensive plan.[12]

Issuing Development Orders and Permits

Under the Community Planning Act, a development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.[13] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[14]

After receiving an application for approval of a development permit or development order, a municipality or county must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient. If the application is deficient, the applicant may address the deficiencies by submitting the required additional information.[15] After the municipality or county has deemed the application complete it must ultimately approve, approve with conditions, or deny the application for a development permit or development order.[16]

[11] Section 163.3161(4), F.S.
[12] Section 163.3202, F.S.
[13] Section 163.3164(16), F.S.
[14] *See* ss. 125.022, 163.3164(15), and 166.033, F.S.
[15] Sections 125.022(1) and 166.033(1), F.S.
[16] *Id.*

Development Agreements

Local governments may enter into development agreements with developers.[17] A "development agreement" is a "contract between a local government and a property owner/developer, which provides the developer with vested rights by freezing the existing zoning regulations applicable to a property in exchange for public benefits."[18]

Any local government may, by ordinance, establish procedures and requirements to consider and enter into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction.[19] A development agreement must include certain statutorily required elements describing the terms of the contract.[20]

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 125.66 and 166.041, F.S., to amend the exemptions to the requirement that counties and cities, respectively, produce or have produced a "business impact estimate" prior to passing an ordinance. Whereas current law exempts the entirety of growth policy, county and municipal planning, and land development regulations under part II of ch. 163, F.S., the bill limits this exemption to development orders, permits, and agreements. Local governments must therefore complete a business impact statement prior to adopting and implementing a comprehensive plan amendment or land development regulation. The requirement does not apply to those amendments initiated by an application of a private party other than the county or municipality.

Section 3 provides that the act shall take effect October 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution may apply because the bill expands the types of ordinances for which local governments must produce a business impact estimate, which will require additional staff work for local governments. Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. None of the constitutional exceptions appear to apply.

Article VII, section 18 (d) provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. Laws having an "insignificant fiscal impact" are exempt from the mandate requirements, which for Fiscal Year 2024-2025 is

[17] Section 163.3220(4), F.S.; *see also* ss. 163.3220-163.3243, F.S., known as the "Florida Local Government Development Agreement Act."
[18] *Morgran Co., Inc. v. Orange County*, 818 So. 2d 640 (Fla. 5th DCA 2002); 7 Fla. Jur 2d Building, Zoning, and Land Controls § 168 (2019).
[19] Section 163.3223, F.S; 7 Fla. Jur 2d Building, Zoning, and Land Controls § 168 (2019).
[20] Section 163.3227(1), F.S.

forecast at approximately $2.3 million.[21,22] However, any local government costs associated with the bill are speculative and not readily estimable for purposes of determining whether the exemption for bills having an insignificant fiscal impact applies.

If the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

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:

Producing business impact estimates for land use-related ordinances currently exempt under current law will have a negative impact county and municipality staffing time and resources.

VI. Technical Deficiencies:

None.

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[21] FLA. CONST. art. VII, s. 18(d).

[22] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), *available at* http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Jan. 24, 2024).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.66 and 166.041 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 Fiscal Policy on February 22, 2024:
The committee substitute removes provisions related to withholding action pending litigation, reducing the scope of the bill to the provision that local governments must complete a business impact statement prior to adopting and implementing a comprehensive plan amendment or land development regulation. The requirement does not apply to those amendments initiated by a private party other than the county or municipality.

CS by Community Affairs on February 6, 2024:
The committee substitute removes provisions of the bill relating to economic security analysis of local government actions by executive branch agencies.

B. Amendments:

None.

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

369630

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (3) of section 125.66, Florida Statutes, is amended to read:

125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—

(3)

(c) This subsection does not apply to:

1. Ordinances required for compliance with federal or state law or regulation;

2. Ordinances relating to the issuance or refinancing of debt;

3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a county government;

5. Emergency ordinances;

6. Ordinances relating to procurement; or

7. Ordinances enacted to implement the following:

a. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the county.

c. ~~b.~~ Sections 190.005 and 190.046;

d. ~~c.~~ Section 553.73, relating to the Florida Building Code; or

e. ~~d.~~ Section 633.202, relating to the Florida Fire

Prevention Code.

Section 2. Paragraph (c) of subsection (4) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(4)

(c) This subsection does not apply to:

1. Ordinances required for compliance with federal or state law or regulation;

2. Ordinances relating to the issuance or refinancing of debt;

3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;

5. Emergency ordinances;

6. Ordinances relating to procurement; or

7. Ordinances enacted to implement the following:

a. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

b. Comprehensive plan amendments and land development

369630

regulation amendments initiated by an application by a private party other than the municipality.

c. ~~b.~~ Sections 190.005 and 190.046;

d. ~~c.~~ Section 553.73, relating to the Florida Building Code; or

e. ~~d.~~ Section 633.202, relating to the Florida Fire Prevention Code.

Section 3. This act shall take effect October 1, 2024.

========== 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 local government actions; amending ss. 125.66 and 166.041 F.S.; revising applicability provisions for the enactment or adoption of county and municipal ordinances, respectively; providing an effective date.

By the Committee on Community Affairs; and Senator Collins

578-03045-24 20241628c1

A bill to be entitled

An act relating to local government actions; amending ss. 125.66, 125.675, 166.041, and 166.0411 F.S.; revising applicability provisions for the enactment or adoption of and legal challenges to county and municipal ordinances, respectively; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section 125.66, Florida Statutes, is amended to read:

125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—

(3)

(c) This subsection does not apply to:

1. Ordinances required for compliance with federal or state law or regulation;

2. Ordinances relating to the issuance or refinancing of debt;

3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a county government;

5. Emergency ordinances;

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

578-03045-24 20241628c1

6. Ordinances relating to procurement; or

7. Ordinances enacted to implement the following:

a. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

b. Sections 190.005 and 190.046;

c. Section 553.73, relating to the Florida Building Code; or

d. Section 633.202, relating to the Florida Fire Prevention Code.

Section 2. Subsection (5) of section 125.675, Florida Statutes, is amended to read:

125.675 Legal challenges to certain recently enacted ordinances.—

(5) This section does not apply to:

(a) Ordinances required for compliance with federal or state law or regulation;

(b) Ordinances relating to the issuance or refinancing of debt;

(c) Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

(d) Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted

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

by a county government;

(e) Emergency ordinances;

(f) Ordinances relating to procurement; or

(g) Ordinances enacted to implement the following:

1. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

2. Sections 190.005 and 190.046;

3. Section 553.73, relating to the Florida Building Code; or

4. Section 633.202, relating to the Florida Fire Prevention Code.

Section 3. Paragraph (c) of subsection (4) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(4)

(c) This subsection does not apply to:

1. Ordinances required for compliance with federal or state law or regulation;

2. Ordinances relating to the issuance or refinancing of debt;

3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;

5. Emergency ordinances;

6. Ordinances relating to procurement; or

7. Ordinances enacted to implement the following:

a. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

b. Sections 190.005 and 190.046;

c. Section 553.73, relating to the Florida Building Code; or

d. Section 633.202, relating to the Florida Fire Prevention Code.

Section 4. Subsection (5) of section 166.0411, Florida Statutes, is amended to read:

166.0411 Legal challenges to certain recently enacted ordinances.—

(5) This section does not apply to:

(a) Ordinances required for compliance with federal or state law or regulation;

(b) Ordinances relating to the issuance or refinancing of debt;

(c) Ordinances relating to the adoption of budgets or

budget amendments, including revenue sources necessary to fund the budget;

(d) Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;

(e) Emergency ordinances;

(f) Ordinances relating to procurement; or

(g) Ordinances enacted to implement the following:

1. ~~Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning,~~ Development orders and development permits, as those terms are defined in s. 163.3164, and~~,~~ development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243 ~~and development permits~~;

2. Sections 190.005 and 190.046;

3. Section 553.73, relating to the Florida Building Code; or

4. Section 633.202, relating to the Florida Fire Prevention Code.

Section 5. This act shall take effect October 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

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2-22-24 412 kb
Meeting Date

FP
Committee

1628
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

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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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	CS/SB 1798
INTRODUCER:	Health Policy Committee and Senator Trumbull
SUBJECT:	Home Health Care Services
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Morgan	Brown	HP	**Fav/CS**
2.	Barr	McKnight	AHS	**Favorable**
3.	Morgan	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1798 amends s. 409.905, F.S., to authorize an advanced practice registered nurse (APRN) or a physician assistant to order or write prescriptions for Medicaid home health services.

This bill has no fiscal impact on state revenues or state expenditures.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Florida Medicaid Program

The Medicaid program is a voluntary, joint federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults and persons with disabilities.[1] The Centers for Medicare & Medicaid Services within the U.S. Department of Health and Human Services is responsible for administering the Medicaid program at the federal level. Florida Medicaid is the health care safety net for low-income Floridians. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.[2]

[1] Medicaid.gov, Medicaid, available at https://www.medicaid.gov/medicaid/index.html (last visited Feb. 3, 2024).
[2] Section 20.42, F.S.

Medicaid Home Health Care Services

States that elect to participate in the Medicaid program agree to cover a host of mandatory Medicaid services in accordance with Title XIX of the Social Security Act. As the single-state agency responsible for the administration of Florida's Medicaid program, the AHCA is required to provide reimbursement for these services, including home health care, when furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were rendered. Medicaid services are only provided as medically necessary.[3]

Under Medicaid's home health care services benefit, the AHCA reimburses for nursing and home health aide[4] services, supplies, appliances, and durable medical equipment necessary to assist a recipient who is living at home. The AHCA requires prior authorization to determine the medical necessity for these services. A home health agency (HHA) must submit the recipient's plan of care and documentation that support the diagnosis to the AHCA when requesting prior authorization.[5]

The AHCA cannot pay for home health services unless the services are medically necessary and:[6]

- The services are ordered by a physician.
- The written prescription for the services is signed and dated by the recipient's physician before the development of a plan of care and any request requiring prior authorization.
- Outside of any exclusions, the physician ordering the services is not employed, under contract with, or otherwise affiliated with the HHA rendering the services.
- The physician ordering the services has examined the recipient within the 30 days preceding the initial request for the services and biannually thereafter.
- The written prescription for the services includes the recipient's acute or chronic medical condition or diagnosis, the home health service required, and, for skilled nursing services, the frequency and duration of the services.
- The national provider identifier, Medicaid identification number, or medical practitioner license number of the physician ordering the services is listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

The Coronavirus Aid, Relief, and Economic Security Act

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provided fast and direct economic assistance for American workers, families, small businesses, and industries through the implementation of a variety of programs[7] to address issues related to the onset of the

[3] Section 409.905, F.S.
[4] Under s. 400.462(14), F.S., a home health aide is a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the Agency for Health Care Administration, or performs tasks delegated to him or her under ch. 464, F.S.
[5] Section 409.905(4), F.S.
[6] *Id*.
[7] Centers for Medicare & Medicaid Services, *Home Health Agencies: CMS Flexibilities to Fight COVID-19, available at* https://www.cms.gov/files/document/home-health-agencies-cms-flexibilities-fight-covid-19.pdf (last visited Feb. 3, 2024).

COVID-19 pandemic. The CARES Act was passed by Congress on March 25, 2020, and signed into law on March 27, 2020.[8]

Improving Care Planning for Medicare and Medicaid Home Health Services

Prior to the CARES Act, federal law allowed only a physician to order home health services for Medicare and Medicaid recipients.[9] Section 3708 of the CARES Act[10] expanded the allowable ordering provider type to include a nurse practitioner, a clinical nurse specialist, or a physician assistant.[11]

III. Effect of Proposed Changes:

The bill amends s. 409.905, F.S., to authorize an advanced practice registered nurse (APRN) or a physician assistant to order or write prescriptions for Medicaid home health services. The APRN or physician assistant ordering the services may not be employed, under contract with, or otherwise affiliated with the home health agency (HHA) rendering the services.[12]

In order for the Agency for Health Care Administration to reimburse when an APRN or a physician assistant orders or writes prescriptions for HHA services, the bill also requires that:

- The examination of the recipient by the APRN or the physician assistant must happen within the 30 days preceding the initial request for the services and biannually thereafter, which are the same current-law requirements for physicians.
- The national provider identifier, Medicaid identification number, or medical practitioner license number of the APRN or the physician assistant must be listed on the written prescription, the claim for reimbursement, and the prior authorization request, which is also required of physicians under current law.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[8] U.S. Department of the Treasury, *About the CARES Act and the Consolidated Appropriations Act, available at* https://home.treasury.gov/policy-issues/coronavirus/about-the-cares-act (last visited Feb. 3, 2024).
[9] Congress.gov, *H.R.748 – CARES Act, Summary, available at* https://www.congress.gov/bill/116th-congress/house-bill/748 (last visited Feb. 3, 2024).
[10] Kaiser Family Foundation, *The Coronavirus Aid, Relief, and Economic Security Act: Summary of Key Health Provisions, available at* https://www.kff.org/coronavirus-covid-19/issue-brief/the-coronavirus-aid-relief-and-economic-security-act-summary-of-key-health-provisions/ (last visited Feb. 3, 2024).
[11] Congress.gov, *H.R.748 – CARES Act, Text, available at* https://www.congress.gov/bill/116th-congress/house-bill/748/text (last visited Feb. 3, 2024).
[12] Section 409.905(4)(c)3., F.S. However, this subparagraph does not apply to an HHA affiliated with a retirement community, of which the parent corporation or a related legal entity owns a rural health clinic certified under 42 CFR part 491, subpart A, ss. 1-11, a nursing home licensed under part II of ch. 400, F.S., or an apartment or single-family home for independent living. For purposes of this subparagraph, the AHCA may, on a case-by-case basis, provide an exception for medically fragile children who are younger than 21 years of age.

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:

By allowing an advance practice registered nurse or a physician assistant to order Medicaid home health services that only physicians may order under current law, the bill might streamline the provision of such services in the Medicaid program.

C. Government Sector Impact:

The bill has no fiscal impact on state revenues or state expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.905 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 February 6, 2024:
The committee substitute removes Section 1 and Section 2 of the underlying bill and further amends s. 409.905, F.S., to authorize both advance practice registered nurses and physician assistants to order and prescribe Medicaid home health services in the same capacity as a physician.

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 Trumbull

588-02976-24 20241798c1

A bill to be entitled

An act relating to home health care services; amending s. 409.905, F.S.; authorizing advanced practice registered nurses and physician assistants to order or write prescriptions for certain Medicaid services; providing an effective date.

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

Section 1. Paragraph (c) of subsection (4) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(4) HOME HEALTH CARE SERVICES.—The agency shall pay for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient

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588-02976-24 20241798c1

living at home. An entity that provides such services must be licensed under part III of chapter 400. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility.

(c) The agency may not pay for home health services unless the services are medically necessary and:

1. The services are ordered by a physician, an advanced practice registered nurse, or a physician assistant.

2. The written prescription for the services is signed and dated by the recipient's physician, advanced practice registered nurse, or physician assistant before the development of a plan of care and before any request requiring prior authorization.

3. The physician, advanced practice registered nurse, or physician assistant ordering the services is not employed, under contract with, or otherwise affiliated with the home health agency rendering the services. However, this subparagraph does not apply to a home health agency affiliated with a retirement community, of which the parent corporation or a related legal entity owns a rural health clinic certified under 42 C.F.R. part 491, subpart A, ss. 1-11, a nursing home licensed under part II of chapter 400, or an apartment or single-family home for independent living. For purposes of this subparagraph, the agency may, on a case-by-case basis, provide an exception for medically fragile children who are younger than 21 years of age.

4. The physician, advanced practice registered nurse, or physician assistant ordering the services has examined the recipient within the 30 days preceding the initial request for

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the services and biannually thereafter.

5. The written prescription for the services includes the recipient's acute or chronic medical condition or diagnosis, the home health service required, and, for skilled nursing services, the frequency and duration of the services.

6. The national provider identifier, Medicaid identification number, or medical practitioner license number of the physician, advanced practice registered nurse, or physician assistant ordering the services is listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

Section 2. This act shall take effect July 1, 2024.

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The Florida Senate

APPEARANCE RECORD

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Meeting Date	Committee	Bill Number or Topic	Amendment Barcode (if applicable)
		SB-1798	

Name Bobby Lolley Homeowners Association Phone 850 567-1951

Address 1110 Coe Landing Rd Email blolley@homeownersfla.org

Street

Tallahassee FL 32312

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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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 Committee on Fiscal Policy

BILL:	CS/SB 7052
INTRODUCER:	Fiscal Policy Committee; Committee on Children, Families, and Elder Affairs
SUBJECT:	Economic Self-Sufficiency
DATE:	February 23, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hall	Tuszynski		**CF Submitted as Comm. Bill/Fav**
2.	Hall	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities. The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Program (SNAP) or food assistance, the Temporary Assistance for Needy Families (TANF) Temporary Cash Assistance (TCA) program, and the School Readiness Program (SR). In Florida, the majority of the participants in these programs are children.

While the goal of public assistance is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A "benefit cliff" occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public assistance funds that follows. Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, especially when the benefit lost was essential to a parent's ability to reliably work.

CS/SB 7052 revises various components of the Temporary Assistance for Needy Families program (TANF), also known as Temporary Cash Assistance (TCA) and the Supplemental Nutrition Assistance Program (SNAP). The bill creates case management as a transitional benefit for families transitioning from TCA. The bill requires CareerSource Florida to use a tool to demonstrate future financial impacts of changes to benefits and income and local workforce boards to administer, analyze, and use data from intake and exit surveys of TCA recipients.

The bill requires the Department of Children and Families (DCF) to expand mandatory SNAP Employment and Training participation to include adults ages 18-59, who do not have children under age 18 in the home, or otherwise qualify for an exemption.

The bill also creates the School Readiness Plus Program that provides a child care subsidy for families deemed ineligible on redetermination for the SR program, but have income between 85 and 100 percent of the state median income.

The bill has an indeterminate negative fiscal impact on state government and provides an appropriation for the implementation of the School Readiness Plus Program. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Public Assistance Programs

Public assistance programs help low-income families meet their basic needs, such as housing, food, and utilities.[1] The social safety net for American families depends on the coordination of a complex patchwork of federal, state, and local funding and program administration.[2] Through various programs, public assistance is capable of helping families to keep children in their family home through economic difficulties[3] and reducing the material hardship that has been linked to negative outcomes in children[4], as well as driving the economy in times of market downturns[5] and supporting the career advancement of low-income adults striving to break the cycle of intergenerational poverty.[6]

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[1] National Conference of State Legislatures, *Introduction to Benefits Cliffs and Public Assistance Programs* (2023), available at https://www.ncsl.org/human-services/introduction-to-benefits-cliffs-and-public-assistance-programs (last visited January 24, 2024).

[2] Brookings Institute, *State Social Safety Net Policy: How are States Addressing Economic Need?* (2023), available at https://www.brookings.edu/events/state-social-safety-net-policy-how-are-states-addressing-economic-need/ (last visited January 24, 2024).

[3] Providing assistance to needy families so that children can be cared for in their own homes is one of the four purposes of the TANF program. *See* Office of Family Assistance, *About TANF* (2022), available at https://www.acf.hhs.gov/ofa/programs/tanf/about (last visited January 24, 2024). See also Gennetian, L. & Magnuson, K., *Three Reasons Why Providing Cash to Families with Children is a Sound Policy Investment* (2022). Center on Budget and Policy Priorities, available at https://www.cbpp.org/research/income-security/three-reasons-why-providing-cash-to-families-with-children-is-a-sound (last visited January 24, 2024).

[4] Karpman, M., Gonzalez, D., Zuckerman, S., & Adams, G., *What Explains the Widespread Material Hardships among Low-Income Families with Children?* (2018). Urban Institute, available at https://www.urban.org/sites/default/files/publication/99521/what_explains_the_widespread_material_hardship_among_low-income_families_with_children_0.pdf (last visited January 24, 2024).

[5] Vogel, S., Miller, C., & Rolston, K., *Impact of USDA's Supplemental Nutrition Assistance Program (SNAP) on Rural and Urban Economies in the Aftermath of the Great Recession* (2021). USDA, Economic Research Service Economic Research Report Number 296, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3938336 (last visited January 24, 2024).

[6] Duncan, G., & Holzer, H., Policies that Reduce Intergenerational Poverty (2023). The Brookings Institute, available at https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/ (last visited January 24, 2024).

The process of facilitating the broad, conceptual goals of public assistance programs involves several federal programs with different levels of flexibility for states to tailor the programs to their own populations. The specific eligibility criteria and participation requirements vary by program through complementary state and federal policy.

The most commonly utilized public assistance programs in Florida include Medicaid, the Supplemental Nutrition Assistance Programs (SNAP) or food assistance, and the Temporary Assistance for Needy Families (TANF), or Temporary Cash Assistance (TCA) program. In Florida, the majority of participants in one or more of these programs are children; in May 2021, children accounted for roughly 60 percent of the total participants in any of these three programs. At that time, 54 percent of children in Florida were participating in at least one of these public assistance programs.[7]

Barriers to Economic Self-Sufficiency

Benefit Cliffs

While the goal of public assistance programs is, generally, to ensure that a family's basic needs are met and facilitate economic advancement, families often exit programs before they are truly capable of maintaining self-sufficiency. A benefit cliff occurs when a modest increase in wages results in a net loss of income due to the reduction in or loss of public benefits that follows.[8]

Benefit cliffs create a financial disincentive for low-income individuals to earn more income due to the destabilization and uncertainty that often results from a loss in benefits, especially when the benefit lost was essential to a parent's ability to reliably work, such as child care.[9] The fear of an impending benefit cliff can be sufficient to discourage career advancement. The complex nature of public assistance programs contributes to workers struggling to understand the timing and magnitude of benefits loss. This uncertainty, paired with economic insecurity, can prevent individuals from seeking or accepting opportunities for career advancement.[10]

The most significant benefit cliffs occur when a family loses housing or child care assistance. While a family is receiving housing and/or child care benefits, the costs for these necessities are a defined, affordable share of the family's income, but those expenses can skyrocket when the family enters the private market where there are no controls on prices.[11]

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[7] Office of Program Policy Analysis and Government Accountability (OPPAGA). *Research Memorandum: Economic Self-Sufficiency*, Research Product 10. On file with the Senate Children, Families, and Elder Affairs Committee.
[8] Altig, D., Illin, E., Ruder, A., Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of the Health Care Services Career Pathway* (2020). The Federal Reserve Bank of Atlanta, available at https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement (last visited January 24, 2024).
[9] *Id.*
[10] Federak Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*, available at https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool (last visited January 24, 2024).
[11] Ettinger de Cuba, S., *Cliff Effects and the Supplemental Nutritional Assistance Program* (2017), Federal Reserve Bank of Boston, available at https://www.bostonfed.org/publications/communities-and-banking/2017/winter/cliff-effects-and-the-supplemental-nutrition-assistance-program.aspx#ft7 (last visited January 24, 2024).

Recidivism

Recidivism occurs when a family leaves an assistance program due to increased income and then returns to the program within two calendar years.[12] Some degree of recidivism is expected; assistance programs exist to support families through financial hardship and, regardless of personal planning, unanticipated events can cause families to find themselves financially unstable once again. A high rate of recidivism, however, indicates that families are not exiting a program at a point where they are able to maintain self-sufficiency. Due to the structure of some public benefits programs, families may be exiting the program into financially tenuous situations and without a clear path for upward mobility.[13]

Program recidivism is exacerbated by factors like the benefits cliff, where families are exiting a program with fewer net resources, and persistent barriers to employment that were not sufficiently addressed before the family exited the program.

Child Care

The lack of child care services presents a significant barrier to employment for the parents of small children. Rather than a personal, individual barrier to employment, the inaccessibility of child care is a structural problem that influences the behavior and economic outcomes for a broad swath of Americans. It is estimated that only 44 percent of U.S. families with children under the age of 13 can afford the full price of childcare without having to sacrifice other basic needs such as housing, food, healthcare, and transportation.[14]

The unavailability of appropriate, high quality child care affects both how parents participate in the workforce and children's development. Parents who want to work may have to work fewer hours or turn down higher-paying jobs in order to remain ineligible for child care assistance programs.[15] There is a significant economic impact associated with parents opting out of the workforce, or choosing to remain in lower-paying jobs, due to the inaccessibility of quality, affordable child care.[16]

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[12] CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study* (2023). On file with Senate Children, Families, and Elder Affairs Committee.

[13] Bourdeaux, C. & Pandey, L., *Report on the Outcomes and Characteristics of TANF Leavers* (2017). Georgia State University, Center for State and Local Finance, available at https://cslf.gsu.edu/download/outcomes-and-characteristics-of-tanf-leavers/?wpdmdl=6494571&refresh=5f7852f89a8bc1601721080 (last visited January 24, 2024).

[14] Birken, B., Ilin, E., Ruder, A., & Terry, E., *Restructuring the Eligibility Policies of the Child Care and Development Fund to Address Benefit Cliffs and Affordability: Florida As a Case Study* (2021). Federal Reserve Bank of Atlanta, available at https://www.atlantafed.org/-/media/documents/community-development/publications/discussion-papers/2021/01-restructuring-the-eligibility-policies-of-the-child-care-and-development-fund-to-address-benefit-cliffs-and-affordability-2021-06-18.pdf (last visited January 24, 2024).

[15] Morrisey, T.W., *Child Care and Parent Labor Force Participation: A Review of the Research Literature* (2017). Rev Econ Household 15, 1-24. Available at https://link.springer.com/article/10.1007/s11150-016-9331-3 (last visited January 24, 2024).

[16] For more information on this economic impact, see, Altig, D., Ilin, E., Ruder, A., & Terry, E., *Benefits Cliffs and the Financial Incentives for Career Advancement: A Case Study of a Health Care Career Pathway* (2020). Federal Reserve Bank of Atlanta, available at https://www.atlantafed.org/community-development/publications/discussion-papers/2020/01/31/01-benefits-cliffs-and-the-financial-incentives-for-career-advancement (last visited January 24, 2024); and Council of Economic Advisers, *The Role of Affordable Child Care in Promoting Work Outside the Home* (2019) , available at https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/12/The-Role-of-Affordable-Child-Care-in-Promoting-Work-Outside-the-Home-1.pdf (last visited January 24, 2024).

For parents who choose to remain in the workforce, the inability to afford quality child care can have negative effects on children's development. Parents may have to reduce their standard of living in order to afford child care and continue to work; if this results in the sacrifice of adequate housing and health care, this can adversely affect parents as well as children ad lead to financial and psychological stress.[17] Alternatively, parents may choose lower quality child care that is more affordable. The quality of child care, however, matters for the healthy development of children at early ages.[18] Low quality child care can adversely affect children's task attentiveness and emotional regulation;[19] whereas high quality child care has been associated with positive outcomes such as fewer reports of problem behaviors, higher cognitive performance, and higher language skills.[20]

Education

A person's level of educational attainment has a significant impact on the employment opportunities available to that person and on his or her capacity for upward economic mobility over time. A person who attained at least a high school diploma, or the equivalent,[21] has access to further education and professional development that are not available to individuals who did not complete high school. Higher levels of educational attainment are associated with higher employment rates and higher median earnings.[22] For example, in 2022, the employment rate for adults ages 25 to 24 ranged from 61 percent among individuals who had not completed high school[23] to 87 percent for those with a bachelor's degree or higher.[24]

The lack of a high school diploma, or the equivalent, complicates the transition to adulthood. Among youth who do not pursue post-secondary education, having a high school diploma leads to significantly more time employed during the early years of adulthood.[25] The top risk factor for homelessness among young adults is the lack of a high school diploma or an equivalent

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[17] *Supra*, note 14.
[18] *Id.*
[19] Gialamas, A., Mittinty, M., Sawyer, M., Zubrick, S., & Lynch, J., *Child Care Quality and Children's Cognitive and Socio-Emotional Development: an Australian Longitudinal Study* (2014). Early Child Development and Care 184 (7): 977–997.
[20] National Institute of Child Health and Human Development (NICHD), *Early Child Care Research Network. The NICHD Study of Early Child Care and Youth Development* (2005) , available at https://www.nichd.nih.gov/sites/default/files/publications/pubs/documents/seccyd_06.pdf (last visited January 24, 2024).
[21] The most commonly recognized high school equivalent is the General Educational Development (GED) credential. GED credentials are an alternative credential for individuals who did not complete high school. The FED is accepted by most colleges and universities that require a high school diploma for admission, and most companies that have positions requiring a high school diploma accept the GED as an alternative credential. For more information, see Stark, P. & Noel, A., *Trends in High School Dropout and Completion Rates in the United States: 1972-2012* (2015). US Department of Education, National Center for Education Statistics, available at https://eric.ed.gov/?id=ED557576 (last visited January 25, 2024).
[22] US Department of Education, *Report on the Condition of Education 2023* (2023) , available at https://nces.ed.gov/pubs2023/2023144rev.pdf (last visited January 25, 2024).
[23] "High school completion" includes those who graduated from high school with a diploma, as well as those who completed a high school equivalency program, such as obtaining GED credentials.
[24] Supra, note 22; *see also* Stark, P. & Noel, A., *Trends in High School Dropout and Completion Rates in the United States: 1972-2012* (2015). US Department of Education, National Center for Education Statistics, available at https://eric.ed.gov/?id=ED557576 (last visited January 25, 2024).
[25] McDaniel, M. & Kuehn, D., *What Does a High School Diploma Get You? Employment, Race, and the Transition to Adulthood* (2013). The Review of Black Political Economy. 40, 371-399, available at https://journals.sagepub.com/doi/10.1007/s12114-012-9147-1 (last visited January 25, 2025).

credential.[26] There are a variety of other long-term negative outcomes associated with dropping out of high school, such as lower median income[27], higher rates of criminal activity, higher rates of unemployment and incarceration, and poorer health.[28]

Personal, social, and economic reasons may lead an individual to not complete high school; however, generally, people who did not complete high school are more likely to have grown up in low-income, single-parent households and lived in distressed communities than their counterparts who complete high school.[29] For low-income youths living in areas with high rates of income inequality, this has been tied to a perceived lower rate of return on investment for continuing high school.[30] This phenomena is consistent with the patterns of intergenerational poverty in the U.S.

Intergenerational Poverty

Intergenerational poverty occurs when individuals who grew up in families with incomes below the poverty line are themselves poor as adults. Children living in families with low incomes face an array of challenges that place them at a much higher risk of experiencing poverty in adulthood compared with other children.[31] As a result, roughly one-third of children who grow up poor in the U.S. will also experience poverty as adults.[32]

There are numerous social and cultural factors that contribute to intergenerational poverty, but key drivers influencing intergenerational mobility include:[33]

- Education, spanning early education to career training;
- Children's health and access to health care;
- Family employment, income, and wealth; and
- Crime and involvement with the criminal justice system.

Temporary Assistance for Needy Families (TANF)

The Temporary Assistance for Needy Families (TANF) system was established at the federal level in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act

[26] Morton, M.H., Dworsky, A., & Samuels, G.M., *Missed opportunities: Youth homelessness in America*. National estimates (2017). Chicago, IL: Chapin Hall at the University of Chicago, available at https://www.chapinhall.org/wp-content/uploads/ChapinHall_VoYC_NationalReport_Final.pdf (last visited January 25, 2024).
[27] Stark, P. & Noel, A., *Trends in High School Dropout and Completion Rates in the United States: 1972-2012* (2015). US Department of Education, National Center for Education Statistics, available at https://eric.ed.gov/?id=ED557576 (last visited January 25, 2024).
[28] Lansford, J., Dodge, K., Pettit, G., & Bates, J., *A Public Health Perspective on School Dropout and Adult Outcomes: A Prospective Study of Risk and Protective Factors from Age 5 to 27 Years* (2016). Journal of Adolescent Health. 58. 652-658, available at https://www.jahonline.org/article/S1054-139X(16)00049-5/fulltext (last visited January 25, 2024).
[29] *Supra*, note 25.
[30] Kearney, M. & Levine, P., *Income Inequality, Social Mobility, and the Decision to Drop Out of High School (2016). Brookings Papers on Economic Activity*, available at https://www.brookings.edu/wp-content/uploads/2016/03/kearneytextspring16bpea.pdf (last visited January 25, 2024).
[31] National Academy of Sciences, Engineering, and Medicine, *Reducing Intergenerational Poverty* (2023). Washington, D.C.: The National Academies Press, available at https://nap.nationalacademies.org/catalog/27058/reducing-intergenerational-poverty (last visited January 25, 2024).
[32] *Id.* For comparison, 17% of people who did not grow up in low-income environments will experience poverty as adults.
[33] Id. See also Duncan, G. & Holzer, H., Policies that Reduce Intergenerational Poverty (2023). Brookings Institute, available at https://www.brookings.edu/articles/policies-that-reduce-intergenerational-poverty/ (last visited January 25, 2024).

(PRWORA) of 1996.[34] PRWORA ended the Aid to Families with Dependent Children (AFDC) program, a federal program which provided dedicated funding for cash assistance to needy families with children, and alternatively, created the broad-purpose TANF block grant.[35] TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005. The TANF block grant annually distributes federal funds to states, territories, and tribes to accomplish four federally defined purposes:[36]

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.

TANF itself is not a single cohesive program; rather, it is a system of funding streams used at the state and local level to provide a wide range of benefits, services, and activities with the general aim of minimizing the effects, or addressing the root causes, of childhood economic disadvantage.[37] States use TANF funds to operate state-designed and state-administered programs with significant discretion in how the funds are used to achieve the statutory goals of TANF.[38] Most federal regulation of TANF-funded state programs relate to funding spent on direct cash assistance and the recipients of such assistance.[39]

TANF is funded through both federal and state dollars. The basic federal grant amount and minimum state amounts are set by law, based on expenditures in the pre-TANF programs in the early- to mid-1990s, and have not been adjusted for inflation or other changes in circumstances. States are required to contribute nonfederal "maintenance of effort" (MOE) funds based on state spending in the pre-TANF welfare programs. A state's required MOE contribution is lowered for states who have met the federal work participation standard for TANF recipients.[40]

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[34] Center on Budget and Policy Priorities, *Policy Basics: Temporary Assistance for Needy Families* (2022) , available at https://www.cbpp.org/research/family-income-support/policy-basics-an-introduction-to-tanf#:~:text=States%20can%20use%20federal%20TANF,%2C%20and%20marriage%3B%20(3) (last visited January 25, 2024). See also U.S. Department of Health and Human Services, Office of Family Assistance, *Major Provisions of the Welfare Law* (1997) , available at https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law (last visited January 25, 2024).

[35] Congressional Research Service. *Temporary Assistance for Needy Families: The Decline in Assistance Receipt Among Eligible Individuals* (2023) , available at https://crsreports.congress.gov/product/pdf/R/R47503 (last visited January 25, 2024).

[36] U.S. Department of Health and Human Services. *About TANF* (2022) , available at https://www.acf.hhs.gov/ofa/programs/tanf/about (last visited January 25, 2024).

[37] Congressional Research Service. *The Temporary Assistance for Needy Families (TANF) Block Grant: A Primer on TANF Financing and Federal Requirements* (2023) , available at https://crsreports.congress.gov/product/pdf/RL/RL32748 (last visited January 25, 2024).

[38] *Supra*, note 36.

[39] *Supra*, note 37.

[40] *Id*.

Florida's Temporary Cash Assistance (TCA) Program

Direct cash assistance to needy families is the foundation of public welfare in the U.S.[41] prior to the establishment of TANF in 1996, direct cash assistance to needy families was the primary method of providing support to low-income families with children. Since the transition to the TANF block grant system, the number of families receiving direct cash assistance has waned significantly, even among eligible populations, and the majority of TANF funds are allocated for indirect methods of assisting families.[42]

The Temporary Cash Assistance (TCA) Program is Florida's direct cash assistance program for needy families. The TCA program is one of several Florida programs funded with the TANF block grant. Through the TCA program, families who meet specific technical, income, and asset requirements[43] may receive cash assistance in the form of monthly payments deposited into an electronic benefits transfer (EBT) account.[44]

The TCA program is administered by several state agencies through a series of contracts and memoranda of understanding. The Department of Children and Families (DCF) receives the federal TANF block grant funds, processes applications, determines initial eligibility, monitors ongoing eligibility, and disburses benefits to recipients. The Department of Commerce[45] (Florida Commerce) is responsible for financial and performance reporting to ensure compliance with federal and state measures and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.[46] CareerSource Florida has planning and oversight responsibilities for all workforce-related programs and contracts with the LWDBs on a performance-basis.[47]

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[41] Public cash assistance to needy families has its origins in the early 1900s; state and local entities financed "mother's pension" programs that provided support to single, often widowed, mothers so that children could be raised in their family homes rather than be institutionalized. *See* Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: A Legislative History* (2023) , available at https://crsreports.congress.gov/product/pdf/R/R44668 (last visited January 25, 2024).

[42] *Supra*, note 35.

[43] Children must be under the age of 18, or under age 19, if they are full-time secondary school students. Parents, children, and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy. *See* Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*, available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited January 25, 2024).

[44] Florida Department of Children and Families, *Temporary Cash Assistance Fact Sheet* (2019), available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited January 25, 2024).

[45] The Department of Commerce, formerly known as the Department of Economic Opportunity, was renamed as such in the 2023 Legislative session. *See* Ron DeSantis, *Governor DeSantis Signs Legislation to Streamline Economic Development in Florida* (2023), available at https://www.flgov.com/2023/05/31/governor-desantis-signs-legislation-to-streamline-economic-development-in-florida/ (last visited January 25, 2024).

[46] Florida Department of Commerce, CareerSource Florida, *Workforce Innovation and Opportunity Act Annual Statewide Performance Report* (2023), available at https://careersourceflorida.com/wp-content/uploads/2023/12/2022-23-WIOA-Annual-Performance-Report.pdf (last visited January 25, 2024).

[47] *Id.*

The number of families receiving TCA dramatically increased during the COVID-19 pandemic, peaking at more than 50,000 families receiving TCA payments in July 2020.[48] While TCA caseloads have not yet returned to pre-pandemic levels, they have decreased steadily since July 2020. In November 2023, 34,015 families, including 44,309 children, received TCA.[49] Since 2016, Florida's recidivism rate for the TCA program has averaged 30 percent' approximately one third of families exiting TCA due to earned income were not successful in maintaining self-sufficiency.[50]

TCA Eligibility

States have broad discretion in determining who is eligible for cash assistance. Florida's TCA program requires applicants to meet all of the following criteria in order to be eligible:[51]

- Be a U.S. citizen or qualified noncitizen in accordance with federal and state law;
- Be a legal resident of Florida;
- Have a minor child residing with a custodial parent or relative caregiver, or be a pregnant woman in the ninth month of pregnancy;
- Have a gross income of 185 percent or less of the federal poverty level;[52]
- Have liquid or nonliquid resources, of all members of the family, valued at less than $2,000;[53]
- Register for work with the Local Workforce Development Board (LWDB), unless an applicant qualifies for an exemption.

In Florida, TCA eligible families fall into one of two case categories: work-eligible or child-only.[54] Work-eligible cases generally include adult or teenaged heads of household who are subject to work requirements and qualify for benefits based on the needs of the full family so long as work requirements are met. Child-only cases make up roughly half of TCA cases and include households wherein there is no work-eligible adult, such as participants in the Relative Caregiver Program;[55] such cases receive TCA benefits based only on the needs of the child

[48] Florida Department of Children and Families, *ESS Standard Reports: Caseload Report*, available at https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard (last visited January 25, 2024).
[49] Florida Department of Children and Families, *ESS Standard Reports: Flash Points*, available at https://www.myflfamilies.com/services/public-assistance/additional-resources-and-services/ess-standard (last visited January 25, 2024).
[50] CareerSource Florida, Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasability Study
[51] Florida Department of Children and Families, *Temporary Assistance for Needy Families – State Plan Renewal*, October 1, 2020 – September 30, 2023, available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf (last visited January 25, 2024).
[52] Gross income cannot exceed 185% FPL, and a family's countable income cannot exceed the payment standard for the family size. There is a $90 deduction on earned income per individual. See Florida Department of Children and Families, *Temporary Cash Assistance (TCA)*, available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited January 25, 2024).
[53] Licensed vehicles with a combined value of not more than $8,500 are excluded if a family includes individuals subject to the work requirement, or if the vehicle is necessary to transport a disabled family member and the vehicle has been specially equipped to transport the disabled person. See s. 414.075, F.S.
[54] Section 414.045, F.S.
[55] The Relative Caregiver Program provides financial assistance to relatives who are caring full-time for an eligible child as an alternative to the child being placed in foster care. *See* Florida Department of Children and Families, *Temporary Cash*

rather than the full family. As of November 2023, there were 16,425 child-only TCA cases and 17,590 cases including an adult.[56]

Florida imposes a lifetime limit of 48 cumulative months for an adult to be eligible for and receive cash assistance. Current law outlines specific, limited circumstances under which a person may be exempt from the time limitation. LWDBs are required to interview and assess the employment prospects and barriers of each participant who is within six months of reaching the 48-month time limit;[57] however, few families exit TCA due to the time limit. Most households receive TCA for fewer than six months.[58]

TCA Monthly Payment Maximums[59]			
	Shelter Obligation[60]		
Family Size	$50.01 and up Payment Standard	$0.01-50.00 Payment Standard	$0 Payment Standard
1	$180	$153	$95
2	$241	$205	$158
3	$303	$258	$198
4	$364	$309	$254
5	$426	$362	$289
6	$487	$414	$346
7	$549	$467	$392
8	$610	$519	$438
Additional Person	+$62	+$52	+$48

TCA Work Requirement

To be eligible for full-family TCA, work-eligible adult family members must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.[61] Individuals who fail to comply with the work requirements may be sanctioned.[62] TCA applicants who are determined by DCF to not be exempt from the work requirement are referred by DCF to Florida Commerce for work registration and intake processing. DCF does not disburse benefits until Florida Commerce, or the LWDB, if applicable, has confirmed that the participant has registered for and attended orientation.

Assistance (TCA), available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited January 25, 2024).

[56] *Supra*, note 49.

[57] Section 414.105, F.S.

[58] CareerSource Florida, *Temporary Assistance for Needy Families (TANF) Transitional Benefits Feasibility Study* (2023), on file with the Senate Children, Families, and Elder Affairs Committee.

[59] DCF, Temporary Cash Assistance Fact Sheet (2019), available at https://www.myflfamilies.com/sites/default/files/2022-10/tcafactsheet_0.pdf (last visited January 25, 2024).

[60] "Shelter obligation" reflects housing expenses, such as rent payments.

[61] Section 414.095(1), F.S. a person may be exempted from the work requirement if they receive benefits under the Supplemental Security Income Program or the Security Disability Program, is a single parent of a child under three months of age (parenting preparation activities may be alternatively required), is exempt from the TCA limitation due to the hardship or not considered work-eligible under federal policy. See also DCF, Temporary Assistance for Needy Families – State Plan Renewal, October 1, 2020 – September 30, 2023, available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF-Plan.pdf (last visited January 25, 2024).

[62] Section 414.065, F.S.

Upon referral, the participant must complete an intake application and undergo assessment by LWDB staff which includes:[63]

- Identifying barriers to employment.
- Identifying the participant's skills that will translate into employment and training opportunities.
- Reviewing the participant's work history.
- Identifying whether the participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create an individual responsibility plan (IRP). The IRP includes:[64]

- The participant's employment goal;
- The participants assigned activities;
- Services provided through program partners, community agencies, and the workforce system;
- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be exempted from the activity for a specified period of time.[65] To be excused from the work activity requirements, the participant's medical incapacity must be verified by a physician, in accordance with the procedures established by DCF.[66]

Qualifying Work Activities

Pursuant to state and federal law, there are 12 distinct types of work activities which can be used to satisfy a TCA recipient's work requirement.[67] The 12 activities are categorized as either "core" or "supplemental" activities; such categorization impacts how the activity is counted toward a TCA recipient's work requirement.

Work Activities	
"Core" Activities	**"Supplemental" Activities**
• Unsubsidized employment • Subsidized private-sector employment • Subsidized public-sector employment • Work experience • On-the-job training • Job search and job readiness assistance • Community service programs • Vocational educational training	• Job skills training directly related to employment • Education directly related to employment • Completion of a secondary school program

[63] *Supra*, note 51.
[64] *Id.*
[65] Section 414.065(4)(d), F.S.
[66] Rule 65A-4.206(2) – (3), F.A.C.
[67] 45 CFR 261-30; s. 445.024(1), F.S.; *see also* DCF, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements* (2016), available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 25, 2024).

• Providing child care services to an individual participating in a community service program	

While each of these activities may contribute toward a TCA recipient's work requirement, federal policy limits the extent to which certain activities may satisfy the work requirement. Federal and state law further limits how the different work activities may count toward a person's work requirement based on the characteristics of the individual and the length of time in which the individual engages in the activity.[68]

The number of required work participation hours and the ratio of "core" to "supplemental" work activities is determined by the structure of the recipient family. "Core" activities can contribute to the entirety of a TCA recipient's required work activity hours, while "supplemental" activities may only contribute after a recipient has completed the required hours of "core" activities. The number of work-eligible adults and the age of children in the family impact the required work participation hours.[69] For example, education directly related to employment includes activities such as GED examination prep courses, but these activities only count toward the full work participation hours of parents under the age of 20; once a parent is over 20 years of age, they can no longer county GED prep courses toward their total required work activity hours.

Work Participation Requirements	
Family Composition	**Required Work Participation Hours**
Single parent with a child under age 6	20 hours weekly of "core" work activities
Single parent with a child over 6, or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours of "core" work activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent, or participates in education related directly to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours weekly with at least 30 hours of "core" work activities, combined between both parents
Two-parent families who receive subsidized child care	55 hours weekly with at least 50 hours in "core" activities, combined between both parents

Sanctions for Noncompliance

TCA recipients who fail to comply with work requirements may be sanctioned by the LWDBs. Sanctions result in cash assistance being withheld for a specified period of time, the length of which increases with repeated lack of compliance.[70] The process for imposing sanctions involves coordination between agencies; the LWDB first becomes aware of the noncompliance, Florida Commerce tracks compliance and notifies recipients of possible adverse action, and DCF applies the sanctions. [71]

[68] 45 CFR § 261.31; s. 445.024, F.S.; *see also* Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities*, available at https://crsreports.congress.gov/product/pdf/R/R44751 (last visited January 26, 2024).
[69] DCF, *Temporary Assistance for Needy Families (TANF) – An Overview of Program Requirements*, available at https://www.myflfamilies.com/sites/default/files/2022-10/TANF%20101%20final_1.pdf (last visited January 26, 2024).
[70] Section 414.065, F.S.
[71] Office of Program Policy Analysis & Government Accountability, Mandatory Work Requirements for Recipients of Food Assistance and Cash Assistance Programs, p. 4. On file with Senate Children, Families, and Elder Affairs Committee.

When a participant fails to comply with a mandatory work activity, the LWDB records the noncompliance in Florida Commerce's tracking system and sends the recipient a notice of adverse action; the recipient then has 10 days to contact Florida Commerce to show good cause[72] for missing the requirement.[73] During the 10-day waiting period, the LWDB must make both oral and written attempts to contact the participant to:[74]

- Determine if the participant had good cause for failing to meet the work requirement;
- Refer to or provide services to the participant, if appropriate, to assist with the removal of barriers to participation;
- Counsel the participant on the consequences for failure to comply with work or alternative requirement plan activity requirements without good cause;
- Provide information on transitional benefits if the participant subsequently obtained employment; and
- Make sure the participant understands that compliance with work activity requirements[75] during the 10-day period will avoid the imposition of a sanction.

If the recipient complies within 10 days, the LWDB does not request a sanction. However, if the recipient does not show good cause to the LWDB and does not comply, the LWDB sends DCF a sanction request.[76] Once DCF receives the sanction request from the LWDB, it then sends the recipient a notice of intent to sanction.[77] If the recipient does not show good cause within 10 days, the recipient is sanctioned by DCF, and DCF notifies Florida Commerce.[78]

Section 414.065(4), F.S., allows for noncompliance related to the following to constitute exceptions to the penalties for noncompliance with work participation requirements:

- Unavailability of child care in certain circumstances[79]
- Treatment or remediation of past effects of domestic violence;
- Medical incapacity;
- Outpatient mental health or substance abuse treatment; and
- Decision pending or Supplemental Security Income or Social Security Disability Income.

Section 414.065(4)(g), F.S., grants rulemaking authority to DCF to determine other situations that would constitute good cause for noncompliance with work participation requirements. It

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[72] *Id.* DCF captures limited information regarding good cause for noncompliance in three categories: temporary illness, household emergency, and temporary transportation unavailable.
[73] *Id.* at 11. *See also* Rule 65A-4.205(3), F.A.C.
[74] Rule 65A-4.205(3), F.A.C.
[75] The LWDB designee must provide the participant with another work activity within the 10-day period if it is impossible for the participant to comply with the original assigned activity.
[76] *Supra*, note 71. DCF only receives a request for sanction and not the reasons for the sanction. *See also* Rule 65A-4.205(4), F.A.C.
[77] *Id.*
[78] *Id. See also* Rule 65A-4.205(4), F.A.C.
[79] Specifically, if the individual is a single parent caring for a child who has not attained six years of age, and the adult provides to the LWDB an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 CFR part 98: (1) the unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (2) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (3) the unavailability of appropriate and affordable formal child care arrangements. S. 414.065(4)(a), F.S.

specifies that these situations must include caring for a disabled family member when the need for the care has been verified and alternative care is not available.[80]

Florida Commerce classifies reasons for sanctions for noncompliance in the following categories:[81]

- Failure to respond to a mandatory letter.[82] Typically, this is the letter recipients receive from Florida Commerce upon referral from DCF requiring them to register with Florida Commerce.
- Failure to attend a work activity.
- Failure to turn in a timesheet.
- Failure to attend training.
- Failure to turn in necessary documentation.

Consequences of sanctions are as follows:[83]

- First noncompliance – cash assistance is terminated for the full-family for a minimum of ten days or until the individual complies.
- Second noncompliance – cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance – cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e., the case becomes a child only case). Any such payments must be made through a protective payee, and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements.[84] If a previously sanctioned participant fully complies with work activity requirements for at least six months, then the participant can be reinstated as being in full compliance with program requirements and TCA payments can resume.[85]

Federal Work Participation Standard

The federal government sets a minimum work participation standard which states must meet as a part of the conditions of receiving TANF funding. The work participation standard is intended to measure how a state is performing in engaging TANF recipients in work or work activities and reinforce the programmatic goal of transitioning families from welfare to work.[86] Federal law stipulates that 50 percent of all families and 90 percent of two-parent families must be engaged in work in order to meet the standard[87]; however, in practice, the minimum standard varies by

[80] Section 414.065(4)(g), F.S.
[81] *Supra*, note 71.
[82] *Id.* For work-eligible individuals with at least one sanction in FFY 2017, over half the sanctions were for failure to respond to a mandatory letter in 14 of 24 LWDBs.
[83] Section 414.065(1), F.S.
[84] Section 414.065(2), F.S.
[85] Section 414.065, F.S.
[86] Congressional Research Service, *Temporary Assistance for Needy Families (TANF): The Work Participation Standard and Engagement in Welfare-to-Work Activities*, available at https://crsreports.congress.gov/product/pdf/R/R44751 (last visited January 27, 2024).
[87] 45 CFR § 261.20.

state due to caseload reduction credits a state can earn. For the 2022 fiscal year, Florida's adjusted standard was 12.3% for "all families" and 52.3% for two parent families.[88] States may be subject to penalties if the federal minimum work participation rates are not met, though the federal government may reduce or waive these penalties in negotiation with states.[89]

TANF Transitional Benefits

One of the express goals of the TANF Block Grant program is to end family dependence on public benefits by promoting job preparation and work; this is foundational to the welfare-to-work concept on which the TANF Block Grant is based.[90] Most parents who receive temporary cash assistance benefits work both before and after leaving the program; however, they are predominately employed in low-wage jobs with few options for advancement.[91] TANF transitional benefits help families navigate this period when they become eligible for TCA but are not yet self-sufficient.

TCA recipients who become ineligible due to reasons other than noncompliance with work requirements, such as time limits or earned income, are eligible for transitional benefits intended to reduce the unintended negative effects of the lost benefits. Transitional benefits are designed to support work retention and advancement and assist individuals in achieving economic self-sufficiency.

Families generally become ineligible for TCA when their income reaches 185 percent of the federal poverty level (FPL), at which point they become eligible for transitional benefits.[92] Current law outlines four types of transitional benefits which are available to qualifying former TCA recipients.

Transitional Benefits		
Benefit Type	**Description**	**Eligibility Requirements**
Transitional Child Care[93]	Provides subsidized child care vouchers to families	Available for up to 24 months, with an income cap of 200% FPL
Transitional Medical[94]	Allows families to remain eligible for Medicaid	Available for up to 12 months, with an income cap of 185% FPL after 6 months

[88] US Department of Health & Human Services, Administration for Children and Families, *Temporary Assistance for Needy Families (TANF) and Separate State Programs Maintenance of Effort (SSP-MOE): Work Participation Rates and Engagement in Work Activities Fiscal Year 2022*, available at: https://www.acf.hhs.gov/ofa/data/work-participation-rates-fiscal-year-2022 (last visited January 29, 2024).
[89] 45 CFR § 261.50.
[90] *Supra*, note 86.
[91] Center on Budget and Policy Priorities, *Most Parents Leaving TANF Work, but in Low-Paying, Unstable Jobs, Recent Studies Find*, available at https://www.cbpp.org/research/family-income-support/most-parents-leaving-tanf-work-but-in-low-paying-unstable-jobs (last visited January 27, 2024).
[92] See DCF, Temporary Cash Assistance (TCA), available at https://www.myflfamilies.com/services/public-assistance/temporary-cash-assistance (last visited January 27, 2024). To be eligible, a family's gross income must be less than 185% FPL, and countable income cannot exceed the payment standard for the family size. There is a $90 deduction from each individual's gross earned income.
[93] Section 445.032, F.S.
[94] Section 445.029, F.S.

Transitional Education and Training[95]	Job-related education and training	Available for up to 24 months, with an income cap of 200% FPL
Transitional Transportation[96]	Support typically provided to families in the form of payment for public transportation or gas	Available for up to 24 months, with an income cap of 200% FPL

CareerSource Florida, Inc., administers transitional benefits through the LWDBs. The provision of transitional benefits depends on the LWDBs available resources and funding, as well as the availability of appropriate services locally.[97]

Supplemental Nutrition Assistance Program (SNAP)

Program Overview

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).[98] SNAP is the nation's largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision of funds that can be used to purchase eligible foods.[99] In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the U.S.[100] SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities, as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.[101]

SNAP is a federal program administered at the state level in Florida by DCF.[102] DCF determines and monitors eligibility and disburses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds

[95] Section 445.030, F.S.
[96] Section 445.031, F.S.
[97] CareerSource Florida, Inc., Legislative Inquiry Response (2024), on file with the Senate Children, Families, and Elder Affairs Committee.
[98] The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every $1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity, simplify program administration, maintain states' flexibility in how they administer their programs, and improve access to SNAP. See US Department of Agriculture, Food and Nutrition Service, *Short History of SNAP*, available at https://www.fns.usda.gov/snap/short-history-snap (last visited January 27, 2024).
[99] US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*, available at https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/ (last visited January 27, 2024).
[100] US Department of Agriculture, Food and Nutrition Service, Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households, available at https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics (last visited January 27, 2024).
[101] US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*, available at https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/ (last visited January 27, 2024).
[102] Section 414.31, F.S.

100% of the benefit amount received by participants.[103] Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.[104]

The Thrifty Food Plan, a minimal cost food plan reflects current nutrition standards and guidance, the nutrient content and cost of food, and consumption patterns of low-income households, was developed by the USDA to serve as the basis for the determination of SNAP benefits.[105] SNAP benefits are intended to supplement food purchases made with a household's own income; as such, the formula used to determine SNAP benefits assumes that a household will spend 30 percent of their net income on food purchases.[106] The benefit allotted to SNAP households is equal to the difference between the maximum allotment for their household size and 30 percent of their net income.[107] The structure of this formula ensures that the lowest income households receive the most benefits.

As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.[108]

SNAP Eligibility and Work Requirements

To be eligible for SNAP, households must meet the following criteria: (1) gross monthly income must be at or below 130 percent of the poverty level; (2) net income must be equal to or less than the poverty level; and (3) assets must be below the limits set based on household composition.[109]

Individuals may be deemed ineligible for SNAP due to any of the following:[110]

- Conviction for drug trafficking;
- Fleeing a felony warrant;
- Breaking SNAP or TANF program rules;
- Failure to cooperate with the child support enforcement agency; or
- Being a noncitizen without qualified status.

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[103] Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*, available at https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it (last visited January 27, 2024).

[104] US Department of Agriculture, Food and Nutrition Service, *State Options Report*, available at https://www.fns.usda.gov/snap/waivers/state-options-report (last visited January 27, 2024).

[105] US Department of Agriculture, Food and Nutrition Service, *Nutrition Assistance Program Report: Barriers that Constrain the Adequacy of Supplemental Nutrition Assistance Program Allotments: Survey Findings*, p.9, available at https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-Barriers-SurveyFindings.pdf (last visited January 27, 2024).

[106] *Id.*

[107] *Id.*

[108] Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, Re: SNAP Participants (March 2, 2023), on file with the Senate Children, Families, and Elder Affairs Committee.

[109] US Department of Agriculture, *Indicators of Diet Quality, Nutrition, and Health for Americans by Program Participation Status, 2011-2016: SNAP Report, Final Report* (2021), available at https://fns-prod.azureedge.us/sites/default/files/resource-files/Indicators-Diet-QualitySNAP.pdf (last visited January 27, 2024).

[110] DCF, SNAP Eligibility, available at https://www.myflfamilies.com/services/public-assistance/supplemental-nutrition-assistance-program-snap/snap-eligibility (last visited January 27, 2024). *See also* s. 414.32, F.S.

Able-bodied, non-elderly adults are generally required to participate in work activities in order to be eligible for SNAP. Federal policy outlines two tiers of work requirements for SNAP recipients: the general work requirement and the Able-Bodied Adult Without Dependents (ABAWD) work requirement. The general work requirement applies to all recipients between 16 and 59 years of age, unless they qualify for an exemption.[111] The general work requirements include requiring a recipient register for work, participating in SNAP Employment and Training (E&T) or workfare if assigned, taking a suitable job if offered, and not voluntarily quitting a job or reducing work hours below 30 a week without a good reason.[112]

Adults between age 18 and 52, able-bodied, and without dependents are subject to the ABAWD work requirement and time limit, unless otherwise exempt.[113] ABAWDs are required to work or participate in a qualifying work program for a combined total of at least 80 hours per month. ABAWDs who fail to comply with the ABAWD work requirement for three months in a 36-month period will lose their SNAP benefits.[114]

SNAP Mandatory Employment and Training

SNAP Employment and Training (SNAP E&T) is intended to help SNAP recipients gain skills, training, work, or experience that will help them obtain regular employment. States are required to operate a SNAP E&T program which includes case management and at least one of the following components:

- Supervised job search;
- Job search training;
- Workfare;
- Work experience;
- Education; or
- Self-employment.

Beyond simply requiring a state to operate a SNAP E&T program and setting the minimum components, states have significant flexibility in how they design their SNAP E&T programs in order to meet the needs of SNAP participants and address local workforce needs.[115]

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[111] A person may be excused from the general work requirement if they are already working at least 30 hours per week, meeting the work requirements for another program, taking care of a child under 6 or an incapacitated person, unable to work due to a physical or mental limitation, participating regularly in an alcohol or drug treatment program, or studying in school or a training program at least half-time. *See* US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at https://www.fns.usda.gov/snap/work-requirements (last visited January 27, 2024).

[112] US Department of Agriculture, Food and Nutrition Service, *SNAP Work Requirements*, available at https://www.fns.usda.gov/snap/work-requirements (last visited January 27, 2024).

[113] *Id.* Adults who are unable to work due to a physical or mental limitation, are pregnant, have someone under 18 in their SNAP household, are excused from the general work requirement (see also, note 111), are a veteran, experiencing homelessness, or were in foster care on their 18th birthday and are under the age of 24 are exempt from the ABAWD requirements.

[114] US Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP) ABAWD Policy Guide*, available at https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-ABAWD-Policy-Guide-September-2023.pdf (last visited January 27, 2024).

[115] *Id*.

Florida operates a mandatory SNAP E&T program for adults between the ages of 18 and 59[116] without dependents who are not exempt from the general or ABAWD work requirements. SNAP E&T components that are available to mandatory E&T participants include supervised job search, job search training, work experience, education, vocational training, and job retention services. If DCF determines there is not an appropriate and available SNAP E&T component for an individual, the participant will be exempt from mandatory SNAP E&T participation.[117]

Currently, when ABAWDs are determined eligible for benefits, DCF refers these clients to Florida Commerce and the CareerSource Florida network to engage in a comprehensive assessment to identify barriers to employment, training needs, and professional opportunities. Florida Commerce and CareerSource Florida utilize relationships with educational institutions, private sector employers and programs like apprenticeships to assist Floridians in achieving meaningful employment.[118]

DCF is required to reimburse SNAP E&T participants for all reasonable, allowable, and necessary expenses related to program participation. This may include, but is not limited to, childcare, tuition, books, and work uniforms. If DCF is unable to reimburse the participant, the individual must be exempted from mandatory participation in the SNAP E&T program.[119]

Career Ladder Identifier and Financial Forecaster (CLIFF)

The Career Ladder Identifier and Financial Forecaster (CLIFF) navigator is a suite of tools developed by the Federal Reserve Bank of Atlanta to model the interaction of public benefits, taxes, and tax credits with career advancement. The tool is used to help working families navigate the complex system of public assistance, stabilize their financial situation in the short term, and plan long term career paths.[120]

CareerSource Florida, Inc. partnered with the Federal Reserve Bank of Atlanta to incorporate the CLIFF tool into state workforce programs. A Florida-specific suite of CLIFF tools has been developed and is being introduced into the local workforce development boards' processes, and staff at both CareerSource Florida, Inc. and DCF have received training on the suite of CLIFF tools. The goal of this program is to assist Floridians in identifying career strategies and achieving economic stability while minimizing the negative impacts of losing public assistance.[121]

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[116] In 2024, Florida expanded the definition of mandatory E&T participants to include ABAWDs and work registrants between the ages of 18 and 59 who do not have children in the household. *See* DCF, *Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) State Plan – Federal Fiscal Year 2024*, available at https://www.floridajobs.org/docs/default-source/lwdb-resources/programs-and-resources/snap/florida-fy2024-snap-et-state-plan-final_10-31-2023.pdf?sfvrsn=96c95db0_2 (last visited January 29, 2024).

[117] *Id.*

[118] DCF, *Economic Self-Sufficiency – SNAP Work Requirements Memo*, on file with the Senate Children, Families, and Elder Affairs Committee.

[119] *Id.*

[120] Federal Reserve Bank of Atlanta, *Career Ladder Identifier and Financial Forecaster (CLIFF)*, available at https://www.atlantafed.org/economic-mobility-and-resilience/advancing-careers-for-low-income-families/cliff-tool (last visited January 29, 2024).

[121] CareerSource Florida, *2022-2023 Annual Report*, available at https://careersourceflorida.com/wp-content/uploads/2023/12/CAREERSOURCE-FLORIDA-FY-22-23-ANNUAL-REPORT_DIGITAL.pdf (last visited January 29, 2024).

School Readiness Program

Program Overview

The School Readiness (SR) program is a state-federal partnership between Florida's Division of Early Learning (DEL) within the Florida Department of Education (DOE) and the Office of Child Care of the United States Department of Health and Human Services.[122] The SR program is administered by DEL at the state level and early learning coaliations (ELC) at the county and regional levels.[123] The DEL partners with 30 local ELCs and the Redlands Christian Migrant Association to deliver comprehensive early childhood care and education services statewide.[124] The SR Program is one of three main early learning programs overseen by DEL.[125]

Established in 1999[126], the SR program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.[127] The SR program offers financial assistance for child care to families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screenings and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Child Care Resource and Referral and the Voluntary Prekindergarten Program.[128]

The DCF Office of Child Care Regulation, as the regulatory agency over child care providers, inspects all child care providers that provide the SR services for compliance with specified health and safety standards.[129] In lieu of DCF regulation, counties may designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards.[130] Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. In these five counties the local licensing agency, not DCF, inspects child care providers that provide the SR services for compliance with health and safety standards.[131]

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[122] Florida Department of Education, *What is School Readiness (SR)?*, available at https://www.fldoe.org/schools/early-learning/parents/school-readiness.stml (last visited February 22, 2024).
[123] Section 1002.83, F.S.; *see also* Florida Department of Education, *Division of Early Learning Annual Report 2022-2023*, available at https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf (last visited February 22, 2024).
[124] *Id.*
[125] The DEL also oversees the Voluntary Prekindergarten Program and the Child Care Resource & Referral Programs. *See* Florida Department of Education, Division of Early Learning, *Early Learning*, available at https://www.fldoe.org/schools/early-learning/ (last visited February 22, 2024).
[126] Ch. 99-357, Laws of Fla., S. 1.
[127] Sections 1002.81 and 1002.87, F.S.
[128] Florida Department of Education, Division of Early Learning, *Early Learning*, available at https://www.fldoe.org/schools/early-learning/ (last visited February 22, 2024).
[129] Sections 402.306-402.319 and 1002.88, F.S.
[130] Section 402.306(1), F.S.
[131] *See* Florida Department of Education, *Child Care Development Fund (CCDF) Plan for Florida: FFY 2022-2024*, p. 240, available at https://www.fldoe.org/core/fileparse.php/20628/urlt/2022-2024-CCDF-State-Plan.pdf (last visited February 22, 2024).

School Readiness Program Funding

The SR Program is primarily funded through the federal Child Care and Development Fund (CCDF) Block Grant. The regulations governing the use of CCDF funds authorizes states to use grant funds for child care services if[132]:

- The child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself for herself under court supervision;
- The child's family income does not exceed 85 percent of the state's median income (SMI) for a family of the same size; and
- The child:
  - Resides with a parent or parents who work or attend job training or educational programs; or
  - Receives, or needs to receive, protective services.

In addition to the CCDF Block Grant, the SR program receives additional funding through the Federal TANF Block Grant, Federal Social Services Block Grant, and the General Revenue Fund.[133] The Legislature appropriates the SR program funds to the ELCs and the Redlands Christian Migrant Association, with participating providers receiving their funding primarily from reimbursements from the ELCs and tuition payments by enrolled families.[134] The ELCs reimburse participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.[135] Provider reimbursement rates are based on provider type and the level of care a child receives with consideration of the market rate schedule set by the DOE.[136] The reimbursement rate schedules are set locally by the ELC and must be approved by the DEL.[137]

School Readiness Program Participation and Eligibility

There were 209,986 children enrolled with 6,790 providers in the SR program during the 2022-2023 fiscal year.[138]

Early learning coalitions are required by statute to prioritize the following groups for participation in the SR program[139]:

- Children younger than 13 with a parent receiving temporary cash assistance under ch.414, F.S., and subject to the federal TANF work requierments or a parent who has an Intensive Service Account or an Individual Training Account under s. 445.009, F.S.; and
- At-risk children[140] younger than 9.

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[132] 45 C.F.R. § 98.20(a).
[133] Florida Department of Education, *Division of Early Learning Annual Report 2022-2023*, available at https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf (last visited February 22, 2024).
[134] Sections 1002.84(9) and 1002.89, F.S.
[135] Rule 6M-4.500(1), F.A.C.
[136] *Id.*; *See also* s. 1002.895, F.S.
[137] Rule 6M-4.500(1), F.A.C.
[138] Florida Department of Education, *Division of Early Learning Annual Report 2022-2023*, available at https://www.fldoe.org/core/fileparse.php/20628/urlt/2223-DEL-AnnualReport.pdf (last visited February 22, 2024).
[139] Section 1002.87, F.S.
[140] "At-risk child" is defined under s. 1002.81, F.S., as a child meeting one of the following criteria: from a family under investigation or supervision by the Department of Children and Families (DCF) or a designated sheriff's office for child abuse, neglect, abandonment, or exploitation; in a diversion program provided by DCF or its contracted provider and who is

Subsequent enrollment in the program is determined according to an assessment of local priorities within the ELC's region based on the needs of families and provider capacity using available community data.[141] Based on these local priorities, enrollment in the SR program can be made available to children meeting at least one of the following criteria[142]:

- Economically disadvantaged children until eligible to enter kindergarten. Their older siblings up to the age they are eligible to enter 6th grade may also be served;
- Children from birth to kindergarten whose parents are transitioning from the TCA work program to employment;
- At-risk children who are at least 9 but younger than 13;
- Economically disadvantaged children younger than 13;
- Children younger than 13 whose parents are transitioning from the TCA work program to employment;
- Children who have special needs and current individual educational plans from age 3 until they are eligible to enter kindergarten; and
- Children concurrently enrolled in the federal Head Start Program and VPK.

School Readiness Copayments and Fees

Parents of children enrolled in the SR program are responsible for paying a copayment directly to the child care provider. Rather than paying the full tuition amount of a child care provider, the SR program copayments are intended to be set at a rate that eliminates cost as a barrier to services for families.[143] Copayments are based on a sliding fee scale set by the ELC and approved by the DEL.[144] An ELC's sliding fee scale must be set such that economically disadvantaged families have equal access to the care available to families whose income makes them ineligible for school readiness services.[145] Parent copayments may not exceed 10 percent of a family's income unless the ELC provides justification of how the sliding fee scale meets the federal requirement that a copayment be affordable. In addition to the copayment, families may be subject to additional fees, such as a registration fee. The ELC may pay for a participant's registration fees up to $75 in certain circumstances.[146]

The current copayment schedule is not established with a smooth transition to the market rate of child care at the end of the eligibility threshold. Instead, copayments tend to remain relatively low as family income increases, but when a family's income reaches an eligibility threshold of 85 percent state median income (SMI), families lose the SR program benefit and are suddenly subject to the full cost of child care. This transition creates a significant benefit cliff for families participating in the SR program if their income level upon exiting the program is insufficient to

from a family that is actively participating and complying in department-prescribed activities, including education, health services, or work; placed in a court-ordered, long-term custody or under the guardianship of a relative or nonrelative after termination of supervision by DCF or its contracted provider; in the custody of a parent who is considered a victim of domestic violence and is receiving services through a certified domestic violence center; in the custody of a parent who is considered homeless as verified by a DCF certified homeless shelter.

[141] Section 1002.85(2)(i), F.S.
[142] Section 1002.87(1), F.S.
[143] Section 1002.84(9), F.S.
[144] Rule 6M-4.400, F.A.C.
[145] *Id.*
[146] Rule 6M-4.500, F.A.C.

afford the full cost of child care. In some cases, families may attempt to "park" their income below the eligibility threshold in order to not lose access to the child care benefit.[147]

III. Effect of Proposed Changes:

Temporary Assistance for Needy Families (TANF)

Qualifying work activities

Section 7 of the bill amends s. 445.024, F.S., to allow adults who have not attained a high school diploma, or its equivalent, to satisfy their work activity requirement by participating in adult general education or a high school equivalency examination program by participating for at least 20 hours per week.

The bill also includes a mechanism by which the work activity requirements may be suspended if the work participation rate (WPR) does not exceed the federal minimum by more than 10 percent. Florida Commerce may suspend the provision until the state has again exceeded the federal minimum by 10 percent for three consecutive months. If the provision is expended, the section requires Florida Commerce to issue a notice to the affected TCA recipients within five days of the policy's suspension.

Section 1 of the bill amends s. 414.065, F.S., to protect individuals who participate in the adult basic education or high school equivalency examination preparation as a work activity during a suspension of the work activity requirements as referenced in section 7. Section 1 allows this "noncompliance" due to the suspension to be considered good cause for noncompliance for up to 6 weeks after the change in the participant's requirements.

Transitional Case Management

Section 9 of the bill creates s. 445.0281, F.S., to create transitional case management as a service available to families who have transitioned off of cash assistance. Individuals who have been determined ineligible for a reason other than noncompliance with work activity requirements are eligible for voluntary case management services administered by the local workforce development board.

The bill requires case management to include career planning, job search assistance, resume building, basic financial planning, connection to support services, and benefits management using a tool to demonstrate the financial impacts of changes in income and benefits over time. Case managers are directed to connect recipients to other transitional benefits as needed.

Section 5 of the bill amends s. 445.011, F.S., to direct Florida Commerce to develop training for the local development boards relating to case management methods and the provision of welfare transition services generally.

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[147] Federal Reserve Bank of Atlanta, *Restructuring the Eligibility Policies of the Child Care and Development Fund to Address Benefit Cliffs and Affordability: Florida as a Case Study*, available at https://www.atlantafed.org/-/media/documents/community-development/publications/discussion-papers/2021/01-restructuring-the-eligibility-policies-of-the-child-care-and-development-fund-to-address-benefit-cliffs-and-affordability-2021-06-18.pdf (last visited February 22, 2024).

Data Collection

Section 10 of the bill amends s. 445.035, F.S., to direct CareerSource Florida, Inc., in collaboration with Florida Commerce and DCF, to develop standardized surveys for TCA recipients to be administered by the LWDBs. The section requires CareerSource Florida, Inc., to develop an intake survey to collect baseline information as a person is entering the program, and an exit survey to collect information which can be used to discern programmatic impacts on individuals over time. The stated purpose of the surveys is to monitor program effectiveness, inform program improvements, and effectively allocate resources.

The bill requires intake surveys to collect, at a minimum:
- Information relating to perceived barriers to employment;
- Reasons for past separation from employment;
- Stated goals for employment or professional development;
- The highest level of education or training the individual has attained; and
- Awareness of non-cash assistance transitional services.

The bill direct the LWDBs to administer the intake survey in conjunction with the diversion screening process required under s. 445.017, F.S., or in case of administrative oversight, requires the survey to be completed by each new TCA recipient who has not otherwise completed the survey.

The bill requires that the exit surveys collect, at a minimum:
- Information on the recipient's enrollment in other benefits programs;
- The recipient's long-term career plan;
- The recipient's credentials, education attained, or training received during enrollment;
- Barriers to the recipient's employment which were addressed during enrollment;
- Any remaining barriers to the recipient's enrollment.

The bill also directs the local workforce development boards to submit the completed surveys to CareerSource Florida, Inc., and disseminate anonymized data to Florida Commerce and DCF on a quarterly basis. The bill requires Florida Commerce, in consultation with CareerSource Florida, Inc., and DCF to prepare and submit a report to the Legislature annually. The report is to include survey results, an analysis of the barriers to employment faced by survey respondents, and recommendations for legislative and administrative changes to mitigate such barriers and improve the effective use of transitional benefits.

Section 2 of the bill amends s. 414.105, F.S., to require the LWDBs to administer exit surveys to each participant who is within six months of reaching the 48-month limit. **Section 8** amends s. 445.028, F.S. to require the workforce system case manager at LWDBs to administer an exit survey to recipients deemed ineligible for a reason other than work activity sanctions or for noncompliance with work activity requirements.

Supplemental Nutritional Assistance Program (SNAP)

Section 3 of the bill amends s. 414.455, F.S., to direct DCF, unless prohibited by the federal government, to require participation in SNAP employment and training program among recipients who:

- Are eligible for the program;
- Are between the aged of 18 and 59;
- Do not have children under the age of 18 in the home; and
- Do not otherwise meet an exemption.

This provision is consistent with Florida's current SNAP E&T plan which has been approved by the federal government.

Career Ladder Identifier and Financial Forecaster (CLIFF)

The bill requires the use of a tool "to demonstrate future financial impacts" (hereinafter, "tool") relating to a person's change in income and benefits in several settings. The CLIFF suite of tools developed with the Federal Reserve Bank of Atlanta is currently used for this purpose.

Section 2 of the bill amends s. 414.105, F.S., to require the tool be implemented during the interview process that occurs when a TCA recipient is within six months of approaching the 48-month time limit. The tool is also included in the required elements of the newly created transitional case management in **section 9** of the bill.

Section 4 of the bill amends s. 445.009, F.S., to require the tool be included in the state's one-stop delivery system for offering every Floridian access to workforce development and support, through services sites or telephone or computer networks.

Section 5 of the bill amends s. 445.011, F.S., to require Florida Commerce to integrate the CLIFF tool into the workforce service delivery system and develop training for the local workforce development boards, and other workforce system partners, on the use of the tool.

School Readiness Plus Program

Section 11 of the bill creates s. 1002.935, F.S., to create the School Readiness Plus Program which will supplement the existing SR program and serve to mitigate the benefit cliff experienced by families as they become ineligible for the SR program funding due to earned income.

The program will be available to families whose income is between 85 and 100 percent, inclusive, of the state median income.[148] The early learning coalitions are required to administer the program and provide access to benefit management and career planning tools.

The bill sets out a funding model as follows:

[148] 85 percent of SMI is $63,471 and 100 percent of SMI is $74,672.

- Requiring the ELCs to spend the minimum amount of funds necessary for the efficient and effective administration of the program;
- Prohibiting the use of more than 5 percent of the funds in a fiscal year;
- Provides the amount of the subsidy is a percentage of the ELC's approved program provider reimbursement rates;
- Requiring the ELC to consider family income and copayments that increase in relation to the family income when establishing the percentage of the amount of the subsidy for the program;
- Requiring the amount of the subsidy and copayment to be sufficient to allow the family to access providers and enable the parent to achieve self-sufficiency.

To receive the subsidy, the bill requires parents to:
- Provide any documentation necessary to verify eligibility.
- Be responsible for the payment of all child care expenses in excess of the amount of the subsidy.

Section 12 of the bill provides an appropriation of $23,076,259 in nonrecurring funds from the General Revenue Fund to the Department of Education to implement the School Readiness Plus Program.

Other changes

The bill makes non-substantive style and language changes or conforming changes throughout to give effect to the substantive provisions of the bill.

Section 13 of the bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Services for current and former TCA recipients
Both Florida Commerce and CareerSource Florida will experience a workload increase to implement the new requirements for data collection. Depending on the degree to which former TCA recipients use the new transitional case management services, CareerSource Florida may also see a workload increase from providing that service. The total fiscal impact is indeterminate.

School Readiness Plus Program
The bill appropriates $23,076,259 nonrecurring from the General Revenue Fund to implement the School Readiness Plus Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 414.065, 414.105, 414.455, 445.009, 445.011, 445.017, 445.024, 445.028, and 445.035 of the Florida Statutes.

This bill creates ss. 445.0281 and 1002.935 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 by Fiscal Policy on February 22, 2024:
The committee substitute creates the School Readiness Plus Program and provides an the appropriation for the implementation of the School Readiness Plus 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.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Between lines 376 and 377
insert:

Section 11. Section 1002.935, Florida Statutes, is created to read:

1002.935 School Readiness Plus Program.—The School Readiness Plus Program is created within the Department of Education to support the continued school readiness and child care needs of working families with children. The program is

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contingent upon a legislative appropriation and is provided on a first-come, first-served basis.

(1)(a) A child who is determined to be ineligible for school readiness program funds due to family income during the annual eligibility redetermination process pursuant to s. 1002.87(6) is eligible for a subsidy under this section if the family income is between 85 percent and 100 percent, inclusive, of the state median income.

(b)1. The early learning coalitions established in s. 1002.83 shall administer the School Readiness Plus Program and provide participants with access to the benefit management and career planning tool described in s. 445.009(1)(k).

2. The early learning coalitions must spend the minimum amount of funds necessary for the efficient and effective administration of the School Readiness Plus Program. The early learning coalitions may not use more than 5 percent of the funds allowed for the program for administrative costs in a fiscal year.

(2)(a) The amount of the subsidy is a percentage of the early learning coalition's approved school readiness program provider reimbursement rates as calculated pursuant to s. 1002.84(17). An early learning coalition shall consider family income and a required parent copayment that increases in relation to the family income when establishing the percentage for the amount of the subsidy for the program.

(b) The amount of the subsidy and parent copayment must be sufficient to allow the family to access eligible school readiness providers pursuant to s. 1002.88 and enable the parent to achieve self-sufficiency.

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(3) For a parent to receive a subsidy under the program, he or she must:

(a) Provide any documentation necessary to verify the parent's eligibility to receive the subsidy.

(b) Be responsible for the payment of all child care expenses in excess of the amount of the subsidy.

Section 12. For the 2024-2025 fiscal year, the sum of $23,076,259 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Education to implement the School Readiness Plus Program established in s. 1002.935, Florida Statutes. These funds shall be placed in reserve. The department is authorized to submit budget amendments requesting the release of the funds pursuant to chapter 216, Florida Statutes. Release of the funds is contingent upon the submission of an allocation plan developed by the department in collaboration with the early learning coalitions established pursuant to s. 1002.83, Florida Statutes.

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

And the title is amended as follows:

Delete line 44

and insert:

such report; creating s. 1002.935, F.S.; creating the School Readiness Plus Program within the Department of Education; providing requirements for the program; providing eligibility requirements to receive a subsidy under the program; requiring early learning coalitions to administer the program and provide participants access to a specified tool; prohibiting

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early learning coalitions from spending more than a certain percentage on administrative costs of the program in a fiscal year; providing for the calculation of the amount of the subsidy; providing requirements for parents to receive a subsidy; providing an appropriation; providing an effective date.

By the Committee on Children, Families, and Elder Affairs

586-02949-24 20247052__

A bill to be entitled

An act relating to economic self-sufficiency; amending s. 414.065, F.S.; providing that a participant has good cause for noncompliance with work requirements for a specified time period under certain circumstances; making technical changes; amending s. 414.105, F.S.; providing requirements for staff members of local workforce development boards when interviewing participants; amending s. 414.455, F.S.; requiring certain persons to participate in an employment and training program; making a technical change; amending s. 445.009, F.S.; requiring benefit management and career planning using a specified tool as part of the state's one-stop delivery system; amending s. 445.011, F.S.; requiring the Department of Commerce to develop certain training; conforming provisions to changes made by the act; making a technical change; amending s. 445.017, F.S.; requiring a local workforce development board to administer an intake survey; amending s. 445.024, F.S.; authorizing certain participants to participate in certain programs or courses for a specified number of hours per week; authorizing the Department of Commerce to suspend certain work requirements under certain circumstances; requiring the department to issue notice to participants under certain circumstances; amending s. 445.028, F.S.; requiring the Department of Children and Families to administer an exit survey; making technical changes; creating s. 445.0281, F.S.;

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

586-02949-24 20247052__

providing voluntary case management services to certain persons for specified purposes; providing requirements for such case management services and case managers; amending s. 445.035, F.S.; requiring CareerSource Florida, Inc., in collaboration with other entities, to develop standardized intake and exit surveys for specified purposes; specifying when such surveys must be administered; providing requirements for such surveys; requiring completed surveys to be submitted to CareerSource Florida, Inc., and disseminated quarterly to certain departments; requiring the Department of Commerce, in consultation with other entities, to prepare and submit an annual report to the Legislature; providing requirements for such report; providing an effective date.

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

Section 1. Subsection (1) of section 414.065, Florida Statutes, is amended to read:

414.065 Noncompliance with work requirements.—

(1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The department shall establish procedures for administering penalties for nonparticipation in work requirements and failure to comply with the alternative requirement plan. If an individual in a family receiving temporary cash assistance fails to engage in work activities required in accordance with s. 445.024, the following penalties shall apply. Before ~~Prior to~~

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

the imposition of a sanction, the participant must ~~shall~~ be notified orally or in writing that the participant is subject to sanction and that action will be taken to impose the sanction unless the participant complies with the work activity requirements. The participant must ~~shall~~ be counseled as to the consequences of noncompliance and, if appropriate, ~~shall be~~ referred for services that could assist the participant to fully comply with program requirements. If the participant has good cause for noncompliance or demonstrates satisfactory compliance, the sanction may ~~shall~~ not be imposed. If the requirements of s. 445.024(2)(a)1. are suspended pursuant to s. 445.024(2)(a)2., a participant in noncompliance because of such suspension is considered to have good cause for noncompliance for up to 6 weeks after the change in the participant's work requirements. If the participant has subsequently obtained employment, the participant must ~~shall~~ be counseled regarding the transitional benefits that may be available and provided information about how to access such benefits. The department shall administer sanctions related to food assistance consistent with federal regulations.

(a)1. First noncompliance: temporary cash assistance is ~~shall be~~ terminated for the family for a minimum of 10 days or until the individual who failed to comply does so.

2. Second noncompliance: temporary cash assistance is ~~shall be~~ terminated for the family for 1 month or until the individual who failed to comply does so, whichever is later. Upon meeting this requirement, temporary cash assistance must ~~shall~~ be reinstated to the date of compliance or the first day of the month following the penalty period, whichever is later.

3. Third noncompliance: temporary cash assistance is ~~shall be~~ terminated for the family for 3 months or until the individual who failed to comply does so, whichever is later. The individual must ~~shall be required to~~ comply with the required work activity upon completion of the 3-month penalty period, before reinstatement of temporary cash assistance. Upon meeting this requirement, temporary cash assistance must ~~shall~~ be reinstated to the date of compliance or the first day of the month following the penalty period, whichever is later.

(b) If a participant receiving temporary cash assistance who is otherwise exempted from noncompliance penalties fails to comply with the alternative requirement plan required in accordance with this section, the penalties provided in paragraph (a) ~~shall~~ apply.

If a participant fully complies with work activity requirements for at least 6 months, the participant must ~~shall~~ be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.

Section 2. Subsection (10) of section 414.105, Florida Statutes, is amended to read:

414.105 Time limitations of temporary cash assistance.—Except as otherwise provided in this section, an applicant or current participant shall receive temporary cash assistance for no more than a lifetime cumulative total of 48 months, unless otherwise provided by law.

(10) A member of the staff of the local workforce development board shall interview and assess the employment prospects and barriers of each participant who is within 6

months of reaching the 48-month time limit. The staff member shall do all of the following:

(a) Administer the exit survey required under s. 445.035(2).

(b) Use a tool to demonstrate future financial impacts of the participant's change in income and benefits over time.

(c) Assist the participant in identifying actions necessary to become employed before reaching the benefit time limit for temporary cash assistance.

(d) ~~and,~~ If appropriate, ~~shall~~ refer the participant for services that could facilitate employment, including, but not limited to, transitional benefits and services.

Section 3. Section 414.455, Florida Statutes, is amended to read:

414.455 Supplemental Nutrition Assistance Program; legislative authorization.—

(1) Notwithstanding s. 414.45, and unless expressly required by federal law, the department must ~~shall~~ obtain specific authorization from the Legislature before seeking, applying for, accepting, or renewing any waiver of work requirements established by the Supplemental Nutrition Assistance Program under 7 U.S.C. s. 2015(o).

(2) Unless prohibited by the Federal Government, the department must require a person who is receiving food assistance; who is 18 to 59 years of age, inclusive; who does not have children under the age of 18 in his or her home; who does not qualify for an exemption; and who is determined by the department to be eligible, to participate in an employment and training program.

Section 4. Present paragraph (k) of subsection (1) of section 445.009, Florida Statutes, is redesignated as paragraph (l), and a new paragraph (k) is added to that subsection, to read:

445.009 One-stop delivery system.—

(1) The one-stop delivery system is the state's primary customer-service strategy for offering every Floridian access, through service sites or telephone or computer networks, to the following services:

(k) Benefit management and career planning using a tool to demonstrate future financial impacts of the participant's change in income and benefits over time.

Section 5. Subsections (1) and (5) of section 445.011, Florida Statutes, are amended to read:

445.011 Consumer-first workforce system.—

(1) The department, in consultation with the state board, the Department of Education, and the Department of Children and Families, shall implement, subject to legislative appropriation, an automated consumer-first workforce system that improves coordination among required one-stop partners and is necessary for the efficient and effective operation and management of the workforce development system. This system must ~~shall~~ include, but is ~~need~~ not ~~be~~ limited to, the following:

(a) An integrated management system for the one-stop service delivery system, which includes, at a minimum, common registration and intake for required one-stop partners, screening for needs and benefits, benefit management and career planning using a tool to demonstrate future financial impacts of the participant's change in income and benefits over time, case

management, training benefits management, service and training provider management, performance reporting, executive information and reporting, and customer-satisfaction tracking and reporting.

1. The system should report current budgeting, expenditure, and performance information for assessing performance related to outcomes, service delivery, and financial administration for workforce programs pursuant to s. 445.004(5) and (9).

2. The system should include auditable systems and controls to ensure financial integrity and valid and reliable performance information.

3. The system should support service integration and case management across programs and agencies by providing for case tracking for participants in workforce programs, participants who receive benefits pursuant to public assistance programs under chapter 414, and participants in welfare transition programs under this chapter.

(b) An automated job-matching information system that is accessible to employers, job seekers, and other users via the Internet, and that includes, at a minimum, all of the following:

1. Skill match information, including skill gap analysis; resume creation; job order creation; skill tests; job search by area, employer type, and employer name; and training provider linkage.~~,~~

2. Job market information based on surveys, including local, state, regional, national, and international occupational and job availability information.~~; and~~

3. Service provider information, including education and training providers, child care facilities and related

information, health and social service agencies, and other providers of services that would be useful to job seekers.

(5) The department shall develop training for required one-stop partners on the use of the consumer-first workforce system, best practices for the use of a tool demonstrating future financial impacts of the participant's change in income and benefits over time, the different case management methods, the availability of welfare transition services, and how to prequalify individuals for workforce programs.

Section 6. Subsection (4) of section 445.017, Florida Statutes, is amended to read:

445.017 Diversion.—

(4)(a) The local workforce development board shall screen each family on a case-by-case basis for barriers to obtaining or retaining employment. The screening must ~~shall~~ identify barriers that, if corrected, may prevent the family from receiving temporary cash assistance on a regular basis. At the time of screening, the local workforce development board shall administer the intake survey required under s. 445.035(2).

(b) Assistance to overcome a barrier to employment is not limited to cash, but may include vouchers or other in-kind benefits.

Section 7. Subsection (2) of section 445.024, Florida Statutes, is amended to read:

445.024 Work requirements.—

(2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not otherwise exempt from work activity requirements must participate in a work activity for the maximum number of hours allowable under federal law; however, a participant may not be

required to work more than 40 hours per week. The maximum number of hours each month that a family may be required to participate in community service or work experience programs is the number of hours that would result from dividing the family's monthly amount for temporary cash assistance and food assistance by the applicable minimum wage. However, the maximum hours required per week for community service or work experience may not exceed 40 hours.

(a)1. A participant who has not earned a high school diploma or its equivalent may participate in adult general education, as defined in s. 1004.02(3), or a high school equivalency examination preparation, as defined in s. 1004.02(16). A participant must participate in such program or course for at least 20 hours per week in order to satisfy the participant's work activity requirement.

2. If the state's TANF work participation rate, as provided by federal law, does not exceed the federal minimum work participation rate by 10 percentage points in any month, the requirements of this subsection may be suspended by the department until the work participation rate exceeds the federal minimum work participation rate by 10 percentage points for at least 3 consecutive months.

3. If the requirements of this subsection are suspended, the department must issue notice to the affected participants of the changed work requirements within 5 days after the change in such work requirements.

(b) ~~(a)~~ A participant in a work activity may also be required to enroll in and attend a course of instruction designed to increase literacy skills to a level necessary for

obtaining or retaining employment if the instruction plus the work activity does not require more than 40 hours per week.

(c) ~~(b)~~ Program funds may be used, as available, to support the efforts of a participant who meets the work activity requirements and who wishes to enroll in or continue enrollment in an adult general education program or other training programs.

Section 8. Subsections (1) and (2) of section 445.028, Florida Statutes, are amended to read:

445.028 Transitional benefits and services.—In cooperation with the department, the Department of Children and Families shall develop procedures to ensure that families leaving the temporary cash assistance program receive transitional benefits and services that will assist the family in moving toward self-sufficiency. At a minimum, such procedures must include, but are not limited to, the following:

(1) Each recipient of cash assistance who is determined ineligible for cash assistance for a reason other than a work activity sanction must ~~shall~~ be contacted by the workforce system case manager and provided information about the availability of transitional benefits and services. Such contact must include the administration of the exit survey required under s. 445.035(2) and ~~shall~~ be attempted before ~~prior to~~ closure of the case management file.

(2) Each recipient of temporary cash assistance who is determined ineligible for cash assistance due to noncompliance with the work activity requirements must ~~shall~~ be contacted and provided information in accordance with s. 414.065(1). Such contact must include the administration of the exit survey

required under s. 445.035(2).

Section 9. Section 445.0281, Florida Statutes, is created to read:

445.0281 Transitional case management.—Each recipient of cash assistance who is determined ineligible for cash assistance for a reason other than noncompliance with work activity requirements is eligible for voluntary case management services administered by the local workforce development board. Case management services must be available to support families who transition to economic self-sufficiency and to mitigate dependency on cash assistance. Case management services must include, but are not limited to, career planning, job search assistance, resume building, basic financial planning, connection to support services, and benefits management using a tool to demonstrate future financial impacts of the participant's change in income and benefits over time, as applicable. Case managers must connect recipients to other transitional benefits as needed.

Section 10. Section 445.035, Florida Statutes, is amended to read:

445.035 Data collection and reporting.—

(1) The Department of Children and Families and the state board shall collect data necessary to administer this chapter and make the reports required under federal law to the United States Department of Health and Human Services and the United States Department of Agriculture.

(2) CareerSource Florida, Inc., in collaboration with the department, the Department of Children and Families, and the local workforce development boards, shall develop standardized

intake and exit surveys for the purpose of collecting and aggregating data to monitor program effectiveness, inform program improvements, and allocate resources.

(a) The intake survey must be administered by the local workforce development boards during the required diversion screening process under s. 445.017. The intake survey must be administered to each new recipient of temporary cash assistance under chapter 414 who has not otherwise completed the survey.

(b) The intake survey must, at a minimum, collect qualitative or quantitative data, as applicable, relating to all of the following:

1. The recipient's perceived individual barriers to employment.

2. The reasons cited by the recipient for his or her separation from employment in the previous 12 months.

3. The recipient's stated goals for employment or professional development.

4. The recipient's highest level of education or credentials attained or training received at the time of enrollment.

5. The recipient's awareness of welfare transition services.

(c) The exit survey must be administered by the local workforce development boards to recipients of temporary cash assistance under chapter 414 as recipients prepare to transition off of temporary cash assistance. Based on a recipient's circumstances, the exit survey must be administered to the recipient at one of the following points of contact:

1. The recipient is approaching the statutory time

limitation for temporary cash assistance and is interviewed pursuant to s. 414.105(10); or

2. At such time when the recipient becomes ineligible for cash assistance and is contacted pursuant to s. 445.028.

(d) The exit survey must, at a minimum, collect data relating to all of the following:

1. The recipient's enrollment in other public benefits programs at the time of exit.

2. Whether the recipient has a long-term career plan.

3. The recipient's credentials or education attained or training received during enrollment.

4. Barriers to the recipient's employment which were addressed during enrollment.

5. Any remaining barriers to the recipient's employment.

(e) The completed surveys must be submitted to CareerSource Florida, Inc., and anonymized data must be disseminated quarterly to the department and the Department of Children and Families.

(f) The department, in consultation with CareerSource Florida, Inc., and the Department of Children and Families, shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report by January 1 of each year. The report must include, at a minimum, the results of the intake and exit surveys, an analysis of the barriers to employment experienced by the survey respondents, and any recommendations for legislative and administrative changes to mitigate such barriers and improve the effective use of transitional benefits.

Section 11. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

7052
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sarah Massey

Phone 850 545 0543

Address 136 S. Bronough St
Street

Email smassey@flchamber.com

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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

2/22/24
Meeting Date

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7052
Bill Number or Topic

137630
Amendment Barcode (if applicable)

Name Sarah Massey

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

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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 Committee on Fiscal Policy

BILL:	SB 7058
INTRODUCER:	Governmental Oversight and Accountability Committee
SUBJECT:	Criminal History Checks for the Florida State Guard
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney		**GO Submitted as Comm. Bill/Fav**
2.	McVaney	Yeatman	FP	**Favorable**

I. Summary:

SB 7058 sets forth the process for applicants to the Florida State Guard to undergo criminal history checks prior to joining the Florida State Guard. The bill requires each applicant to submit fingerprints to the Division of the State Guard (division). These fingerprints are forwarded to the Department of Law Enforcement (FDLE) to complete a state criminal history check. The fingerprints are forwarded by FDLE to the Federal Bureau of Investigation to conduct a national criminal history check. The Department of Military Affairs must, and the division may, review the results from the checks to determine whether the applicant meets the standards to be a member of the Florida State Guard.

The division is required to pay all applicable fees for these criminal history checks. The total costs incurred by the division is expected to be no more than $100,000.

The bill takes effect upon becoming a law.

II. Present Situation:

Defense Forces

Federal law authorizes each state, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands to create and maintain organized units other than their respective National Guard units. These separate units, called "defense forces," are for use exclusively within the jurisdiction as considered necessary by the Governor or chief executive of such jurisdiction but may not be called, ordered, or drafted into federal service.[1] Membership in such an organized service does not exempt any individual from service in the armed forces of the

[1] 32 U.S.C. s. 109(c).

United States,[2] but a member of the reserve component of the armed forces[3] may not be a member of a local defense force.[4] Currently, 23 states and the Commonwealth of Puerto Rico have organized defense forces separate from their National Guard units.[5]

Florida State Guard

The Florida State Guard (FSG) was created in 2022[6] as a component of the organized guard of the state, separate and apart from the Florida National Guard (FNG). The FSG is a state-funded volunteer force that partners with the FNG and other disaster response agencies to ensure communities are provided with humanitarian assistance and rapid response during manmade and natural disasters.[7]

The FSG is under the command and control of the governor and is authorized for exclusive use within the state when activated by the Governor[8] or for use in other states for specific purposes.[9] The FSG may not be called, ordered, or drafted into the armed forces of the United States and is authorized to have a maximum number of 1,500 volunteer personnel.[10]

The Division of the State Guard (division) within the Department of Military Affairs is responsible for the organization, recruitment, training, equipping, management, and functions of the FSG. The division is led by a director who is appointed by and serves at the pleasure of the governor.[11] Subject approval by the Governor, the director determines the number of volunteer personnel within the FSG.[12] Members of the FSG must:

- Be citizens of the United States and residents of Florida;
- Have no felony conviction and submit fingerprints as required by state and federal law for purposes of conducting a criminal background check;
- Not be an active duty servicemember, a member of the armed forces reserves, or a member of the FNG; and
- Have been separated under terms no less than a general discharge under honorable conditions if the applicant is a former member of the armed forces or of any military or naval organization of a state.[13]

[2] 32 U.S.C. s. 109(d).
[3] The reserve component of the armed forces includes the Army National Guard and the Air National Guard in addition to the Army, Navy, Marine Corps, Air Force, and Coast Guard Reserves. *See* 10 U.S.C. s. 10101.
[4] 32 U.S.C. s. 109(e).
[5] Alaska, California, Connecticut, Florida, Georgia, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Mexico, New York, Ohio, Oregon, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and Washington.
[6] The FSG was created via the Implementing Act of the General Appropriations Act for the 2022-23 fiscal year, Ch. 2022-157, s. 80, Laws of Fla., and is codified in statutes as s. 251.001, F.S., the Florida State Guard Act.
[7] Florida State Guard, *History*, https://www.floridastateguard.org/history (last visited Jan. 19, 2024).
[8] Section 251.001(2), F.S.
[9] The FSG is authorized to support other states under the Emergency Management Assistance Compact (EMAC) as provided for in part III of ch. 252, F.S. S. 251.001(8)(a)4., F.S.
[10] Section 251.001(2), F.S.
[11] Section 251.001(3), F.S.
[12] Section 251.001(5)(a), F.S.
[13] Section 251.001(5)(c), F.S.

The director determines the minimum standards for the age, physical and health condition, and physical fitness of applicants[14] and a program for training for members of the FSG.[15] The standards and training program determined by the director may be no less than the standards and training requirements required by the FNG. Members of the FSG are reimbursed for per diem and travel expenses incurred to attend required training or in the course of active service.[16] While activated or in training, FSG members are not liable for any lawful act done in the performance of his or her FSG duties while acting in good faith within the scope of such duties. In addition, while activated or in training, FSG members are considered volunteers for the state, and are entitled to workers' compensation protections pursuant to chapter 440, F.S., and are guaranteed the same protections as members of the FNG.[17]

The FSG may be activated by order of the governor:

- During any period when any part of the FNG is in active federal service and the governor has declared a state of emergency;
- To preserve the public peace, execute the laws of the state, enhance domestic security, respond to terrorist threats or attacks, protect and defend the people of the state from threats to public safety, respond to an emergency[18] or imminent danger thereof, or respond to any need for emergency aid to civil authorities;
- To augment any existing state or local agency; or
- To provide support to other states under Emergency Management Assistance Compact. [19]

The FSG is deactivated at the expiration of the order or by a separate order by the governor deactivating the FSG.[20]

The director is also responsible for organizing a specialized unit within the FSG in which members are vested with authority to bear arms, detect, and apprehend while activated.[21] Members of the specialized unit must meet the minimum qualifications for employment or appointment as a law enforcement officer defined in law[22] and are certified as law enforcement officers.[23] The specialized unit is authorized to have the same law enforcement authority as the law enforcement agency the specialized group is working with when activated.[24]

Criminal History Checks

A criminal history record is any nonjudicial record maintained by a criminal justice agency containing criminal history information.[25] Criminal history information includes information

[14] Section 251.001(5)(d), F.S.
[15] Section 251.001(7), F.S.
[16] Section 251.001(9), F.S.
[17] Section 251.001(10), F.S.
[18] Section 252.34(4), F.S., defines the term "emergency" to mean any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.
[19] Section 251.001(8)(a), F.S.
[20] Section 251.001(8)(b), F.S.
[21] Section 251.001(6), F.S.
[22] Such qualifications are provided in s. 943.13, F.S.
[23] Members must be certified as law enforcement officers as defined by s. 943.10(1), F.S.
[24] Section 251.001(6), F.S.
[25] Section 943.045(6), F.S.

collected by criminal justice agencies on persons, which information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and the disposition thereof.[26]

The Criminal Justice Information Program (CJIP), the state's central criminal justice information repository, is established within the FDLE.[27] The CJIP is directed, among other requirements, to:

- Establish and maintain a communication system capable of transmitting criminal justice information to and between criminal justice agencies.[28]
- Establish, implement, and maintain a statewide automated biometric identification system capable of, but not limited to, reading, classifying, matching, and storing fingerprints, rolled fingerprints, latent fingerprints, palm prints, and facial images.[29]
- Retain fingerprints submitted by criminal and noncriminal justice agencies to the FDLE for a criminal history background screening as provided by rule and enter the fingerprints in the statewide automated biometric identification system previously described;[30] and
- For each agency or qualified entity that officially requests retention of fingerprints or for which retention is otherwise required by law, search all arrest fingerprint submissions received under s. 943.051, F.S., against the fingerprints retained in the previously described statewide automated biometric identification system.[31]

The total fiscal impact to the private sector for each state and national criminal history record check is $37.25.[32] Of this total amount, the cost for the national portion of a criminal history record check is $13.25 and the cost for the state portion is $24.[33] The first year of state retention is included in the cost of the criminal history record check. The cost to retain fingerprints at the state level is $6 annually, per set of applicant fingerprints. There are no fees required by the FBI for federal fingerprint retention.

III. Effect of Proposed Changes:

The bill requires each applicant for the Florida State Guard to submit a complete set of fingerprints to the division or to the vendor, entity, or agency authorized by the Department of Law Enforcement (FDLE) to accept electronic fingerprint submissions. The bill provides the entity receiving the fingerprints must forward the fingerprints to FDLE for state criminal history processing. The FDLE must submit the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check.

The Department of Military Affairs shall, and the FSG may, review the results to determine whether an applicant meets the specific qualifications to join the FSG.

The bill requires fees for fingerprint processing are to be borne by the FSG.

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[26] Section 943.045(5), F.S.
[27] Section 943.05, F.S.
[28] Section 943.05(2)(a), F.S.
[29] Section 943.05(2)(b), F.S.
[30] Section 943.05(2)(g), F.S.
[31] Section 943.05(2)(h), F.S.
[32] https://www.fdle.state.fl.us/Criminal-History-Records/Documents/Criminal-History-Fee-Chart_January2019.aspx
[33] Section 943.053(3)(e), F.S.

Fingerprints submitted to the FDLE must be retained and enrolled in the FBI's national retained fingerprint arrest notification program. The bill requires any arrest record identified to the reported to the FSG.

The Department of Military Affairs and the division are granted rulemaking authority relating to the submission of fingerprints by applicants to the FSG.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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 fiscal impact on the Division of the State Guard is indeterminate. However, if the division submits 150,000 (maximum number of FSG members) to the FDLE at the cost of $37.25 per criminal history check, the division will incur roughly $60,000 in costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 251.002 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 the Committee on Governmental Oversight and Accountability

585-03027-24 20247058__

A bill to be entitled

An act relating to criminal history checks for the Florida State Guard; creating s. 251.002, F.S.; requiring applicants for the Florida State Guard to submit a complete set of fingerprints to the Division of the State Guard or other specified entity, vendor, or agency; requiring that the division or such entity, vendor, or agency forward the fingerprints to the Department of Law Enforcement for processing and that the department forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check; requiring the Department of Military Affairs, and authorizing the division, to review certain results and make a specified determination; requiring the division to bear the fees for state and federal processing of the fingerprints; specifying the state cost for fingerprint processing; requiring that the fingerprints be retained by the Department of Law Enforcement in accordance with a specified provision and enrollment of the fingerprints in the Federal Bureau of Investigation's national retained print arrest notification program; requiring that identified arrest records to be sent to the division; granting rulemaking authority to the Department of Military Affairs and the division; providing an effective date.

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

Section 1. Section 251.002, Florida Statutes, is created to

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

585-03027-24 20247058__

read:

251.002 Criminal history checks for applicants for the Florida State Guard.—

(1) Each applicant for the Florida State Guard must submit a complete set of fingerprints to the Division of the State Guard or to the entity, vendor, or agency authorized by s. 943.053(13) to accept electronic fingerprints. The division, entity, vendor, or agency, as applicable, shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(2) The Department of Military Affairs shall, and the Division of the State Guard may, review the results of the state and national criminal history record checks and determine whether the applicant meets the specified qualifications to serve in the Florida State Guard.

(3) Fees for state and federal fingerprint processing and retention must be borne by the Division of the State Guard. The state cost for fingerprint processing must be as provided in s. 943.053(3)(e).

(4) Fingerprints submitted to the Department of Law Enforcement pursuant to this section must be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) along with enrollment of the fingerprints in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified must be reported to the Division of the State Guard.

(5) The Department of Military Affairs may, and the

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Division of the State Guard shall, adopt rules to implement subsection (1).

Section 2. This act shall take effect upon becoming a law.

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	SB 7060
INTRODUCER:	Governmental Oversight and Accountability Committee
SUBJECT:	Foreign Investments by the State Board of Administration
DATE:	February 20, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney		**GO Submitted as Comm. Bill/Fav**
2.	McVaney	Yeatman	FP	**Favorable**

I. Summary:

SB 7060 limits the investments the State Board of Administration (SBA), on behalf of the Florida Retirement System, may have hold relating to companies owned by the Chinese government. The bill prohibits the SBA from making new investments in Chinese companies (those companies in which the government of the People's Republic of China, the Chinese Communist Party, or the Chinese military have majority-ownership). The SBA must identify any current holdings in Chinese companies and divest from such interests no later than September 1, 2025. Actions taken pursuant to these new limitations must be incorporated into the investment policy statement for the Florida Retirement System Trust Fund.

The bill will have indeterminate impact on state expenditures. The bill is not expected to impact state revenues or local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

State Board of Administration - Generally

The State Board of Administration (SBA or board) is established by the State Constitution.[1] The board derives its powers to oversee state funds from Art. XII, s. 9 of the State Constitution and ch. 215, F.S. The board serves as the state's investment management organization, with authority over 30 funds collectively valued at about $237.7 billion as of June 30, 2023, including $200.2 billion in the state's pension and investment plans for public employees, which accounts for 84.2 percent of assets under management.[2] Other funds under management, with total combined

[1] Art. IV, s. 4(e) Fla. Const. (1968).
[2] State Board of Administration, *Annual Investment Report: July 1, 2022-June 30, 2023*, p. 5, https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Annual/2022-2023%20AIR.pdf?ver=2023-12-22-100527-123 (last visited Feb. 5, 2024).

assets of $26.7 billion, include the Florida Hurricane Catastrophe Fund, Department of the Lottery Fund, Florida Prepaid College and Florida College Investment Plan, FSU Research Foundation, Florida PRIME (surplus funds of local governments) and the Police and Firefighters' Premium Tax Trust Fund.[3] The Governor, Chief Financial Officer, and Attorney General serve as the SBA's Board of Trustees (Trustees), and delegate operational authority to an executive director and chief investment officer, who oversee about 200 employees.[4]

State Board of Administration Investing Duties Relating to the FRS Pension Plan

The State Board of Administration (SBA or board) is charged with investing the assets of the Florida Retirement System (both the Pension Plan and the Investment Plan). The SBA does not manage investments for the Investment Plan. The Investment Plan offers a diversified mix of primary investment funds in which the member can choose to invest his or her funds. These investment funds are managed by private providers (such as Fidelity, Prudential, Stephens, T Rowe Price, and others).[5]

Pecuniary Interest

As fiduciaries, the Board and its Trustees must act in the best interests of the plan's participants and beneficiaries. Generally, when deciding whether to invest, the Board and the Trustees must make decisions based solely on pecuniary factors and may not subordinate the interests of participants and beneficiaries to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary interest.[6]

In this instance, "pecuniary factor" means "a factor the that the Board prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests."[7]

Authorized Investments

Pursuant to s. 215.444, F.S., a nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures. The SBA's authority to invest the funds, including FRS assets, is governed by s. 215.47, F.S., which provides for a "legal list" of the types of investments and for how much of any fund may be invested in each investment

[3] A full list of SBA-managed investment funds is available at https://www.sbafla.com/fsb/FundsWeManage.aspx (last visited Feb. 5, 2024). *See also*, *SBA 2023 Annual Investment Report*, *supra* note 2.
[4] Section 215.44, F.S.; SBA, *Summary Overview of the State Board of Administration of Florida*, p. 3 (Oct. 8, 2021) *https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20211025.pdf?ver=2021-10-28-120954-217*.
[5] Florida Retirement System, *Investment Plan—Investment Fund Summary, January 2024*, p. 5, https://www.myfrs.com/pdf/forms/invest_fund_summary.pdf (last visited Feb. 5, 2024).
[6] Section 214.47(10)(b), F.S.
[7] Section 215.47(10)(a), F.S.

type.[8] Additionally, the SBA may invest up to 5 percent of any fund as it deems appropriate. However, the Investment Advisory Council must approve any such plan.[9]

As part of its best interests, maximization, and diversification actions, the SBA invests in multiple asset classes: global equities, fixed income, real estate, strategic investments, and private equity.

As of June 30, 2023, the total market value of the FRS Pension Plan's foreign equity investments was $31,684,093,180.[10]

SBA Divestment and Prohibited Investments

In addition to the limitations provided by the "legal list," the Legislature has enacted three statutory exceptions to the normal fiduciary standards relating to investments of the FRS. The exceptions apply to investments in (a) certain companies doing business in Cuba, Syria, and Venezuela,[11] (b) certain companies doing business in, or with sufficient ties to, Sudan or Iran,[12] and (c) certain companies that boycott Israel or engage in a boycott of Israel.[13] These statutory exceptions allow the Board and the Trustees to make decisions regarding investments in these "scrutinized companies" without regard to the pecuniary factors and nonpecuniary interests involved.

Federal Sanctions on China

The United States has implemented multiple sanctions on the People's Republic Of China (PRC) based on its human rights abuse, illicit narcotics trafficking, cyber-attacks, and corruption; weapons proliferation; failure to comply with multilateral sanctions on North Korean and Iran; and policy regarding Hong Kong. The United States has also implemented sanctions against China to respond to the PRC's "exploitation of United States capital to resource and enable the development and modernizations of its military, intelligence, and other security apparatuses, which continues to allow the PRC to directly threaten the United States…."[14] This prohibits the

[8] Section 215.47, F.S., sets some key guidelines such as:
- No more than 80 percent of assets may be invested in equity securities.
- No more than 75 percent of assets may be invested in internally managed equity securities.
- No more than 3 percent of equity assets may be invested in the equity securities of any one corporation, except when the securities of that corporation are included in any broad equity index or with approval of the Board; and in such case, no more than 10 percent of equity assets may be invested in the equity securities of any one corporation.
- No more than 30 percent in alternative investments.
- No more than 80 percent of assets may be placed in corporate fixed income securities.
- No more than 25 percent of assets may be invested in notes secured by FHA-insured or VA-guaranteed first mortgages on Florida real property, or foreign government general obligations with a 25-year default-free history.
- No more than 25 percent of assets may be invested in foreign corporate or commercial securities or obligations.

[9] Section 215.47(6), F.S.
[10] Edward Collins-Chase, CONGRESSIONAL RESEARCH SERVICE, U.S. Sanctions: Legislation in the 117th Congress, p. 6-7 (Dec. 20, 2022), https://crsreports.congress.gov/product/pdf/R/R47344 (last visited Feb. 5, 2024).
[11] Section 215.471, F.S.
[12] Section 215.473, F.S.
[13] Section 215.4725, F.S.
[14] *See*, Executive Order 14032, *Addressing the Threat from Securities Investments That Finance Certain Companies of the People's Republic of China*, (Jun. 3, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/executive-order-on-addressing-the-threat-from-securities-investments-that-finance-certain-companies-of-

purchase or sale of any publicly traded securities, or any derivative thereof, from any person determined by the Office of Foreign Assets Control to:

- Operate or have operated in the defense and related material sector or the surveillance technology sector of the economy of the PRC; or
- Own or control, directly or indirectly, person an individual or entity who operates or has operated in any prohibited sector.

III. Effect of Proposed Changes:

Section 1 amends s. 215.47, F.S., to allow the SBA to consider factors other than pecuniary factors when making decisions regarding investments in Chinese companies as defined in s. 215.4735.

Section 2 creates s. 215.4735, F.S., to prohibit the SBA from making new investments in Chinese companies (those companies in which the government of the People's Republic of China, the Chinese Communist Party, or the Chinese military have majority-ownership). The SBA must identify any current holdings in Chinese companies and divest from such interests no later than September 1, 2025, or at such later time if necessary for the board to implement the plan consistent with fiduciary standards set forth in s. 215.47(10), F.S.

Actions taken pursuant to these new limitations must be incorporated into the investment policy statement for the Florida Retirement System Trust Fund.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

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the-peoples-republic-of-china/ (last visited Feb. 5, 2024). *See also*, Continuation of the National Emergency With Respect to the Threat From Securities Investments That Finance Certain Companies of the People's Republic of China, 88 Fed. Reg. 76987-76988 (Nov. 3, 2023), https://www.federalregister.gov/documents/2023/11/07/2023-24776/continuation-of-the-national-emergency-with-respect-to-the-threat-from-securities-investments-that (last visited Feb. 5, 2024).

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 State of Board of Administration may incur costs to identify those securities it currently holds that meet the criteria described in this legislation. The impact on the FRS System Trust Fund as a result of divestment from those identified securities is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Based on preliminary data from November 2023, the State Board of Administration preliminarily identified roughly $277.1 million worth of direct holdings in 211 Chinese companies as defined in the bill. The table below shows these holdings.

Chinese Company	Value of Holding
Bank of China Limited Class H	$13.0 m
Baoshan Iron & Steel, Ltd. Class A	$22.5 m
China Construction Bank Corp Class H	$53.6 m
China Railway Group Limited Class H	$7.3 m
China Yangtze Power Co., Ltd Class A	$9.9 m
Chinese Universe Publishing & Media Group Co., Ltd. Class A	$6.2 m
Huaneng Lancang River Hydropower Co Ltd Class A	$10.6 m
Kweichow Moutai Co., Ltd Class A	$36.3 m
Kweichow Moutai Co., Ltd Class A	$10.1 m

Chinese Company	Value of Holding
PICC Property & Casualty Co., Ltd. Class H	$5.3 m
Sinotruk Hong Kong Ltd	$6.9 m
Wuliangye Yibin Co., Class A	$21.1 m
199 Other Holdings (each less than	$74.3 m
TOTAL	$277.1 m

VIII. Statutes Affected:

This bill substantially amends section 215.47 of the Florida Statutes. This bill creates section 215.4735 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 the Committee on Governmental Oversight and Accountability

585-03024-24 20247060__

A bill to be entitled

An act relating to foreign investments by the State Board of Administration; amending s. 215.47, F.S.; conforming a provision to changes made by the act; creating s. 215.4735, F.S.; defining terms; prohibiting the State Board of Administration from acquiring, on behalf of the Florida Retirement System Trust Fund, direct holdings in Chinese companies; requiring the board to initiate a review of its direct holdings to make a specified determination by a specified date; requiring the board to develop a certain divestment plan for such holdings by a specified date; requiring the board to divest from such holdings according to the required plan by a specified date; providing for an extension under specified conditions; requiring that certain actions be adopted and incorporated into a specified investment policy statement; providing an effective date.

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

Section 1. Subsection (10) of section 215.47, Florida Statutes, is amended to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

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(10)(a) As used in this subsection, the term "pecuniary factor" means a factor that the State Board of Administration prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.

(b) Notwithstanding any other law except for ss. 215.471, 215.4725, ~~and~~ 215.473, and 215.4735, when deciding whether to invest and when investing the assets of any fund, the State Board of Administration must make decisions based solely on pecuniary factors and may not subordinate the interests of the participants and beneficiaries of the fund to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

(c) Investments made by the State Board of Administration shall be designed to maximize the financial return to the fund consistent with the risks incumbent in each investment and shall be designed to preserve an appropriate diversification of the portfolio. The board shall discharge its duties with respect to a plan solely in the interest of its participants and beneficiaries. The board in performing the above investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A) through (C). Except as provided in paragraph (b), in case of conflict with other provisions of law

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authorizing investments, the investment and fiduciary standards set forth in this paragraph prevail.

Section 2. Section 215.4735, Florida Statutes, is created to read:

215.4735 Prohibited foreign investments.—

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

(a) "Board" means the State Board of Administration.

(b) "China" means the government of the People's Republic of China, the Chinese Communist Party, the Chinese military, or any instrumentality thereof, or any combination thereof.

(c) "Chinese company" means a company that is publicly known to be majority-owned by China.

(d) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies, or an affiliate of such entity or business association which exists for the purpose of making a profit.

(e) "Direct holdings" in a company means all securities of that company which are held directly by the Florida Retirement System Trust Fund or in an account or fund in which the Florida Retirement System Trust Fund owns all shares or interests. The term does not include indirect holdings in actively managed investment funds, including a private equity fund, or holdings in exchange-traded funds.

(f) "Florida Retirement System Trust Fund" means all assets of the Florida Retirement System held by the board in its capacity as a fiduciary pursuant to part I of chapter 121.

(g) "Indirect holdings" in a company means all securities of that company which are held in a commingled fund or other collective investment, such as a mutual fund, in which the Florida Retirement System Trust Fund owns shares or interests, together with other investors not subject to this section.

(h) "Majority-owned" means to have ownership of 50.1 percent or more of the outstanding equity interests of a company.

(2)(a) The board may not acquire, on behalf of the Florida Retirement System Trust Fund, direct holdings in a Chinese company.

(b) The board must:

1. Initiate, no later than June 1, 2024, a review of all current direct holdings to determine which direct holdings, if any, include securities of a Chinese company.

2. Develop, no later than September 1, 2024, a divestment plan for all direct holdings in Chinese companies. The divestment plan must be developed and implemented consistent with the fiduciary standards set forth in s. 215.47(10).

3. Complete divestment from direct holdings in Chinese companies included in the divestment plan developed pursuant to subparagraph 2. no later than September 1, 2025, or at such later time if necessary for the board to implement the divestment plan consistent with the fiduciary standards set forth in s. 215.47(10).

(3) The board's actions taken in compliance with this section, including all good faith determinations regarding companies as required by this section, must be adopted and incorporated into the investment policy statement as provided in

s. 215.475.

Section 3. This act shall take effect upon becoming a law.

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The Florida Senate

APPEARANCE RECORD

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

2/22/24
Meeting Date

Fiscal Policy
Committee

7060
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lamar Taylor

Phone 850-443-9035

Address 1801 Hermitage Blvd
Street

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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:
State Board of Administration 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. 2020-2022JointRules.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 Committee on Fiscal Policy

BILL:	SB 7062
INTRODUCER:	Appropriations Committee on Criminal and Civil Justice
SUBJECT:	Public Records/Lethality Assessment
DATE:	February 20, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Kolich	Harkness		**ACJ Submitted as Comm. Bill/Fav**
1.	Kolich	Yeatman	FP	**Favorable**

I. Summary:

SB 7062 amends s. 741.29, F.S., to create a public records exemption for a lethality assessment form that contains a victim's information and responses to a lethality assessment.

This bill is linked to SB 638, which requires law enforcement officers who investigate an alleged incident of domestic violence to administer a lethality assessment if the allegation is against an intimate partner, regardless of whether an arrest is made. Lethality assessments are used to determine a victim's risk of serious bodily injury or death at the hands of their aggressor and will be administered for any call relating to intimate partner violence.

The exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment.

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

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

The bill takes effect on the same date that SB 638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] The right to inspect or copy applies

[1] FLA. CONST. art. I, s. 24(a).

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] Finally, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

> All documents, papers, letters, maps, books, tapes, 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]

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[2] *Id*.
[3] *See* Rule 1.48, *Rules and Manual of the Florida Senate* (2022-2024) and Rule 14.1, *The Rules of the Florida House of Representatives*, Edition 1 (2022-2024).
[4] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).
[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.

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]

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

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Open Government Sunset Review Act

Legislative Review Process and Future Repeal

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act[16] (the Act), prescribe a legislative review process for newly created or substantially amended[17] public records or open meetings exemptions, with specified exceptions.[18] The Act requires the repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[19]

[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).
[11] *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).
[12] *See, e.g.*, s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id.*
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S.
[17] 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.
[18] 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.
[19] Section 119.15(3), F.S.

Exemption Must Serve an Identifiable Public Purpose and Be Drafted No Broader than Necessary

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.[20] 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;[21]
- 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;[22] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[23]

The Act also requires specified questions to be considered during the review process.[24] 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.[25] 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.[26]

Domestic Violence

Domestic violence is any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal

[20] Section 119.15(6)(b), F.S.
[21] Section 119.15(6)(b)1., F.S.
[22] Section 119.15(6)(b)2., F.S.
[23] Section 119.15(6)(b)3., F.S.
[24] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[25] *See generally* s. 119.15, F.S.
[26] Section 119.15(7), F.S.

offense resulting in physical injury or death of one family or household member by another family or household member.[27]

Domestic Violence in Florida

In 2020, 106,615 crimes of domestic violence were reported to Florida law enforcement agencies, resulting in 63,217 arrests.[28] Of those 106,615 reported domestic violence offenses, the relationship of the victims to the offenders varied, including:

- 20,735 were spousal;[29]
- 29,663 were co-habitants;[30] and
- 20,142 were other.[31]

Domestic Violence Training

Section 943.171, F.S., requires basic skills training in handling domestic violence cases. Every basic skills course required in order for law enforcement officers to obtain initial certification shall include a minimum of six hours of training in handling domestic violence cases and training must include the recognition and determination of the primary aggressor in domestic violence cases and the issues involved in child-to-parent cases.

Domestic Violence Investigations

Section 741.29, F.S., provides domestic violence investigations require an officer who investigates an alleged incident of domestic violence to:

- Assist the victim to obtain medical treatment if such is required;[32]
- Advise the victim that there is a domestic violence center from which the victim may receive services;[33]
- Give the victim immediate notice of the legal rights and remedies available;[34]

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[27] Section 741.28, F.S.; "Family or household member," means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

[28] Florida Department of Law Enforcement, *Crime in Florida: Florida Uniform Crime Report*, available at: https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence (Last accessed December 12, 2023).

[29] Florida Department of Law Enforcement, *Domestic Violence, Victim to Offender Relationships*, available at: https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Domestic-Violence/Domestic-Violence-Relationships-Chart.aspx (Last accessed December 14, 2023). Spouse means the victim and offender are married by law or have been previously married. This category included ex-spouses.

[30] *Id.* Co-Habitant means the victim lived with the offender as a married couple without legal marriage. This category includes former co-habitants.

[31] *Id.* Other means the victim and offender had a child together but were never married and never lived together.

[32] Section 741.29 (1), F.S.

[33] Section 741.29 (1), F.S.

[34] Section 741.29 (1), F.S. The Legal Rights and Remedies Notice to Victims must include a general summary of s. 741.30, F.S., the resource listing and phone number for the area domestic violence center, and a copy of the following statement: "If you are a victim of domestic violence, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of minor children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

- Make a written report, whether or not an arrest is made, that is complete and clearly indicates the alleged offense was an incident of domestic violence. The report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled.[35] Such report must include:
  - A description of physical injuries observed, if any.
  - If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer must include the grounds for not arresting anyone or for arresting two or more parties.
  - A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.
- Obtain a written statement from the victim and witnesses concerning the alleged domestic violence when possible; and
- Make an arrest whenever the officer determines probable cause that an act of domestic violence has been committed.[36, 37]

When complaints are received from two or more parties, the officers must evaluate each complaint separately to determine whether there is probable cause for arrest. If the officer has probable cause to believe that two or more persons have committed a crime, or two or more persons make complaints, the officer must attempt to determine who was the primary aggressor.[38] Section 943.171, F.S., requires the training in handling domestic violence cases to include the recognition and determination of the primary aggressor. Arrest is the preferred response only for the primary aggressor and not the preferred response for a person who acts in a reasonable manner to protect or defend oneself or another family or household member.[39]

A law enforcement officer may not be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.[40]

The Use of Lethality assessments in Incidents of Domestic Violence

Effective July 1, 2023, Utah implemented a bill requiring police to perform a lethality assessment for domestic violence calls. Since the law went into effect in Utah, the Director of Public Policy at the Utah Domestic Violence Coalition reported that victim resource providers have seen 80 percent more people statewide reaching out for help.[41]

[35] Section 741.29 (2), F.S.
[36] Section 741.29(3), F.S.
[37] Section 901.15(7), F.S., provides that a law enforcement officer may arrest a person without a warrant when there is probable cause to believe that the person has committed an act of domestic violence. The decision to arrest does not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas.
[38] Section 741.29(4)(a), F.S.
[39] Section 741.29.(4)(b), F.S.
[40] Section 741.29(5), F.S.
[41] *See* KSL News Radio, *Utah domestic violence victim advocates call for funding amid a surge of demand*, Adam Small, November 7, 2023, available at: https://kslnewsradio.com/2056767/utah-domestic-violence-victim-advocates-call-for-funding/ (Last accessed December 8, 2023).

Maryland is another state that has implemented lethality assessments as a statewide approach. Maryland Network Against Domestic Violence (MNADV) created and implemented the Lethality Assessment Program Maryland Model in 2005.[42] The program was created based on the research conducted and supported by a grant from the National Institute of Justice. The program was developed as a way for first responders to identify victims of intimate partner violence who are at the greatest risk of being killed. The program has been adopted in 31 additional states since the initial implementation in Maryland. Researchers found that although the program did not appear to have a significant effect on reducing the frequency of intimate partner violence, at follow-up, it appeared to significantly reduce the severity and frequency of the violence that survivors experience and increased help seeking and safety planning.[43] Overall, the evaluation concluded that although additional research is needed on the Lethality Assessment Program, it shows promise as an evidence-informed intervention that increases survivors' safety and empowers them to make self-care decisions.[44]

There is no current law in Florida pertaining to the administration of a lethality assessment.

III. Effect of Proposed Changes:

The bill amends s. 741.29, F.S., to create a public records exemption for a lethality assessment form that contains a victim's information and responses to a lethality assessment. Lethality assessments are used to determine a victim's risk of serious bodily injury or death at the hands of their aggressor and will be administered for any call relating to intimate partner violence.

The exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment.

The bill provides the following public necessity statement:

> The Legislature finds that it is a public necessity that a lethality assessment form that contains a victim's information and responses to the lethality assessment be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that the release of information included on a lethality assessment form could subject victims of domestic violence to an increased risk of abuse. Such information contained on a lethality assessment form is sensitive in nature. The Legislature further finds that such victims are more likely to participate in a lethality assessment if such form is protected from public disclosure. The Legislature finds that the

[42] *See* Maryland Network Against Domestic Violence, *Lethality Assessment Program*. Available at: https://www.mnadv.org/lethality-assessment-program/lap-program-overview-2/ (Last accessed December 14, 2023).
[43] See National Institute of Justice, *How Effective are Lethality Assessment Programs for Addressing Intimate Partner Violence?*, available at: https://nij.ojp.gov/topics/articles/how-effective-are-lethality-assessment-programs-addressing-intimate-partner (Last accessed December 14, 2023).
[44] Inter-University Consortium for Political and Social Research, *Police Departments' Use of Lethality Assessments: An Experimental Evaluation*, Messing, Jill, Campbell, Jacquelyn, Wilson, Janet, Brown, Sheryll, and Patchell, Beverly, January 13, 2016, available at, https://doi.org/10.3886/ICPSR34975.v1 (Last accessed December 14, 2023).

harm that may result from the release of such information outweighs the public benefit that may be derived from the disclosure of this information.

The bill takes effect on the same date that SB 638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

Municipality/County Mandates Restrictions:

None.

A. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to a victim's information and responses on a lethality assessment form; therefore, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect victims of domestic violence. This bill exempts only records pertaining a victim's information and responses on a lethality assessment form from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

B. Trust Funds Restrictions:

None.

C. State Tax or Fee Increases:

None.

D. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 741.29 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 the Appropriations Committee on Criminal and Civil Justice

604-03134-24 20247062__

A bill to be entitled

An act relating to public records; amending s. 741.29, F.S.; providing a public records exemption for certain information pertaining to a lethality assessment administered by a trained law enforcement officer; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (g) is added to subsection (2) of section 741.29, Florida Statutes, as created by SB 638, 2024 Regular Session, to read:

741.29 Domestic violence; investigation of incidents; notice to victims of legal rights and remedies; reporting.—

(2) The department shall consult with the Department of Children and Families and at least one domestic violence advocacy organization to develop the policies, procedures, and training necessary for implementation of a statewide evidence-based lethality assessment. Training on how to administer a lethality assessment must be accessible to a law enforcement officer in an online format.

(g) A lethality assessment form that contains a victim's information and responses to the lethality assessment is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and

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

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saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that a lethality assessment form that contains a victim's information and responses to the lethality assessment be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that the release of information included on a lethality assessment form could subject victims of domestic violence to an increased risk of abuse. Such information contained on a lethality assessment form is sensitive in nature. The Legislature further finds that such victims are more likely to participate in a lethality assessment if such form is protected from public disclosure. The Legislature finds that the harm that may result from the release of such information outweighs the public benefit that may be derived from the disclosure of the information.

Section 3. This act shall take effect on the same date that SB 638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 7072
INTRODUCER:	Fiscal Policy Committee and Appropriations Committee on Health and Human Services Committee
SUBJECT:	Cancer Funding
DATE:	February 26, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Gerbrandt	McKnight		**AHS Submitted as Comm. Bill/Fav**
1.	Gerbrandt	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7072 bill revises s. 381.915, F.S., relating to the Casey DeSantis Cancer Research Program (Casey DeSantis Program).

The bill provides that the Casey DeSantis Program is established, in addition to current law's existing provisions for the program's establishment, to promote the provision of high-quality, innovative health care for persons undergoing cancer treatment in Florida.

The bill requires the Florida Department of Health (DOH) to make cancer innovation grant funding available to health care providers and facilities that demonstrate excellence in patient-centered cancer treatment or research.

The bill codifies the Cancer Connect Collaborative in statute by providing that the Collaborative is created within the DOH to advise the department and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The Collaborative is authorized under the bill to make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

The bill requires the Collaborative to develop a long-range comprehensive plan for the Casey DeSantis Program. The Collaborative must solicit input from cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers.

The Collaborative must advise the department on the awarding of grants issued through the Cancer Innovation Fund. During any fiscal year for which funds are appropriated the Collaborative must recommend to the DOH the awarding of grants to support innovative cancer research and treatment models, including emerging research and treatment trends and promising treatments that may serve as catalysts for further research and treatments. The Collaborative is directed to give priority to applications seeking to expand the reach of innovative cancer treatment models into underserved areas of the state. The Collaborative must review all grant applications and make grant funding recommendations to the DOH, and the DOH is directed under the bill to make final grant allocation awards.

Beginning July 1, 2024, the bill requires each allocation agreement issued by the DOH relating to cancer center payments made under current law to cancer centers recognized by the National Cancer Institute (NCI) at the National Institutes of Health as NCI-designated cancer centers or NCI-designated comprehensive cancer centers, and cancer centers working toward achieving NCI designation, must include specified requirements.

The bill may have an indeterminate fiscal impact to the DOH. *See* Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Florida Cancer Research Programs

The Legislature funds cancer research in Florida through four main programs: William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley program), the Casey DeSantis Cancer Research Program, Live Like Bella Initiative - Pediatric Cancer Research Program, and the Cancer Innovation Fund. Currently, $160.5 million is appropriated annually for these research programs as follows:[1]

- Bankhead-Coley Program - $10 million Biomedical Trust Fund
- Casey DeSantis Cancer Research Program - $127.5 million ($111.1 General Revenue; $16.4 Trust Fund)
- Live Like Bella Initiative - Pediatric Cancer Research - $3 million Biomedical Trust Fund
- Florida Cancer Innovation Fund - $20 million General Revenue

[1] Chapter 2023-239, Laws of Fla., see specific appropriations 462, 464, 467, and 465 respectively.

William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program

In 2006, the Legislature created the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) to advance progress toward cures for cancer through grants awarded through a peer-reviewed, competitive process.[2]

The program provides grants for cancer research to further the search for cures for cancer, by pursuing the following goals:[3]

- Significantly expand cancer research capacity in Florida.
- Improve both research and treatment through greater pediatric and adult participation in clinical trials networks.
- Reduce the impact of cancer on disproportionately impacted individuals.

Currently, the Bankhead-Coley Program is funded at $10 million annually.[4]

The Casey DeSantis Cancer Research Program

In 2014, the Legislature created the Florida Consortium of National Cancer Institute Centers Program, which was renamed as the Casey DeSantis Cancer Research Program (Casey DeSantis Program) in 2022. The Casey DeSantis Program was established to:[5]

- Enhance the quality and competitiveness of cancer care in Florida;
- Further a statewide biomedical research strategy directly responsive to the health needs of Florida's citizens; and
- Capitalize on potential educational opportunities available to students.

The Florida Department of Health (DOH) is required to make payments to cancer centers recognized by the NCI as NCI-designated comprehensive cancer centers, cancer centers, and cancer centers working toward achieving NCI designation.[6]

The NCI designates institutions as:[7]

- Comprehensive Cancer Centers – focused on substantial transdisciplinary research that bridges all cancer-related research areas;
- Cancer Centers – focused on one research area such as clinical, prevention, cancer control or population science research; or
- Basic Laboratory Cancer Centers – focused on laboratory research and work collaboratively with other institutions.

A participating center's annual allocation of funds is determined by a statutory tier-weighted formula that factors in a cancer center's reportable cancer cases; peer-review costs; and

[2] Section 381.922(1), F.S.
[3] Section 381.922(2), F.S.
[4] Chapter 2023-239, Laws of Fla., see specific appropriation 462.
[5] Section 381.915(2), F.S.
[6] *Id.*
[7] National Cancer Institute, NCI-Designated Cancer Centers, available at: https://www.cancer.gov/research/infrastructure/cancer-centers (last visited Feb. 16, 2024).

biomedical education and training.[8] The tier designations are weighted based on the participating cancer center's NCI-designation status. The program's three-tier designations are:[9]

- Tier 1: NCI-designated comprehensive cancer centers;
- Tier 2: NCI-designated cancer centers; and
- Tier 3: Cancer centers seeking NCI designation and meeting additional criteria related to their research and biomedical education.

Currently, there are two NCI-designed comprehensive cancer centers and two NCI-designated cancer centers in Florida:[10]

- H. Lee Moffitt Cancer Center – Comprehensive Cancer Center
- Mayo Clinic Cancer Center – Comprehensive Cancer Center
- The University of Florida (UF) Health Shands Cancer Hospital – Cancer Center
- University of Miami (UM) Sylvester Cancer Center – Cancer Center

See chart below for the funding history of the Casey DeSantis Program:[11]

	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
H. Lee Moffitt	$ 25,300,898	$ 24,911,553	$ 23,313,325	$ 39,368,392	$ 38,060,795
Mayo Clinic	N/A	N/A	N/A	N/A	$ 23,314,286
UF Health Shands Cancer Hospital	$ 19,551,236	$ 20,722,858	$ 22,321,087	$ 30,721,560	$ 37,135,352
UM Sylvester Cancer Center	$ 17,376,609	$ 16,594,331	$ 16,595,331	$ 29,910,047	$ 28,989,567
Total	**$ 62,228,743**	**$ 62,228,742**	**$ 62,229,743**	**$ 99,999,999**	**$ 127,500,000**

Every three years, the DOH, in conjunction with participating cancer centers, must provide a report to the Cancer Control and Research Advisory Council (CCRAB) by July 1. The report must include the following:[12]

- An analysis of trending age-adjusted cancer mortality rates in the state by age group, geographic region, and type of cancer.
- Identification of trends in overall federal funding, broken down by institutional source, for cancer-related research in the state.
- A list and narrative description of collaborative grants and interinstitutional collaboration among participating cancer centers, a comparison of collaborative grants in proportion to the grant totals for each cancer center, a catalog of retreats and progress seed grants using state funds, and targets for collaboration in the future and reports on progress regarding such targets where appropriate.

[8] Section 381.915(3), F.S.
[9] Section 381.915(4), F.S.
[10] National Cancer Institute, NCI-Designated Cancer Centers, "Find a Cancer Centers" directory, available at: https://www.cancer.gov/research/infrastructure/cancer-centers/find (last visited Feb. 16, 2024).
[11] Email from Ty Gentle, DOH Budget Director (Dec. 8, 2023), Final NCI Cancer Allocation Spreadsheet, (on file with the Appropriations Committee on Health and Human Services).
[12] Section 381.915(8), FS.

Live Like Bella Initiative – Pediatric Cancer Research

The Live Like Bella Pediatric Cancer Research Initiative was established to advance progress toward curing pediatric cancer through grants awarded through a peer-reviewed, competitive process.[13] The Initiative will provide grants for research to further the search for cures for pediatric cancer, by pursuing the following goals to:[14]

- Significantly expand pediatric cancer research capacity in Florida.
- Improve both research and treatment through greater pediatric enrollment in clinical trial networks.
- Reduce the impact of pediatric cancer on disproportionately impacted individuals.

Currently, the Live Like Bella Initiative is funded with $3 million annually.[15]

Florida Cancer Innovation Fund

The Florida Cancer Innovation Fund was established in Fiscal Year 2023-24 to fund projects focused on innovative research in cancer care and treatment. The funding aims to provide opportunities to break down longstanding silos between researchers, cancer facilities, and medical providers to improve cancer research and treatment through innovative approaches to data infrastructure and best practices.[16] Funding is limited to Florida-based institutions.

The projects funded through grant awards are required to focus on at least one of three goal areas below:[17]

- Data – to identify the reasons data is slow to move or hard to access and ways to dismantle those barriers.
- Best Practices – to streamline, encourage, and incentivize the sharing of treatment best practices among public and private entities.
- Innovation – to make advancements in cutting-edge technology and clinical treatments.

Currently, the Florida Cancer Innovation Fund is funded with $20 million annually.[18]

Florida Cancer Control and Research Advisory Council (CCRAB)

The Florida Cancer Control Research Advisory Council was established by the Legislature as an advisory body appointed to function on a continuing basis for the study of cancer and to make recommendations on solutions and policy alternatives to the Board of Governors and the State Surgeon General.[19] The CCRAB closely monitors Florida's cancer burden and recommends

[13] Section 381.922(2), F.S.
[14] Department of Health, Biomedical Research Program Funding Announcement, Fiscal Year 2023-24, available at: https://www.floridahealth.gov/provider-and-partner-resources/research/funding-opportunity-announcements/BRACFOAApprovedFINAL.pdf (last visited Feb. 16, 2024).
[15] Chapter 2023-239, Laws of Fla., see specific appropriations 467.
[16] Department of Health, Funding Opportunity Announcement, The Florida Cancer Innovation Fund, available at https://www.floridahealth.gov/provider-and-partner-resources/research/florida-cancer-innovation-fund/index.html (last visited Feb. 16, 2024).
[17] *Id.*
[18] Chapter 2023-239, Laws of Fla., see specific appropriation 465.
[19] Section 1004.435, F.S.

changes in policies, systems, and environments that lead to improved prevention, early detection, high-quality treatment, and increased cancer serval rates.[20]

The Council consists of 15 members:[21]

- The State Surgeon General or his or her designee within the DOH;
- A representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.;
- A representative of the Sylvester Comprehensive Cancer Center of the University of Miami;
- A representative of the University of Florida Shands Cancer Center;
- A representative of the American Cancer Society;
- A representative of the Association of Community Cancer Centers;
- A member of the Florida Hospital Association who specializes in the field of oncology;
- A member of the Florida Medical Association who specializes in the field of oncology;
- A representative of the Florida Nurses Association who specializes in the field of oncology;
- A representative of the Florida Osteopathic Medical Association who specializes in the field of oncology;
- A specialist in pediatric oncology research or clinical care appointed by the Governor;
- A specialist in oncology clinical care or research appointed by the President of the Senate;
- A current or former cancer patient or a current or former caregiver to a cancer patient appointed by the Speaker of the House of Representatives;
- A member of the House of Representatives appointed by the Speaker of the House of Representatives; and
- A member of the Senate appointed by the President of the Senate.

CCRAB members serve four year terms.[22]

Florida Cancer Connect Collaborative

Established in 2023, the Florida Cancer Connect Collaborative[23] (Collaborative) is an initiative created by First Lady Casey DeSantis in partnership with the DOH and the Agency for Health Care Administration. The Collaborative is a team made up of medical professionals and government officials who analyze Florida's approach to combatting cancer. The goal of the Collaborative is to break down long-standing silos between researchers, cancer facilities, and medical providers to improve cancer research and treatment. According to the Governor and First Lady, the Collaborative has five main objectives:[24]

- Data – The Collaborative will seek to identify the reasons data is slow to move or hard to access and dismantle those barriers.

[20] Florida Cancer Control and Research Advisory Council, CCRAB Annual Report 2024, The State of Cancer in Florida, available at: https://www.ccrab.org/_cache/files/c/3/c388cd5a-94e1-4342-b946-d21f872724cc/72B5F6981BBF2571E5C3B73AF0DC1169.2024ccrab-annualreport-final.pdf (last visited Feb. 19, 2024).
[21] Section 1004.435(4), F.S.
[22] Section 1004.435(4), F.S.
[23] The Cancer Connect Collaborative is an expansion of Cancer Connect, an initiative launched by First Lady Casey DeSantis in August 2022 to provide cancer information and survivor stories.
[24] Florida Governor Ron DeSantis, First Lady Casey DeSantis Announces the Cancer Connect Collaborative to Explore Innovative Strategies for Cancer Treatment and Care, available at: https://www.flgov.com/2023/02/23/first-lady-casey-DeSantis-announces-the-cancer-connect-collaborative-to-explore-innovative-strategies-for-cancer-treatment-and-care/ (last visited Feb. 16, 2024).

- Best practices – The Collaborative will seek to streamline, encourage and incentivize the sharing of treatment best practices among public and private entities so that everyone is treated with the most effective treatment possible.
- Innovation – The Collaborative will identify the reasons that technology gets held up — whether it be special interests, over-litigiousness or bureaucratic red tape — and recommend ways to eliminate these barriers.
- Funding – The Collaborative will provide recommendations for the implementation of the Governor's proposed $170 million in funding to improve the pace of cancer research and novel technologies.
- Honesty – The Collaborative will be tasked with identifying the ways to ensure cancer causes, treatment, prevention, and diagnosis information is available and easy to access.

III. Effect of Proposed Changes:

Section 1 revises s. 381.915, F.S., relating to the Casey DeSantis Cancer Research Program (Casey DeSantis Program).

The bill provides that the Casey DeSantis Program is established, in addition to current law's existing provisions for the program's establishment, to promote the provision of high-quality, innovative health care for persons undergoing cancer treatment in Florida.

The bill requires the Florida Department of Health (DOH) to make cancer innovation grant funding available through the Cancer Innovation Fund to health care providers and facilities that demonstrate excellence in patient-centered cancer treatment or research.

The bill codifies the Collaborative in statute by providing that the Collaborative is a council[25] as defined in s. 20.03, F.S., created within the DOH to advise the department and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The Collaborative is authorized under the bill to make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

The bill provides for membership of the Collaborative, to be chaired by the State Surgeon General who will serve as an ex officio, non-voting member. The remaining membership of the Collaborative will be composed as follows, all of whom are to be voting members, with appointments to be made by September 1, 2024:

- Two members appointed by the Governor, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives, prioritizing their appointments on members who have the following experience or expertise:
  - The practice of a health care profession specializing in oncology clinical care or research;
  - The development of preventive and therapeutic treatments to control cancer;

[25] Section 20.03, F.S., defines a "council" or an "advisory council" as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

    - The development of innovative research into the causes of cancer, the development of effective treatments for persons with cancer, or cures for cancer; or Management-level experience with a cancer center licensed under ch. 395, F.S.
- A Florida resident who can represent the interests of cancer patients in this state, appointed by the Governor.

The bill provides for members to have staggered terms and for vacancies to be filled. The bill provides that members will serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S.

Under the bill, the Collaborative shall meet as necessary, but at least quarterly, at the call of the chair. A majority of the members of the Collaborative constitute a quorum, and a meeting may not be held with less than a quorum present. To establish a quorum, the Collaborative may conduct its meetings through teleconference or other electronic means.

The bill requires the Collaborative to develop a long-range comprehensive plan for the Casey DeSantis Program. The Collaborative must solicit input from cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers. The plan must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor no later than December 1, 2024. The plan must include, but need not be limited to, the following components:

- Expansion of grant funding opportunities to include a broader pool of Florida-based cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers to receive funding through the Cancer Innovation Fund.
- An evaluation to determine metrics that focus on patient outcomes, quality of care, and efficacy of treatment.
- A compilation of best practices relating to cancer research or treatment.

The Collaborative must advise the DOH on the awarding of grants issued through the Cancer Innovation Fund. During any fiscal year for which funds are appropriated, the Collaborative must recommend to the DOH the awarding of grants to support innovative cancer research and treatment models, including emerging research and treatment trends and promising treatments that may serve as catalysts for further research and treatments. The Collaborative is directed to give priority to applications seeking to expand the reach of innovative cancer treatment models into underserved areas of the state. The Collaborative must review all grant applications and make grant funding recommendations to the DOH, and the DOH is directed under the bill to make final grant allocation awards.

The bill revises the requirements under current law for the DOH to issue a report every three years to the Florida Cancer Control & Research Advisory Council (CCRAB). Under the bill, beginning July 1, 2025, the report must be issued every year to the CCRAB and the Collaborative and requires the DOH to submit the report to the Governor and Legislative leadership no later than September 15 each year.

Beginning July 1, 2024, the bill requires each allocation agreement issued by the DOH relating to cancer center payments made under current law to cancer centers recognized by the NCI at the National Institutes of Health as NCI-designated cancer centers or NCI-designated comprehensive

cancer centers, and cancer centers working toward achieving NCI designation, must include the following:

- A line-item budget narrative documenting the annual allocation of funds to a cancer center;
- A cap on the annual award of 15 percent for administrative expenses;
- A requirement for the cancer center to submit quarterly reports of all expenditures made by the cancer center with funds received through the Casey DeSantis Program;
- A provision to allow the DOH and other state of Florida auditing bodies to audit all financial records, supporting documents, statistical records, and any other documents pertinent to the allocation agreement; and
- A provision requiring the annual reporting of outcome data and protocols utilized in achieving those outcomes.

Section 2 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Health (DOH) may experience operational and fiscal impacts from carrying out its duties under the bill. Such impacts are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.915 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 Fiscal Policy on February 22, 2024:
The committee substitute removes the Cancer Connect Collaborative from the administration of the Cancer Innovation Fund and leaves the administration of the fund to the Department of Health.

B. Amendments:

None.

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

639792

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
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	.	
	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment

Delete lines 64 - 65
and insert:
the Cancer Innovation Fund under subsection (9) to health care providers and

840478

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete line 145

and insert:

(9) The collaborative shall advise the department on the awarding of grants issued through the Cancer

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

And the title is amended as follows:

Delete line 20

840478

and insert:

collaborative to advise the department on the awarding of grants issued through the Cancer Innovation

By the Appropriations Committee on Health and Human Services

603-03533-24 20247072__

A bill to be entitled

An act relating to cancer funding; amending s. 381.915, F.S.; revising the purpose of the Casey DeSantis Cancer Research Program; revising duties of the Department of Health under the program; creating the Cancer Connect Collaborative, a council, within the department for a specified purpose; authorizing the collaborative to make certain recommendations on state policy relating to cancer research or treatment; providing for membership and meetings of the collaborative; requiring the collaborative to develop a long-range comprehensive plan for the program; requiring the collaborative to solicit input from certain stakeholders in the development of the plan; requiring the collaborative to submit the plan to the Governor and the Legislature by a specified date; specifying required components of the plan; requiring the department to provide administrative support and staff to the collaborative; requiring the collaborative to administer the Cancer Innovation Fund; requiring the collaborative to review grant applications and make recommendations to the department for awarding grants upon the appropriation of funds to the fund; requiring the department to make the final grant allocation award; requiring the collaborative to prioritize certain applications for grant funding; revising the frequency with which the department, in conjunction with participating cancer centers, must submit a specified report to the Cancer

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

603-03533-24 20247072__

Control and Research Advisory Council and the collaborative; requiring the department to submit the report, and any equivalent independent reports, to the Governor and the Legislature by a specified date each year; revising requirements of such reports; beginning on a specified date, requiring that each allocation agreement issued by the department relating to certain cancer center payments include specified elements; providing an effective date.

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

Section 1. Present subsections (8), (9), and (10) of section 381.915, Florida Statutes, are redesignated as subsections (10), (12), and (13), new subsections (8) and (9) and subsection (11) are added to that section, and subsection (2) of that section is amended, to read:

381.915 Casey DeSantis Cancer Research Program.—

(2) The Casey DeSantis Cancer Research Program is established to enhance the quality and competitiveness of cancer care in this state, further a statewide biomedical research strategy directly responsive to the health needs of Florida's citizens, ~~and~~ capitalize on the potential educational opportunities available to its students, and promote the provision of high-quality, innovative health care for persons undergoing cancer treatment in this state. The department shall:

(a) Make payments to cancer centers recognized by the National Cancer Institute (NCI) at the National Institutes of Health as NCI-designated cancer centers or NCI-designated

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

comprehensive cancer centers, and cancer centers working toward achieving NCI designation. The department shall distribute funds to participating cancer centers on a quarterly basis during each fiscal year for which an appropriation is made.

(b) Make cancer innovation grant funding available through the Cancer Innovation Fund administered by the Cancer Connect Collaborative under subsection (9) to health care providers and facilities that demonstrate excellence in patient-centered cancer treatment or research.

(8) The Cancer Connect Collaborative, a council as defined in s. 20.03, is created within the department to advise the department and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The collaborative may make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

(a) The Surgeon General shall serve as an ex officio, nonvoting member and shall serve as the chair.

(b) The collaborative shall be composed of the following voting members, to be appointed by September 1, 2024:

1. Two members appointed by the Governor, one member appointed by the President of the Senate, and one member appointed by the Speaker of the House of Representatives, based on the criteria of this subparagraph. The appointing officers shall make their appointments prioritizing members who have the following experience or expertise:

a. The practice of a health care profession specializing in

oncology clinical care or research;

b. The development of preventive and therapeutic treatments to control cancer;

c. The development of innovative research into the causes of cancer, the development of effective treatments for persons with cancer, or cures for cancer; or

d. Management-level experience with a cancer center licensed under chapter 395.

2. One member who is a resident of this state who can represent the interests of cancer patients in this state, appointed by the Governor.

(c) The terms of appointees under paragraph (b) shall be for 2 years unless otherwise specified. However, to achieve staggered terms, the initial appointees under that paragraph shall serve 3 years for their first term. These appointees may be reappointed for no more than four consecutive terms.

(d) Any vacancy occurring on the collaborative must be filled in the same manner as the original appointment. Any member who is appointed to fill a vacancy occurring because of death, resignation, or ineligibility for membership shall serve only for the unexpired term of the member's predecessor.

(e) Members whose terms have expired may continue to serve until replaced or reappointed, but for no more than 6 months after the expiration of their terms.

(f) Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(g) The collaborative shall meet as necessary, but at least quarterly, at the call of the chair. A majority of the members

of the collaborative constitutes a quorum, and a meeting may not be held with less than a quorum present. In order to establish a quorum, the collaborative may conduct its meetings through teleconference or other electronic means. The affirmative vote of a majority of the members of the collaborative present is necessary for any official action by the collaborative.

(h) The collaborative shall develop a long-range comprehensive plan for the Casey DeSantis Cancer Research Program. In the development of the plan, the collaborative must solicit input from cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers. The collaborative shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2024. The plan must include, but need not be limited to, all of the following components:

1. Expansion of grant fund opportunities to include a broader pool of Florida-based cancer centers, research institutions, biomedical education institutions, hospitals, and medical providers to receive funding through the Cancer Innovation Fund.

2. An evaluation to determine metrics that focus on patient outcomes, quality of care, and efficacy of treatment.

3. A compilation of best practices relating to cancer research or treatment.

(i) The department shall provide reasonable and necessary support staff and materials to assist the collaborative in the performance of its duties.

(9) The collaborative shall administer the Cancer

Innovation Fund. During any fiscal year for which funds are appropriated to the fund, the collaborative shall review all submitted grant applications and make recommendations to the department for awarding grants to support innovative cancer research and treatment models, including emerging research and treatment trends and promising treatments that may serve as catalysts for further research and treatments. The department shall make the final grant allocation awards. The collaborative shall give priority to applications seeking to expand the reach of innovative cancer treatment models into underserved areas of this state.

(10) Beginning July 1, 2025 ~~2017~~, and each year ~~every 3 years~~ thereafter, the department, in conjunction with participating cancer centers, shall submit a report to the Cancer Control and Research Advisory Council and the collaborative on specific metrics relating to cancer mortality and external funding for cancer-related research in this ~~the~~ state. If a cancer center does not endorse this report or produce an equivalent independent report, the cancer center is ineligible to receive ~~shall be suspended from the~~ program funding for 1 year. The department must submit this annual report, and any equivalent independent reports, to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than September 15 of each year the report or reports are submitted by the department. The report must include:

(a) An analysis of trending age-adjusted cancer mortality rates in the state, which must include, at a minimum, overall age-adjusted mortality rates for cancer statewide and age-

adjusted mortality rates by age group, geographic region, and type of cancer, which must include, at a minimum:

1. Lung cancer.
2. Pancreatic cancer.
3. Sarcoma.
4. Melanoma.
5. Leukemia and myelodysplastic syndromes.
6. Brain cancer.
7. Breast cancer.

(b) Identification of trends in overall federal funding, broken down by institutional source, for cancer-related research in the state.

(c) A list and narrative description of ~~collaborative grants and~~ interinstitutional collaboration among participating cancer centers, which may include grants received by participating cancer centers in collaboration, a comparison of such ~~collaborative~~ grants in proportion to the grant totals for each cancer center, a catalog of retreats and progress seed grants using state funds, and targets for collaboration in the future and reports on progress regarding such targets where appropriate.

(11) Beginning July 1, 2024, each allocation agreement issued by the department relating to cancer center payments under subsection (2) must include all of the following:

(a) A line-item budget narrative documenting the annual allocation of funds to a cancer center.

(b) A cap on the annual award of 15 percent for administrative expenses.

(c) A requirement for the cancer center to submit quarterly

reports of all expenditures made by the cancer center with funds received through the Casey DeSantis Cancer Research Program.

(d) A provision to allow the department and other state auditing bodies to audit all financial records, supporting documents, statistical records, and any other documents pertinent to the allocation agreement.

(e) A provision requiring the annual reporting of outcome data and protocols used in achieving those outcomes.

(12) ~~(9)~~ This section is subject to annual appropriation by the Legislature.

(13) ~~(10)~~ The department may adopt rules to administer this section.

Section 2. This act shall take effect July 1, 2024.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	SPB 7078
INTRODUCER:	Fiscal Policy Committee
SUBJECT:	Public Records and Meetings
DATE:	February 21, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Yeatman		**FP Submitted as Comm. Bill/Fav.**

I. Summary:

SPB 7078, which is linked to SB 7072, creates a public records exemption for proprietary business information related to the Cancer Connect Collaborative (collaborative) receipt and review of research grant applications. Proprietary business information is designated confidential and exempt, but may be disclosed under certain circumstances. The bill also exempts from the public meetings requirements, those portions of the collaborative's meetings at which the proprietary business information contained in grant applications are discussed. The bill requires that closed meetings be recorded and disclosed under specific circumstances.

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

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

Because the bill creates a new public records and public meetings exemption, 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 SB 7072, or similar legislation, if adopted, takes effect. SB 7072 provides an effective date of July 1, 2024.

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

[1] FLA. CONST. art. I, s. 24(a).

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, section 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, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

> [a]ll 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]

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[2] *Id*.
[3] *See* Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).
[4] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).
[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.

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]

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

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.[16] 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.[17] This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.[18]

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,"[19] or the "Sunshine

[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).
[11] *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).
[12] *See, e.g.*, s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id*.
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] FLA. CONST., art. I, s. 24(b).
[17] *Id*.
[18] 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."
[19] *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

Law,"[20] 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.[21] The board or commission must provide the public reasonable notice of such meetings.[22] 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.[23] Minutes of a public meeting must be promptly recorded and open to public inspection.[24] Failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.[25] A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.[26]

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.[27] 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.[28] A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.[29]

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act[30] (the Act), prescribe a legislative review process for newly created or substantially amended[31] public records or open meetings exemptions, with specified exceptions.[32] 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.[33]

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.[34] An exemption serves an identifiable purpose if the Legislature finds that the purpose of the

[20] *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).
[21] Section 286.011(1)-(2), F.S.
[22] *Id.*
[23] Section 286.011(6), F.S.
[24] Section 286.011(2), F.S.
[25] Section 286.011(1), F.S.
[26] Section 286.011(3), F.S.
[27] FLA. CONST., art. I, s. 24(c).
[28] *Id*.
[29] *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.
[30] Section 119.15, F.S.
[31] 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.
[32] 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.
[33] Section 119.15(3), F.S.
[34] Section 119.15(6)(b), F.S.

exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;[35]
- 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;[36] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[37]

The Act also requires specified questions to be considered during the review process.[38] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.[39] 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.[40]

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.[41] 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.[42]

[35] Section 119.15(6)(b)1., F.S.
[36] Section 119.15(6)(b)2., F.S.
[37] Section 119.15(6)(b)3., F.S.
[38] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[39] *See generally* s. 119.15, F.S.
[40] Section 119.15(7), F.S.
[41] *See generally* s. 119.15, F.S.
[42] Section 119.15(7), F.S.

Cancer Connect Collaborative

SB 7072 establishes the Cancer Connect Collaborative in statute within the Department of Health (DOH) to advise the DOH and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The bill authorizes the collaborative to make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

The collaborative is charged with spearheading the Cancer Innovation Fund and to, during any fiscal year for which funds are appropriated, recommend to the DOH the awarding of grants to support innovative cancer research and treatment models, including emerging research and treatment trends and promising treatments that may serve as catalysts for further research and treatments. The collaborative must review all grant applications and make grant funding recommendations to the DOH, and the DOH is directed to make final grant allocation awards.

III. Effect of Proposed Changes:

The bill creates a public records exemption for proprietary business information contained in grant applications submitted to the Cancer Connect Collaborative and in the records, except the final recommendations, generated by the collaborative during its review. The information is confidential and exempt under the bill. Records generated by the collaborative during its review may include meeting meetings, score sheets, personal notes written by collaborative members, and summary documents prepared by the collaborative or its staff. However, the bill provides that the records may be released with the express written consent of the person to whom the information pertains or the person's legally authorized representative, or by a court upon a showing of good cause.

The bill further provides that those portions of the collaborative's meetings at which proprietary business information contained in grant applications is discussed are exempt from the public meetings law. The bill requires that the closed portions of the meetings be recorded and the recordings may be released under the same circumstances as apply to the exempt records—with the express written consent of the person to whom the information pertains or the person's legally authorized representative, or by court order upon a showing of good cause.

The bill defines "proprietary business information" as information that is:

- Is owned or controlled by the applicant;
- Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations.
- Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public;
- Is not readily available or ascertainable through proper means from another source in the same configuration as received by the collective; and
- Competitive interests, the disclosure of which would impair the competitive advantage of the applicant; or
- A trade secret as defined in s. 688.002.

The bill provides for repeal of the exemptions pursuant to the Open Government Sunset Review Act on October 2, 2029, unless reviewed and saved from repeal by the Legislature.

The bill provides a public necessity statement, which is required by the Florida Constitution. The bill states that the public records exemption is necessary to protect the intellectual property of the applicants, to promote scientific innovation, and to ensure a peer review process. It states that the public meetings exemption is necessary to ensure candid exchanges among reviewers, thereby ensuring that decisions are based on merit and not subject to bias or undue influence.

The bill takes effect on the same date as SB 7072 or similar legislation takes effect, if adopted and becomes a law. SB 7072 provides an effective date of July 1, 2024.

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 bill states that the public records exemption is necessary to protect the intellectual property of the applicants, to promote scientific innovation, and to ensure a peer review process. It states that the public meetings exemption is necessary to ensure candid exchanges among reviewers, thereby ensuring that decisions are based on merit and not subject to bias or undue influence.

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 the proprietary business information of applicants. These protections are necessary to protect the intellectual property of the applicants, to promote scientific innovation, and to ensure a peer review

process. It is also necessary to ensure candid exchanges among reviewers, thereby ensuring that decisions are based on merit and not subject to bias or undue influence. 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:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.915 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 the Committee on Fiscal Policy

594-03661-24 20247078__

A bill to be entitled

An act relating to public records and meetings; amending s. 381.915, F.S.; defining the term "proprietary business information"; providing an exemption from public records requirements for proprietary business information included in cancer research grant applications submitted to the Cancer Connect Collaborative and records generated by the collaborative relating to the review of such information; providing an exemption from public meeting requirements for portions of collaborative meetings during which such proprietary business information is discussed; requiring that the closed portions of meetings be recorded; requiring the collaborative to maintain such recordings; authorizing the disclosure of such confidential and exempt information under certain circumstances; providing for legislative review and repeal of the exemptions; providing statements of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (j) is added to subsection (8) of section 381.915, Florida Statutes, as amended by SB 7072, 2024 Regular Session, to read:

381.915 Casey DeSantis Cancer Research Program.—

(8) The Cancer Connect Collaborative, a council as defined in s. 20.03, is created within the department to advise the

594-03661-24 20247078__

department and the Legislature on developing a holistic approach to the state's efforts to fund cancer research, cancer facilities, and treatments for cancer patients. The collaborative may make recommendations on proposed legislation, proposed rules, best practices, data collection and reporting, issuance of grant funds, and other proposals for state policy relating to cancer research or treatment.

(j)1. As used in this paragraph, the term "proprietary business information" means information that:

a. Is a trade secret as defined in s. 688.002; or

b.(I) Is owned or controlled by the applicant;

(II) Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations;

(III) Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public;

(IV) Is not readily available or ascertainable through proper means from another source in the same configuration as received by the collective; and

(V) Affects competitive interests, and the disclosure of such information would impair the competitive advantage of the applicant.

2. Any information in an application submitted to the collaborative for cancer research grant funding under this section which the applicant identifies as proprietary business information and, with the exception of final recommendations, any information in records generated by the collaborative relating to the review of such information is confidential and

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Records generated by the collaborative relating to the review of such information includes, but is not limited to, meeting minutes, score sheets, personal notes written by collaborative members, and summary documents prepared by the collaborative or its staff.

3. Portions of a meeting of the collaborative during which the collaborative discusses a grant application under this section which contains proprietary business information as identified by the applicant are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed portion of a meeting must be recorded, and the recording must be maintained by the collaborative and is subject to disclosure in accordance with subparagraph 4.

4. Information that is confidential and exempt under this paragraph may be disclosed with the express written consent of the applicant to whom the information pertains or the applicant's legally authorized representative or by court order upon a showing of good cause.

5. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that proprietary business information included in applications for cancer research grants submitted to the Cancer Connect Collaborative and in records generated by the collaborative relating to the review of such applications be made confidential and exempt from s. 119.07(1), Florida

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

Statutes, and s. 24(a), Article I of the State Constitution. The Legislature recognizes that the public disclosure of proprietary business information, including ideas and processes, could injure an applicant's business interests and research efforts and stifle scientific innovation. Maintaining confidentiality is a hallmark of scientific peer review when awarding research grants. The Legislature further finds that any public benefit derived from the disclosure of such information is significantly outweighed by the public and private harm which could result from the disclosure of such proprietary business information and records.

(2) The Legislature finds that it is a public necessity that the portions of meetings of the Cancer Connect Collaborative during which proprietary business information included in grant applications is discussed be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. If such portions of meetings are not closed, the public records exemptions are negated. Furthermore, closing meetings during such discussions allows for candid exchanges among reviewers critiquing applications. The Legislature further finds that closing access to the portions of meetings of the collaborative during which proprietary business information contained in cancer research grant applications is discussed serves a public good by ensuring that decisions are based upon merit without bias or undue influence. The Legislature finds that this exemption is narrowly tailored so that only those portions of meetings at which proprietary business information included in grant applications is discussed are exempt from public meetings requirements.

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

Section 3. This act shall take effect on the same date that SB 7072 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Committee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism
Fiscal Policy
Rules
Transportation

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining

SENATOR VICTOR M. TORRES, JR.
25th District

February 21, 2024

Senator Travis Hutson, Chair
Fiscal Policy
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair,

Please accept this letter of excusal for the February 22nd Floor Sitting due to personal business requiring my absence. Please let me know if you have any questions or concerns.

With respect,

Senator Victor Torres Jr.
Senate District 25

REPLY TO:
❒ 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
❒ 214 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Appropriations Committee on Health and Human Services, *Vice Chair*
Appropriations Committee on Agriculture, Environment, and General Government
Education Postsecondary
Fiscal Policy
Health Policy
Rules

SENATOR ILEANA GARCIA
36th District

February 22, 2024

Dear Chair Hutson,

I respectfully request to be excused from the Fiscal Policy Committee meeting today, February 22, 2024.

Thank you for your consideration.

Sincerely,

Senator Ileana Garcia

REPLY TO:
❒ 2828 Coral Way, Suite 208, Miami, Florida 33145 (305) 442-6841
❒ 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: *www.flsenate.gov*

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Committee on Fiscal Policy **Judge:**

Started: 2/22/2024 12:01:49 PM
Ends: 2/22/2024 6:30:19 PM Length: 06:28:31

12:01:49 PM Chair Hutson calls meeting to order
12:01:57 PM Roll call
12:02:27 PM Pledge of Allegiance
12:03:03 PM Tab 3, CS/SB 168 on Congenital Disease Screenings by Polsky
12:03:28 PM Senator Polsky explains the bill
12:05:38 PM Chair Hutson recognizes public appearance:
12:05:47 PM Audrey Fisher-Dina, Deaf Kids Can
12:06:48 PM Dr. Cedric Pitchett
12:08:11 PM Anel Godfrey, Nicklaus Children's Hospital
12:09:40 PM Senator Polsky waives close
12:09:44 PM Roll call
12:10:24 PM Tab 2, CS/CS/SB 86 on Issued Orders of Protection by Book
12:10:45 PM Amendment #270744 by Book
12:10:54 PM Senator Book waives close on the amendment
12:10:57 PM Senator Book explains the bill and amendment
12:11:53 PM Chair Hutson reports the amendment
12:12:16 PM Debate:
12:12:20 PM Senator Berman
12:12:53 PM Senator Book waives close
12:12:58 PM Roll call
12:13:44 PM Tab 39, SB 1396 on Security for Jewish Day Schools and Preschools by Gruters
12:15:03 PM Senator Gruters explains the bill
12:15:09 PM Senator Gruters waives close
12:15:15 PM Roll call
12:15:46 PM Tab 18, CS/CS/SB 796 on Anti-Human Trafficking by Avila
12:16:13 PM Amendment #420820 by Yarborough
12:16:31 PM Senator Avila explains the bill and amendment
12:17:03 PM Senator Avila waives close on the amendment
12:17:10 PM Roll call
12:17:21 PM Senator Mayfield reports the amendment
12:17:31 PM Questions:
12:17:36 PM Senator Berman
12:18:13 PM Senator Yarborough
12:19:39 PM Senator Berman
12:20:02 PM Senator Yarborough
12:21:03 PM Senator Mayfield recognizes public appearance
12:21:11 PM Debate:
12:21:13 PM Senator Berman
12:22:13 PM Senator Avila closes on the bill
12:23:24 PM Roll call
12:24:13 PM Tab 46, SB 7058 on Criminal History Checks for the Florida State Guard by GO
12:24:37 PM Senator Avila explains the bill
12:25:27 PM Senator Avila waives close
12:25:37 PM Roll call
12:26:05 PM Tab 47, SB 7060 on Foreign Investments by the State Board of Administration by GO
12:26:33 PM Senator Avila explains the bill
12:26:57 PM Senator Avila waives close
12:27:17 PM Roll call
12:27:46 PM Tab 1, CS/SB 62 on Resident Status for Tuition by Osgood
12:28:07 PM Senator Osgood explains the bill
12:29:12 PM Senator Mayfield recognizes public appearance
12:29:23 PM Senator Osgood waives close

12:29:28 PM Roll call
12:30:07 PM Tab 4, CS/CS/SB 288 on Motor Vehicle Registration by Rodriguez
12:30:23 PM Senator Rodriguez explains the bill
12:31:21 PM Senator Mayfield recognizes public appearance:
12:31:40 PM Major Doug Bringmans
12:32:47 PM Angela Nandin
12:36:19 PM Debate:
12:36:26 PM Senator Wright
12:37:08 PM Senator Mayfield
12:37:58 PM Senator Rodriguez closes on the bill
12:38:12 PM Roll call
12:38:57 PM Tab 10, CS/CS/SB 638 on Lethality Assessments by Grall
12:39:27 PM Senator Grall explains the bill
12:40:10 PM Amendment #611338 by Grall
12:40:19 PM Senator Grall explains the amendment
12:40:55 PM Senator Grall waives close
12:41:00 PM Senator Mayfield reports the amendment
12:41:06 PM Amendment #345950 by Grall
12:41:18 PM Senator Grall explains the amendment
12:41:39 PM Senator Grall waives close
12:41:45 PM Roll call
12:41:48 PM Senator Mayfield reports the amendment
12:41:59 PM Back on the bill as amended
12:42:02 PM Senator Grall waives close
12:42:06 PM Roll call
12:42:35 PM Tab 48, SB 7062 on Public Records by Senator Grall
12:42:58 PM Senator Bradley explains the bill
12:43:20 PM Senator Bradley waives close
12:43:26 PM Roll call
12:43:55 PM Tab 6, SB 468 on Court Interpreter Services by Bradley
12:44:11 PM Senator Bradley explains the bill
12:44:36 PM Senator Bradley waives close
12:44:40 PM Roll call
12:45:14 PM Tab 7, CS/SB 484 on Flood Disclosure in the Sale of Real Property by Bradley
12:45:35 PM Senator Bradley explains the bill
12:46:39 PM Senator Bradley waives close
12:46:45 PM Roll call
12:47:14 PM Reported favorably
12:47:19 PM Tab 13 CS/SB 678 by Senator Bradley
12:47:27 PM Senator Bradley is recognized to explain the bill
12:47:51 PM Public testimony recognized
12:48:01 PM Public testimony from Aaron Pitman
12:49:34 PM Senator Bradley recognized to waive close
12:49:45 PM Roll call
12:50:25 PM Tab 24, CS/SB 1040 on Veterinary Practices by Bradley
12:50:53 PM Senator Bradley explains the bill and amendment
12:53:04 PM Amendment #880606 by Bradley
12:53:33 PM Senator Bradley waives close on the amendment
12:53:40 PM Senator Mayfield reports the amendment
12:53:56 PM Senator Mayfield recognizes public appearance
12:54:19 PM Dr. Tracey Jensen, DVM
12:55:22 PM Dr. Wayne Jensen, DVM
12:57:04 PM Lisa Glunt, Executive Director Of the Leon County Humane Society
12:59:13 PM Dr. Richard Williams
1:04:50 PM Debate:
1:05:10 PM Senator Osgood
1:07:05 PM Senator Calatayud
1:07:22 PM Senator Bradley closes on the bill
1:08:01 PM Roll call
1:08:47 PM Tab 32, CS/SB 1230 on Sexual Predators and Sexual Offenders by Bradley
1:08:50 PM Senator Bradley explains the bill
1:09:39 PM Senator Mayfield recognizes public appearance

1:09:55 PM Jennifer Blasdel
1:13:50 PM Senator Bradley waives close
1:14:04 PM Roll call
1:14:31 PM Tab 36, CS/SB 1352 on Juvenile Justice by Senator Bradley
1:14:45 PM Senator Bradley explains the bill
1:15:18 PM Amendment #329642 by Bradley
1:15:38 PM Senator Bradley explains the amendment
1:15:44 PM Senator Bradley waives close on the amendment
1:15:54 PM Senator Mayfield reports the amendment
1:16:20 PM Senator Bradley waives close on the bill
1:16:31 PM Roll call
1:16:58 PM Tab 9, CS/SB 592 on Historical Preservation Programs by Burgess
1:17:21 PM Senator Burgess explains the bill
1:17:28 PM Amendment #613796 by Burgess
1:17:42 PM Senator Burgess explains the amendment
1:17:53 PM Senator Burgess waives close on the amendment
1:18:10 PM Questions:
1:18:13 PM Senator Thompson
1:19:17 PM Senator Burgess
1:19:20 PM Senator Thompson
1:19:32 PM Senator Burgess
1:19:41 PM Senator Thompson
1:19:56 PM Senator Burgess
1:20:08 PM Senator Thompson
1:20:11 PM Senator Burgess
1:20:49 PM Senator Thompson
1:20:53 PM Senator Burgess
1:21:05 PM Senator Mayfield recognizes public appearance
1:21:29 PM Debate:
1:21:31 PM Senator Thompson
1:25:55 PM Senator Burgess closes on the bill
1:27:11 PM Roll call
1:27:50 PM Tab 23, CS/CS/SB 994 on Student Transportation Safety by Burgess
1:28:20 PM Senator Burgess explains the bill
1:29:02 PM Senator Burgess waives close
1:29:08 PM Roll call
1:29:43 PM Tab 40, CS/SB 1422 on Food Recovery by Burgess
1:29:57 PM Senator Burgess explains the bill
1:30:15 PM Senator Burgess waives close
1:30:23 PM Roll call
1:31:02 PM Tab 25, CS/SB 1046 on Gaming Control by Martin
1:31:21 PM Senator Martin explains the bill
1:32:06 PM Questions:
1:32:08 PM Senator Jones
1:32:40 PM Senator Martin
1:32:44 PM Senator Jones
1:32:56 PM Senator Martin
1:33:01 PM Senator Jones
1:33:24 PM Senator Jones
1:33:40 PM Amendment #879358 by Martin
1:33:50 PM Senator Martin explains the amendment
1:34:26 PM Debate:
1:34:29 PM Senator Jones
1:34:35 PM Senator Martin
1:34:48 PM Senator Mayfield reports the amendment
1:35:07 PM Senator Mayfield recognizes public appearance:
1:35:17 PM Bill Helmich
1:36:35 PM Stuart Scott
1:38:21 PM Jonathan Zacrum, Amusement Machine Association of Florida
1:42:02 PM Senator Jones
1:42:18 PM Jonathan Zacrum
1:44:18 PM Debate:

1:44:20 PM Senator Jones
1:45:09 PM Senator Osgood
1:45:39 PM Senator Martin closes on the bill
1:46:33 PM Roll call
1:47:20 PM Tab 33, CS/SB 1274 on Juvenile Justice by Martin
1:47:47 PM Senator Martin explains the bill
1:48:20 PM Amendment #342476 by Martin
1:48:36 PM Senator Martin explains the amendment
1:48:44 PM Questions:
1:48:46 PM Senator Jones
1:48:48 PM Senator Martin
1:49:04 PM Senator Jones
1:49:56 PM Senator Martin
1:49:59 PM Senator Martin waives close
1:50:02 PM Senator Mayfield reports the amendment
1:50:28 PM Senator Mayfield recognizes public appearance:
1:51:00 PM Aaron Wayt, FL Association of Criminal Defense Lawyers
1:53:43 PM Senator Osgood
1:54:12 PM Aaron Wayt
1:54:14 PM Senator Osgood
1:54:38 PM Ray Miller, American Children's Campaign
2:02:37 PM Debate:
2:02:41 PM Senator Osgood
2:11:32 PM Senator Jones
2:15:18 PM Senator Simon
2:22:12 PM Senator Berman
2:23:49 PM Senator Thompson
2:25:31 PM Senator Martin closes on the bill
2:29:56 PM Roll call
2:30:32 PM Reported favorably
2:30:38 PM Tab 29 CS/SB 1188 by Senator Garcia, Senator Burton is explaining the bill
2:30:57 PM Senator Burton is recognized to explain the delete all amendment barcode #589844
2:32:28 PM Take up amendment to the amendment barcode #224966
2:33:29 PM Senator Burton recognized to explain the amendment
2:34:01 PM Public testimony recognized
2:34:08 PM Amendment to the amendment adopted
2:34:20 PM Take up amendment to the amendment barcode #299274
2:34:32 PM Senator Burton recognized to explain the amendment
2:35:01 PM Amendment adopted
2:35:24 PM Senator Mayfield recognizes public appearance
2:36:24 PM Chris Nuland, Florida Society of Plastic Surgeons
2:36:48 PM Back on the bill as amended
2:37:02 PM Christian Camara, Scott Moradian D.O.
2:37:59 PM Senator Burton closes on the bill
2:38:08 PM Roll call
2:38:48 PM Tab 31, CS/CS/SB 1224 on Dependent Children by Senator Burton
2:39:07 PM Senator Burton explains the bill
2:39:49 PM Amendment #568060 by Burton
2:40:01 PM Senator Burton explains the amendment
2:40:40 PM Senator Burton waives close on the amendment
2:40:49 PM Senator Mayfield reports the amendment
2:40:56 PM Amendment #655070 by Burton
2:41:02 PM Senator Burton explains the amendment
2:41:11 PM Senator Burton waives close on the amendment
2:41:19 PM Senator Mayfield reports the amendment
2:41:30 PM Senator Mayfield recognizes public appearance on the bill:
2:41:41 PM Senator Burton waives close
2:41:48 PM Roll call
2:42:39 PM Tab 34, CS/SB 1278 on Department of Corrections by Martin
2:42:58 PM Senator Martin explains the bill
2:43:24 PM Questions:
2:43:26 PM Senator Jones

2:43:52 PM Senator Martin
2:44:09 PM Senator Thompson
2:44:24 PM Senator Martin
2:45:12 PM Senator Thompson
2:45:25 PM Senator Martin
2:45:41 PM Senator Martin waives close
2:46:17 PM Roll call
2:47:10 PM Tab 17, CS/SB 776 on Temporary Cash Assistance by Powell
2:47:29 PM Senator Powell explains the bill
2:48:35 PM Senator Powell waives close
2:48:40 PM Roll call
2:49:17 PM Tab 8, SB 558 on Homeless Service Professionals by Rouson
2:49:33 PM Senator Rouson explains the bill
2:50:18 PM Senator Rouson waives close
2:50:24 PM Roll call
2:50:55 PM Tab 35, SB 1324 on Driving Without a Valid Driver License by Ingolia
2:51:20 PM Senator Ingolia explains the bill
2:51:27 PM Questions:
2:51:29 PM Senator Jones
2:51:44 PM Senator Ingoglia
2:51:47 PM Senator Jones
2:52:04 PM Senator Ingoglia
2:52:21 PM Senator Jones
2:52:31 PM Senator Ingoglia
2:52:46 PM Senator Stewart
2:53:07 PM Senator Ingoglia
2:53:20 PM Senator Mayfield recognizes public appearance:
2:53:27 PM Yareliz Mendez-Zamora
2:55:48 PM Debate:
2:55:51 PM Senator Boyd
2:56:22 PM Senator Ingoglia waives close
2:56:28 PM Roll call
2:57:06 PM Tab 41, CS/SB 1530 on Unauthorized Public Camping and Sleeping by Martin
2:57:29 PM Amendment #952260 by Martin
2:57:42 PM Senator Martin explains the bill and amendment
2:59:52 PM Questions:
2:59:54 PM Senator Jones
3:01:17 PM Senator Martin
3:01:20 PM Senator Jones
3:01:48 PM Senator Martin
3:02:10 PM Senator Jones
3:02:23 PM Senator Martin
3:02:31 PM Senator Jones
3:02:57 PM Senator Martin
3:03:10 PM Senator Jones
3:03:28 PM Senator Martin
3:03:32 PM Senator Thompson
3:03:51 PM Senator Martin
3:04:36 PM Senator Thompson
3:04:48 PM Senator Martin
3:05:52 PM Senator Thompson
3:06:06 PM Senator Martin
3:07:01 PM Senator Thompson
3:07:23 PM Senator Martin
3:07:34 PM Senator Osgood
3:08:23 PM Senator Martin
3:09:09 PM Senator Osgood
3:09:20 PM Senator Martin
3:10:33 PM Senator Osgood
3:11:02 PM Senator Martin
3:11:57 PM Senator Osgood
3:12:36 PM Senator Martin

3:13:32 PM Senator Osgood
3:14:04 PM Senator Martin
3:15:29 PM Senator Osgood
3:15:54 PM Senator Martin
3:15:58 PM Senator Osgood
3:16:20 PM Senator Martin
3:17:35 PM Senator Osgood
3:17:52 PM Senator Martin
3:18:40 PM Senator Osgood
3:19:39 PM Senator Martin
3:21:06 PM Senator Osgood
3:21:17 PM Senator Martin
3:22:02 PM Senator Osgood
3:22:21 PM Senator Martin
3:22:29 PM Senator Osgood
3:22:52 PM Senator Martin
3:23:51 PM Senator DiCeglie
3:24:37 PM Senator Martin
3:25:20 PM Senator DiCeglie
3:25:49 PM Senator Martin
3:26:10 PM Senator Stewart
3:26:40 PM Senator Martin
3:27:33 PM Senator Stewart
3:28:10 PM Senator Martin
3:28:44 PM Senator Stewart
3:29:54 PM Senator Martin
3:30:43 PM Senator Martin waives close on the amendment
3:30:53 PM Senator Mayfield reports the amendment
3:31:01 PM Senator Mayfield recognizes public appearance
3:31:16 PM Matthew Grocholske
3:33:27 PM Aurelie Colon, Six Action
3:36:00 PM Spike Poma
3:38:02 PM Tsi Day Smyth
3:40:28 PM Sarah Parker
3:43:52 PM Robert Lee
3:47:01 PM Public Testimony recognized
3:48:37 PM Karen Woodall, FL Center for Fiscal and Economic Policy
3:53:14 PM Martha Are, Homeless Services Network
3:57:25 PM Senator Mayfield
3:57:54 PM Debate:
3:57:57 PM Senator Jones
4:01:20 PM Senator Thompson
4:02:43 PM Senator Osgood
4:05:46 PM Senator Burton
4:07:46 PM Senator Stewart
4:10:04 PM Senator Mayfield
4:11:53 PM Senator Martin closes on the bill
4:12:40 PM Roll call
4:13:35 PM Tab 21, CS/CS/SB 892 on Dental Insurance Claims
4:13:40 PM Senator Harrell explains the bill
4:17:42 PM Amendment #547364 by Harrell
4:17:52 PM Senator Harrell explains the amendment
4:18:24 PM Senator Mayfield recognizes public appearance:
4:18:35 PM Joy Ryan, Florida Insurance Council
4:21:04 PM Senator Mayfield reports the amendment
4:21:32 PM Joe Anne Hart, Florida Dental Association
4:26:19 PM Senator Harrell closes on the bill
4:27:06 PM Roll call
4:27:45 PM Tab 37, CS/CS/SB 1362 on Aviation by Harrell
4:28:06 PM Senator Harrell explains the bill
4:31:09 PM Amendment #444598 by Harrell
4:31:23 PM Senator Harrell explains the amendment

4:32:01 PM Senator Harrell waives close
4:32:06 PM Senator Mayfield reports the amendment
4:32:24 PM Senator Harrell closes on the bill
4:32:44 PM Roll call
4:33:26 PM Tab 49, SB 7072 on Cancer Funding by AHS
4:33:43 PM Senator Harrell explains the bill
4:38:03 PM Amendment #639792 by Harrell
4:38:21 PM Senator Mayfield reports the amendment
4:38:33 PM Amendment #840478 by Harrell
4:38:42 PM Senator Harrell explains the amendment
4:39:00 PM Senator Harrell closes on the amendment
4:39:44 PM Senator Mayfield reports the amendment
4:39:52 PM Senator Harrell closes on the bill
4:40:04 PM Roll call
4:40:38 PM Tab 50, SPB 7078 on Public Records by Fiscal Policy
4:41:39 PM Senator Harrell explains the bill
4:41:47 PM Senator Wright moves SPB 7078 be submitted as a committee bill
4:42:00 PM Roll call
4:42:51 PM Tab 42, CS/SB 1544 on DBPR by Hooper
4:43:09 PM Senator Albritton explains the bill
4:43:30 PM Amendment #114064 by Boyd
4:43:41 PM Senator Boyd explains the amendment
4:44:12 PM Senator Mayfield reports the amendment
4:44:20 PM Amendment #721376 by Boyd
4:44:29 PM Senator Boyd explains the amendment
4:45:00 PM Senator Boyd closes on the bill
4:45:06 PM Senator Mayfield reports the amendment
4:45:15 PM Amendment #771042 by Hutson
4:45:31 PM Senator Albritton explains the amendment
4:45:53 PM Senator Albritton waives close on the amendment
4:46:00 PM Senator Mayfield reports the amendment
4:46:07 PM Amendment #659996 by Hooper
4:46:21 PM Senator Albritton explains the amendment
4:46:31 PM Senator Albritton waives close
4:46:42 PM Senator Mayfield reports the amendment
4:46:56 PM Amendment #610464 by Hooper
4:47:07 PM Senator Albritton explains the amendment
4:47:17 PM Senator Mayfield recognizes public appearance
4:47:26 PM Senator Albritton waives close
4:47:35 PM Senator Mayfield reports the amendment
4:47:43 PM Senator Albritton waives close on the bill
4:48:09 PM Tab 45 SB 7052 by Children, Families, and Elders Affairs
4:48:24 PM Senator Albritton is recognized to explain the bill
4:48:43 PM Take up amendment barcode 137630, Senator Albritton recognized to explain the amendment
4:49:21 PM Amendment Adopted
4:49:42 PM Senator Albritton recognized to waive close on the bill as amended
4:49:53 PM Roll call
4:49:58 PM Reported favorably
4:50:20 PM Tab 5 CS/CS/SB 460 by Senator Simon
4:50:33 PM Senator Simon is recognized to explain the bill
4:51:23 PM Take up delete all amendment #446798
4:51:38 PM Senator Simon is recognized to explain
4:52:03 PM Senator Jones is recognized for question
4:54:42 PM Amendment to the amendment #516442 by Simon
4:54:55 PM Senator Simon explains the amendment
4:55:10 PM Senator Simon waives close
4:55:16 PM Senator Mayfield reports the amendment to the amendment
4:55:32 PM Senator Simon waives close on the amendment
4:55:52 PM Senator Mayfield recognizes public appearance
4:56:25 PM Holly Bollard, FL Policy Institute
4:59:53 PM James Ingle
5:03:35 PM Brett Farrell

5:06:47 PM Dr. Rich Templin, Florida AFC-CIO
5:10:32 PM Theresa King, President of FL Building and Construction Trades
5:11:46 PM Kevin Lawhorn
5:14:07 PM Senator Mayfield
5:14:20 PM Ashton Mears, FL Home Builders Association
5:17:17 PM Carol Bowen, Association of Builders and Contractors
5:21:26 PM Debate:
5:21:27 PM Senator Jones
5:22:29 PM Senator Simon closes on the bill
5:23:21 PM Roll call
5:24:04 PM Tab 11, CS/SB 644 on Rural Emergency Hospitals by Simon
5:24:21 PM Senator Simon explains the bill
5:25:19 PM Senator Simon waives close
5:25:24 PM Roll call
5:25:59 PM Tab 28, CS/SB 1154 on Probation Violations by Simon
5:26:12 PM Senator Simon explains the bill
5:27:22 PM Senator Simon waives close
5:27:26 PM Roll call
5:28:01 PM Tab 12, CS/CS/SB 656 on Continuing Contracts by DiCeglie
5:28:24 PM Senator DiCeglie explains the bill
5:29:09 PM Senator DiCeglie waives close
5:29:16 PM Roll call
5:29:51 PM Tab 14, CS/SB 684 on Residential Building Permits by DiCeglie
5:30:08 PM Senator DiCeglie explains the bill
5:30:54 PM Amendment #824238 by DiCeglie
5:31:07 PM Senator DiCeglie explains the amendment
5:31:28 PM Senator DiCeglie waives close on the amendment
5:32:15 PM Senator Mayfield reports the amendment
5:32:24 PM Senator Mayfield recognizes public appearance
5:33:02 PM Senator DiCeglie closes on the bill
5:33:33 PM Roll call
5:34:06 PM Tab 27, CS/CS/SB 1098 on DFS by DiCeglie
5:34:23 PM Senator DiCeglie explains the bill
5:35:00 PM Amendment #814858 by DiCeglie
5:35:11 PM Senator DiCeglie explains the amendment
5:35:43 PM Senator DiCeglie waives close on the amendment
5:35:52 PM Senator Mayfield reports the amendment
5:36:08 PM Senator DiCeglie waives close
5:36:16 PM Roll call
5:36:53 PM Tab 15, CS/SB 736 on Services provided by DHSMV by Trumbull
5:37:22 PM Senator Trumbull explains the bill
5:37:44 PM Amendment #611750 by DiCeglie
5:37:52 PM Senator DiCeglie explains the amendment
5:38:45 PM Questions:
5:38:47 PM Senator Berman
5:38:59 PM Senator DiCeglie
5:39:04 PM Senator Berman
5:39:10 PM Senator DiCeglie
5:39:33 PM Senator Berman
5:39:37 PM Senator DiCeglie
5:39:50 PM Senator Thompson
5:40:00 PM Senator DiCeglie
5:40:28 PM Senator Thompson
5:40:40 PM Senator DiCeglie
5:41:31 PM Debate:
5:41:33 PM Senator Trumbull
5:42:00 PM Senate DiCeglie closes on the amendment
5:42:07 PM Senator Mayfield reports the amendment
5:42:20 PM Senator Trumbull waives close
5:42:29 PM Roll call
5:43:08 PM Tab 30, CS/SB1222 on Theft by Trumbull
5:43:18 PM Senator Trumbull explains the bill

5:44:01 PM Senator Mayfield recognizes public appearance
5:44:12 PM Aurelie Colon, SPLC Action Fund
5:45:49 PM Senator Trumbull waives close
5:45:54 PM Roll call
5:46:27 PM Tab 44, CS/SB 1798 on Home Health Care Services by Trumbull
5:46:45 PM Senator Trumbull explains the bill
5:47:00 PM Senator Trumbull waives close
5:47:06 PM Roll call
5:47:45 PM Tab 16, CS/CS/SB 764 on Retention of Sexual Offense Evidence by Stewart
5:48:07 PM Senator Stewart explains the bill
5:48:19 PM Amendment #885644 by Stewart
5:48:31 PM Senator Stewart explains the amendment
5:48:49 PM Senator Stewart waives close
5:49:14 PM Senator Mayfield reports the amendment
5:49:26 PM Senator Mayfield recognizes public appearance
5:49:45 PM Senator Stewart waives close
5:49:51 PM Roll call
5:50:29 PM Tab 19, CS/SB 864 on Autism Training by Collins
5:50:49 PM Senator Collins explains the bill
5:50:55 PM Amendment #144252 by Collins
5:51:04 PM Senator Collins explains the amendment
5:51:15 PM Senator Collins waives close
5:51:25 PM Senator Mayfield reports the amendment
5:52:01 PM Senator Collins waives close
5:52:06 PM Roll call
5:52:38 PM Tab 26, CS/SB 1084 on FDACS by Collins
5:53:00 PM Senator Collins explains the bill
5:53:04 PM Questions:
5:53:07 PM Senator Berman
5:53:14 PM Senator Collins
5:53:25 PM Amendment #789144 by Collins
5:53:34 PM Senator Collins explains the amendment
5:53:39 PM Substitute Amendment #699264 by Collins
5:53:49 PM Senator Collins explains the substitute amendment
5:54:05 PM Questions:
5:54:06 PM Senator Berman
5:54:22 PM Senator Collins
5:54:40 PM Senator Mayfield recognizes public appearance
5:54:50 PM Senator Collins waives close
5:55:12 PM Senator Mayfield recognizes public appearance
5:55:34 PM Senator Mayfield moves to extend meeting
5:55:53 PM Theresa King, FL Building and Construction Trades Council
5:58:02 PM Kim Ross, Rethink Energy Florida
6:00:28 PM David Cullen, Sierra Club of Florida
6:00:57 PM John Pattison
6:03:15 PM Brian Lee, Rethink Energy Action Fund
6:04:10 PM Sam Dohler
6:06:28 PM Samantha Kaddis, GenCleo Action Fund
6:07:55 PM Arye Elfenbein, M.D., WildType Foods
6:11:34 PM Debate:
6:11:37 PM Senator Berman
6:12:09 PM Senator Stewart
6:13:28 PM Senator Collins closes on the bill
6:16:01 PM Roll call
6:16:35 PM Tab 43, CS/SB 1628 on Local Government Actions by Collins
6:16:56 PM Amendment #369630 by Collins
6:17:18 PM Senator Collins explains the bill and amendment
6:17:47 PM Questions:
6:17:49 PM Senator Stewart
6:18:04 PM Senator Collins waives close
6:18:12 PM Senator Mayfield reports the amendment
6:18:19 PM Senator Mayfield recognizes public appearance

6:18:32 PM David Cullen, Sierra Club of Florida
6:20:07 PM Senator Collins waives close
6:20:17 PM Roll call
6:21:02 PM Tab 20, CS/CS/SB 868 on Transportation Facilities by Boyd
6:21:40 PM Senator Boyd explains the bill
6:21:46 PM Amendment #288298 by Boyd
6:21:56 PM Senator Boyd explains the amendment
6:22:02 PM Senator Boyd waives close
6:22:07 PM Senator Mayfield reports the amendment
6:22:17 PM Senator Boyd waives close
6:22:35 PM Roll call
6:23:17 PM Tab 22, CS/CS/SB 964 on Biomarker Testing by Calatayud
6:23:35 PM Senator Calatayud explains the bill
6:24:01 PM Senator Calatayud waives close
6:24:36 PM Roll call
6:24:41 PM Tab CS/SB 1386 on Environmental Protection by Calatayud
6:25:10 PM Senator Calatayud explains the bill
6:25:17 PM Amendment #334716 by Calatayud
6:25:28 PM Senator Calatayud explains the amendment
6:25:37 PM Senator Mayfield reports the amendment
6:25:51 PM Senator Calatayud waives close
6:26:23 PM Roll call
6:27:13 PM Senator Boyd moves to be recorded
6:27:20 PM Senator Trumbull moves to be recorded
6:27:42 PM Senator Rodriguez moves to be recorded
6:27:50 PM Senator Calatayud moves to be recorded
6:27:58 PM Senator Collins moves to be recorded
6:28:05 PM Senator Stewart moves to be recorded
6:28:19 PM Senator Thompson moves to be recorded
6:28:28 PM Senator Berman moves to be recorded
6:28:54 PM Senator Albritton moves to be recorded
6:29:00 PM Senator Burton moves to be recorded
6:29:07 PM Senator DiCeglie moves to be recorded
6:29:15 PM Senator Simon moves to be recorded
6:29:23 PM Senator Yarborough moves to be recorded
6:29:46 PM Senator Wright moves to adjourn
6:30:08 PM Meeting adjourned