

Tab 1	CS/CS/SB 54 by JU, BI, Burgess (CO-INTRODUCERS) Rouson; (Compare to CS/H 00273) Motor Vehicle Insurance					

~~356652~~	A	S	WD	RC, Brandes	Delete L.294 - 1347:	03/11 12:00 PM
969472	A	S	UNFAV	RC, Farmer	Delete L.1825 - 2102.	03/11 12:00 PM
~~524236~~	A	S	WD	RC, Brandes	Delete L.1932 - 2023:	03/11 12:00 PM
~~914868~~	A	S	WD	RC, Brandes	Delete L.2681 - 2692:	03/11 12:00 PM
~~569746~~	A	S	WD	RC, Brandes	btw L.3498 - 3499:	03/11 12:00 PM

Tab 2	CS/SB 56 by CA, Rodriguez; (Similar to CS/H 00615) Community Association Assessment Notices					

743690	A	S	L	RCS	RC, Rodriguez	Delete L.629:	03/11 12:11 PM
610942	A	S	L	RCS	RC, Rodriguez	Delete L.947:	03/11 12:11 PM

Tab 3	CS/SB 60 by CA, Bradley; (Similar to CS/H 00883) County and Municipal Code Enforcement					

Tab 4	SB 72 by Brandes (CO-INTRODUCERS) Perry, Baxley, Hutson; (Similar to CS/H 00007) Civil Liability for Damages Relating to COVID-19					

274920	D	S	OO	RC, Book	Delete everything after	03/11 01:05 PM
820166	SA	S	OO	RC, Book	Delete L.65 - 174:	03/11 01:05 PM
300664	SA	S	L OO	RC, Book	btw L.163 - 164:	03/11 01:05 PM
258738	A	S	OO	RC, Farmer	Delete L.131 - 136:	03/11 01:05 PM
296990	A	S	OO	RC, Farmer	Delete L.141 - 151:	03/11 01:05 PM
113534	A	S	OO	RC, Farmer	Delete L.152 - 154:	03/11 01:05 PM
300896	A	S	OO	RC, Farmer	btw L.163 - 164:	03/11 01:05 PM
936160	A	S	OO	RC, Farmer	btw L.163 - 164:	03/11 01:05 PM
149800	D	S	L RCS	RC, Brandes	Delete everything after	03/11 01:05 PM
197850	AA	S	L UNFAV	RC, Powell	Delete L.219:	03/11 01:05 PM
752206	AA	S	L UNFAV	RC, Thurston	Delete L.249:	03/11 01:05 PM
777268	AA	S	L UNFAV	RC, Farmer	Delete L.262:	03/11 01:05 PM
233752	AA	S	L UNFAV	RC, Farmer	btw L.137 - 138:	03/11 01:05 PM
600008	AA	S	L UNFAV	RC, Farmer	Delete L.108 - 110:	03/11 01:05 PM
495044	AA	S	L UNFAV	RC, Farmer	Delete L.154:	03/11 01:05 PM
734552	AA	S	L UNFAV	RC, Farmer	Delete L.250 - 251:	03/11 01:05 PM
594458	AA	S	L UNFAV	RC, Farmer	btw L.117 - 118:	03/11 01:05 PM
~~399394~~	AA	S	L WD	RC, Book	btw L.251 - 252:	03/11 01:05 PM
399590	AA	S	L UNFAV	RC, Farmer	btw L.117 - 118:	03/11 01:05 PM
509644	AA	S	L UNFAV	RC, Farmer	Delete L.83 - 87:	03/11 01:05 PM
281950	A	S	L OO	RC, Powell	btw L.154 - 155:	03/11 01:05 PM

Tab 5 SB 74 by Brandes (CO-INTRODUCERS) Burgess; (Compare to CS/CS/H 07005) COVID-19-related Claims Against Health Care Providers						
395520	D	S		RC, Brandes	Delete everything after	03/10 07:54 AM
469340	AA	S		RC, Farmer	btw L.137 - 138:	03/10 03:18 PM
960140	AA	S		RC, Farmer	Delete L.250 - 251:	03/10 03:06 PM
760716	AA	S		RC, Book	btw L.251 - 252:	03/10 02:39 PM
401736	AA	S		RC, Farmer	Delete L.262:	03/10 03:13 PM
776924	AA	S	L	RC, Farmer	Delete L.108 - 110:	03/10 03:22 PM
281230	AA	S	L	RC, Farmer	btw L.117 - 118:	03/10 03:24 PM
765044	AA	S	L	RC, Farmer	Delete L.154:	03/10 03:26 PM
159204	AA	S	L	RC, Farmer	Delete L.250 - 251:	03/10 03:28 PM
250692	AA	S	L	RC, Farmer	btw L.117 - 118:	03/10 03:30 PM
637830	AA	S	L	RC, Thurston	Delete L.249:	03/10 04:04 PM
743768	AA	S	L	RC, Powell	Delete L.219:	03/10 04:21 PM
442034	AA	S	L	RC, Farmer	Delete L.83 - 87:	03/10 06:59 PM
837290	A	S		RC, Farmer	btw L.108 - 109:	03/10 07:39 AM
646298	A	S		RC, Farmer	Delete L.200 - 205:	03/10 07:45 AM
387648	A	S		RC, Farmer	Delete L.205:	03/10 07:41 AM
644596	A	S		RC, Thurston	Delete L.205:	03/10 07:48 AM

Tab 6 CS/SB 80 by CF, Brodeur (CO-INTRODUCERS) Albritton, Book; (Compare to CS/H 01473) Child Welfare						
916712	A	S	RCS	RC, Brodeur	Delete L.273 - 1408:	03/11 12:55 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES

Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Thursday, March 11, 2021

TIME: 8:15—11:15 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Passidomo, Chair; Senator Garcia, Vice Chair; Senators Albritton, Baxley, Bean, Book, Bracy, Brandes, Diaz, Farmer, Gibson, Gruters, Hutson, Mayfield, Powell, Stargel, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	CS/CS/SB 54 Judiciary / Banking and Insurance / Burgess (Compare CS/H 273, CS/H 719, CS/S 420, S 906)	Motor Vehicle Insurance; Repealing provisions which comprise the Florida Motor Vehicle No-Fault Law; revising the motor vehicle insurance coverages that an applicant must show to register certain vehicles with the Department of Highway Safety and Motor Vehicles; providing alternative minimum liability insurance coverage requirements for certain motor vehicle owners or operators; revising financial responsibility requirements for owners or lessees of for-hire passenger transportation vehicles; prohibiting certain practices by motor vehicle repair shops or motor vehicle glass repair facilities with respect to the replacement or repair of motor vehicle windshields, etc. BI 01/26/2021 Fav/CS JU 02/15/2021 Fav/CS RC 03/11/2021 Favorable	Favorable Yeas 12 Nays 3
2	CS/SB 56 Community Affairs / Rodriguez (Similar CS/H 615, Compare CS/H 867, H 1005, CS/S 630, S 1490)	Community Association Assessment Notices; Requiring condominium associations to maintain specified affirmative acknowledgments as official records of the association; revising timeframes for foreclosure judgments; requiring condominium associations to deliver certain invoices for assessments or statements of account to unit owners in a specified manner; requiring cooperative associations to maintain specified affirmative acknowledgments as official records of the association, etc. RI 01/26/2021 Favorable CA 03/03/2021 Fav/CS RC 03/11/2021 Fav/CS	Fav/CS Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, March 11, 2021, 8:15—11:15 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 60 Community Affairs / Bradley (Similar CS/H 883)	County and Municipal Code Enforcement; Prohibiting code inspectors designated by boards of county commissioners from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; prohibiting code inspectors from initiating enforcement proceedings for potential violations of codes and ordinances by way of anonymous complaints; prohibiting code enforcement officers from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; prohibiting code inspectors designated by governing bodies of municipalities from initiating investigations of potential violations of codes and ordinances by way of anonymous complaints; requiring persons who report potential violations of codes and ordinances to provide specified information to the governing body before an investigation occurs, etc. CA 02/02/2021 Fav/CS GO 03/03/2021 Favorable RC 03/11/2021 Favorable	Favorable Yeas 11 Nays 4
4	SB 72 Brandes (Similar CS/H 7, Compare H 1617)	Civil Liability for Damages Relating to COVID-19; Providing requirements for a civil action based on a COVID-19-related claim; providing that the plaintiff has the burden of proof in such action; providing a statute of limitations; providing severability; providing retroactive applicability, etc. JU 01/25/2021 Favorable CM 02/15/2021 Temporarily Postponed CM 03/02/2021 Favorable RC 03/11/2021 Fav/CS	Fav/CS Yeas 10 Nays 5
5	SB 74 Brandes (Compare CS/H 7005)	COVID-19-related Claims Against Health Care Providers; Providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing immunity from liability for COVID-19-related claims under certain circumstances; requiring COVID-19-related claims to commence within a specified timeframe, etc. JU 02/10/2021 Favorable HP 03/03/2021 Favorable RC 03/11/2021 Not Considered	Not Considered

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, March 11, 2021, 8:15—11:15 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 80 Children, Families, and Elder Affairs / Brodeur (Compare CS/H 1473)	Child Welfare; Requiring the case record of every child under the supervision or in the custody of the Department of Children and Families, the department's agents, or providers contracting with the department to include a case record face sheet; requiring the department to determine out-of-home placement based on priority of placements and other factors; establishing certain placement priorities for out-of-home placements; providing conditions under which a child may be removed from a caregiver's home; requiring the department or lead agency to make reasonable efforts to place siblings in the same foster, kinship, adoptive, or guardianship home when certain conditions are met, etc. CF 02/16/2021 Fav/CS AP 03/04/2021 Favorable RC 03/11/2021 Fav/CS	Fav/CS Yeas 15 Nays 0

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 Rules

BILL: CS/CS/SB 54

INTRODUCER: Judiciary Committee; Banking and Insurance Committee; Senator Burgess, and others

SUBJECT: Motor Vehicle Insurance

DATE: March 9, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Knudson	Knudson	BI	Fav/CS
2. Bond	Cibula	JU	Fav/CS
3. Knudson	Phelps	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 54 repeals the Florida Motor Vehicle No-Fault Law (No-Fault Law), which requires every owner and registrant of a motor vehicle in this state to maintain Personal Injury Protection (PIP) coverage. Beginning January 1, 2022, the bill enacts financial responsibility requirements for liability for motor vehicle ownership or operation, as follows:

- For bodily injury (BI) or death of one person in any one crash, \$25,000, and, subject to that limit for one person, \$50,000 for BI or death of two or more people in any one crash.
- The bill sets a lower financial responsibility requirement of \$15,000 for BI or death of one person, and \$30,000 for BI or death of two or more persons, for persons having a household income of 200 percent or less of the federal poverty guidelines and for full time students attending a secondary or post-secondary school.
- The existing \$10,000 financial responsibility requirement for property damage (PD) is retained.

The bill increases required coverage amounts for garage liability and commercial motor vehicle insurance. It increases the cash deposit amount required for a certificate of self-insurance establishing financial responsibility for owners and operators of motor vehicles that are not for-hire vehicles.

The bill requires insurers to offer medical payments coverage (MedPay) with limits of \$5,000 or \$10,000 to cover medical expenses of the insured. Insurers may also offer other policy limits that exceed \$5,000. Insurers must offer a zero deductible option for MedPay, and may also offer

deductibles of up to \$500. Insurers must reserve \$5,000 of MedPay benefits for 30 days to pay physicians or dentists who provide emergency services and care or who provide hospital inpatient care.

The repeal of the No-Fault Law eliminates the limitations on recovering pain and suffering damages from PIP insureds, which currently require bodily injury that causes death or significant and permanent injury. Under the bill, the legal liability of an uninsured motorist insurer includes damages in tort for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of past and future capacity for the enjoyment of life.

The bill creates a new framework to govern all third-party claims against motor vehicle insurers for bad faith failure to settle. The bill requires the third-party claimant in a bad faith failure to settle action to show the insurer violated its duty of good faith to the insured and in bad faith failed to settle the claim. The bill requires motor vehicle insurers to follow claims handling best practices standards based on long-established good faith duties related to claim handling, claim investigation, defense of the insured, and settlement negotiations.

The bill establishes that it is a condition precedent to bringing a third-party action for bad faith failure to settle that the claimant serve a detailed demand for settlement within the insured's policy limits. The third-party bad faith claimant may condition the demand for settlement on taking a 2 hour examination under oath (EUO) of the insured, limited to discovering possible sources of recovery. The claimant may withdraw the demand for settlement after the EUO. If the insured refuses to submit to the EUO, the insurer may tender policy limits without obtaining a release of the insured, and if the insurer does so, it no longer has a duty to defend the insured, and may not be held liable if there is an excess judgment against the insured. The bill provides a safe harbor to the insurer in a third-party bad faith failure to settle action providing that an insurer is not liable for bad faith if it tenders (offers to pay) policy limits in exchange for a release of its insured from further liability within 60 days after receiving a demand for settlement from a single claimant. Where there are multiple claimants, the insurer is not liable for bad faith if it initiates an interpleader action within 60 days after receiving the competing demands.

The bill requires the trier of fact, when determining if an insurer in bad faith failed to settle, to consider certain actions of the insurer such as compliance with best practices along with certain actions of the insured and claimant. The bill also prohibits punitive damages in a third-party bad faith failure to settle action.

The bill provides that if a motor vehicle insurer fails to timely provide information related to liability insurance coverage as required by s. 627.4137, F.S., the claimant may file an action to enforce the section, and is entitled to an award of reasonable attorney fees and costs to be paid by the insurer.

The bill authorizes the exclusion of a specifically named individual from specified insurance coverages under a private passenger motor vehicle policy, with the written consent of the policyholder.

The bill allows an insurer that offers comprehensive coverage to offer a separate windshield deductible of up to \$200, provided the insured is given an actuarially sound discount for electing

the deductible and provided that a no deductible option is offered. The bill also prohibits auto repair shops from coercing consumers, paying referral fees, or giving rebates or gifts related to a windshield claim.

The Florida Office of Insurance Regulation estimates that implementation of this bill requires salaries and benefits at a recurring cost of \$228,602 annually, commencing in FY 2021-22.

The effective date of the bill is January 1, 2022.

II. Present Situation:

Motor Vehicle Insurance

The first recorded motor vehicle accident occurred in Ohio City, Ohio in 1891.¹ Only 6 years later, the first automobile liability insurance policy would be issued by Travelers Insurance Company in Dayton, Ohio, protecting the driver if his vehicle killed or injured someone or damaged their property.² These coverages today are provided through bodily injury liability and property damage liability insurance. In 1925, Connecticut passed the first financial responsibility law requiring owners of automobiles to demonstrate the ability to financially respond when they are at fault for damages caused to other persons and property. As the automobile became an ubiquitous part of American life, more states passed financial responsibility laws. Today, every state has a financial responsibility law regarding owning or operating a motor vehicle.

All states except New Hampshire require the purchase of property damage coverage, which pays for any damage the insured causes to the property of others.³ Every state, except Florida and New Hampshire, requires bodily injury liability coverage (BI), which covers an insured that is at-fault in an accident for damages related to the bodily injuries of others negligently caused by the insured.⁴ Bodily injury liability coverage does not provide coverage for an insured's own injuries. The most common minimum mandatory limit of bodily injury coverage – mandated by 34 states – is \$25,000 in coverage for injuries to any one person and \$50,000 in coverage for injuries to multiple persons, subject to the \$25,000 limit for one person. This is often referred to as limits of \$25,000/\$50,000. Of the 48 states that require BI coverage, the lowest mandatory limit is \$15,000/\$30,000. The highest required limit is \$50,000/\$100,000. The following table details the financial responsibility insurance coverage requirements by state:

¹ https://ohiohistorycentral.org/w/World%27s_First_Automobile_Accident

² https://ohiohistorycentral.org/w/World's_First_Automobile_Insurance_Policy?rec=2597.

³ National Association of Insurance Commissioners, Overview – Auto Insurance https://content.naic.org/article/consumer_insight_does_your_vehicle_have_right_protection_best_practices_buying_auto_insurance.htm (last accessed January 26, 2021).

⁴ See *id.*

FINANCIAL RESPONSIBILITY REQUIREMENTS BY STATE			
ST	Minimum Limits (thousands)	ST	Minimum Limits (thousands)
AL	BI 25/50 PD 25	MT	BI 25/50 PD 20
AK	BI 50/100 PD 25	NE	BI 25/50 PD 25 UM 25/50
AZ	BI 25/50 PD 15	NV	BI 25/50 PD 20
AR	BI 25/50 PD 25	NH	Financial Responsibility Only ⁵
CA	BI 15/30 PD 5	NJ	BI ⁶ 15/30 PD 5 PIP ⁷ 15
CO	BI 25/50 PD15	NM	BI 25/50 PD 10
CT	BI 25/50 PD 25 UM 25/50	NY	BI ⁸ 25/50 PD 10 PIP 50
DE	BI 25/50 PD 10 PIP 15/30	NC	BI 30/60 PD 25 UM 30/60/25
FL	PIP 10 PD 10	ND	BI 25/50 PD 25 UM 25/50 PIP 30
GA	BI 25/50 PD 25	OH	BI 25/50 PD 25
HI	BI 20/40 PD 10 PIP 10	OK	BI 25/50 PD 25
ID	BI 25/50 PD 15	OR	BI 25/50 PD 20 UM 25/50 PIP 15
IL	BI 25/50 PD 20 UM 25/50	PA	BI 15/30 PD 5 Med 5
IN	BI 25/50 PD 25	RI	BI 25/50 PD 25
IA	BI 20/40 PD 15	SC	BI 25/50 PD 25 UM 25/50/25
KS	BI 25/50 PD 25 PIP ⁹	SD	BI 25/50 PD 25 UM 25/50
KY	BI 25/50 PD 25	TN	BI 25/50 PD 15
LA	BI 15/30 PD 25	TX	BI 30/60 PD 25
ME	BI 50/100 PD 25 Med 2 UM 50/100	UT	BI 25/65 PD 15 PIP 3
MD	BI 30/60 PD 15 UM 30/60/15	VT	BI 25/50 PD 10 UM 50/100/10
MA	BI 20/40 PD 5 UM 20/40 PIP 8	VA	BI 25/50 PD 20 UM 25/50/20
MI	BI 20/40 PD 10 PIP ¹⁰ PPI 1000	WA	BI 25/50 PD 10
MN	BI 30/60 PD 10 PIP 40 UM 25/50	WV	BI 25/50 PD 25 UM 25/50/25
MS	BI 25/50 PD 25	WI	BI 25/50 PD 10 UM 25/50
MO	BI 25/50 PD 20 UM 25/50	WY	BI 25/50 PD 20

⁵ New Hampshire does not require the purchase of insurance to meet the state's financial responsibility law, but drivers that purchase insurance must do so at minimum limits of \$25,000/\$50,000 for BI, \$25,000 for PD, and \$1,000 for medical payments coverage.

⁶ New Jersey allows drivers to purchase a "basic policy" that only includes \$5,000 of PD, \$15,000 of PIP, and an optional \$10,000 for BI.

⁷ The New Jersey PIP benefit provides \$250,000 in benefits for specified severe injuries.

https://www.state.nj.us/dobi/division_consumers/insurance/basicpolicy.shtml (last accessed Jan. 25, 2021).

⁸ New York requires that BI limits be at least \$50,000/\$100,000 for death. <https://dmv.ny.gov/insurance/insurance-requirements> (last accessed January 25, 2021).

⁹ Kansas PIP coverage must provide \$4,500 per person for medical expenses, \$900 per month for 1 year for disability or loss of income, \$25 per day for in-home services, \$2,000 for funeral expenses, \$4,500 for rehabilitation expenses, survivor benefits for loss of income up to \$900 per month for 1 year.

¹⁰ Michigan changed its mandatory PIP medical coverage effective July 1, 2020. Previously, Michigan required PIP coverage with no maximum limit. Now, Michigan requires the purchase of PIP coverage with a coverage limit of at least \$250,000. However, Medicaid enrollees may purchase only \$50,000 in PIP coverage if other household members have an auto insurance policy or health insurance covering accidents. A Medicare enrollee (parts A and B) may opt-out of PIP if their household members have an auto insurance policy or health insurance covering auto accidents.

https://www.michigan.gov/documents/autoinsurance/MI_New_Auto_Ins_Law_678454_7.pdf (last accessed Jan. 25, 2021).

Florida's Financial Responsibility Law

Florida's financial responsibility law exists to ensure that the privilege of owning or operating a motor vehicle on the public streets and highways is exercised with due consideration for others and their property, to promote safety, and to provide financial security requirements for the owners or operators of motor vehicles who are responsible to recompense others for injury to person or property caused by a motor vehicle.¹¹ The financial responsibility law requires drivers of motor vehicles with 4 or more wheels to purchase both personal injury protection (PIP) and property damage liability (PD) insurance.¹² Florida law does not require insurance coverage for motorcycles; however, if a motorcyclist is involved in an accident, that person's license and registration are subject to suspension if insurance was not purchased.

A driver in compliance with the requirement to carry PIP coverage is not required to maintain bodily injury liability coverage, except that Florida law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of a motor vehicle accident or serious traffic violation.¹³ The owner and operator of a motor vehicle need not demonstrate financial responsibility, i.e., obtain BI and PD coverages, until *after the accident*.¹⁴ At that time, a driver's financial responsibility is proved by the furnishing of an active motor vehicle liability policy. The minimum amounts of liability coverages required are \$10,000 in the event of bodily injury to, or death of, one person, \$20,000 in the event of injury to, or death of, two or more persons, and \$10,000 in the event of damage to property of others, or \$30,000 combined BI/PD policy.¹⁵ The driver's license and registration of the driver who fails to comply with the security requirement to maintain PIP and PD insurance coverage is subject to suspension.¹⁶ A driver's license and registration may be reinstated by obtaining a liability policy and by paying a fee to the Department of Highway Safety and Motor Vehicles.¹⁷

Personal injury protection (PIP) insurance compensates insureds injured in accidents regardless of fault.¹⁸ Policyholders are indemnified by their own insurer. The intent of no-fault insurance is to provide prompt medical treatment without regard to fault.¹⁹ This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold.²⁰ In contrast, under a tort liability system, the negligent party is responsible for damages caused and an accident victim can sue the at-fault driver to recover economic and non-economic damages. The concept of PIP insurance was developed during the 1960's in response to concerns that began to be voiced regarding some of the perceived shortcomings of the tort system, in particular its ability to handle automobile accident claims in an accurate and

¹¹ Section 324.011, F.S.

¹² See ss. 324.022, F.S. and 627.733, F.S.

¹³ See ch. 324, F.S.

¹⁴ Section 324.011, F.S.

¹⁵ Section 324.022, F.S.

¹⁶ Section 324.022(2), F.S.

¹⁷ Section 324.022(3), F.S.

¹⁸ Section 627.733, F.S.

¹⁹ See s. 627.731, F.S.

²⁰ Section 627.737, F.S.

expeditious fashion.²¹ The proposed solution was the “no-fault” system in which each driver insures him or herself for bodily injuries caused by an auto accident, and to the extent of that first-party coverage, tort claims based on fault would be abandoned. Florida is one of 12 no-fault states that requires PIP coverage as part of its financial responsibility law, but the only one of those states that does not also require BI coverage.²²

In Florida, personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person who sustains an emergency medical condition, which is reduced to a \$2,500 limit for medical benefits if a treating medical provider does not determine an emergency medical condition existed.²³ PIP coverage provides reimbursement for 80 percent of reasonable medical expenses,²⁴ 60 percent of loss of income,²⁵ and 100 percent of replacement services,²⁶ for bodily injury sustained in a motor vehicle accident, without regard to fault. A \$5,000 death benefit is also provided.²⁷ The property damage liability coverage must provide a \$10,000 minimum benefit.

PIP Medical Benefits

The 2012 Legislature revised the provision of PIP medical benefits under the No-Fault Law, effective January 1, 2013.²⁸ To receive PIP medical benefits, insureds must receive initial services and care within 14 days after the motor vehicle accident.²⁹ Initial services and care are only reimbursable if lawfully provided, supervised, ordered or prescribed by a licensed physician, licensed osteopathic physician, licensed chiropractic physician, licensed dentist, or if rendered in a hospital or in a facility that owns or is owned by a hospital, or if provided by a licensed emergency transportation and treatment provider.³⁰ Follow-up services and care require a referral from such providers and must be consistent with the underlying medical diagnosis rendered when the individual received initial services and care.³¹

PIP medical benefits have two different coverage limits, based upon the severity of the medical condition of the individual. An insured may receive up to \$10,000 in medical benefits for services and care if a physician, osteopathic physician, dentist, physician’s assistant or advanced registered nurse practitioner has determined that the injured person had an emergency medical condition.³² An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to

²¹ Florida Senate Banking and Insurance Committee, Florida’s Motor Vehicle No-Fault Law, pg. 6, Report No. 2006-102 (Nov. 2005).

²² Insurance Information Institute, Background on: No-Fault Auto Insurance. <https://www.iii.org/article/background-on-no-fault-auto-insurance> (last accessed January 27, 2021).

²³ Section 627.736(1), F.S.

²⁴ Section 627.736(1)(a), F.S.

²⁵ Section 627.736(1)(b), F.S.

²⁶ *Id.*

²⁷ Section 627.736(1)(c), F.S.

²⁸ Chapter 2012-197, L.O.F. (CS/CS/HB 119).

²⁹ Section 627.736(1)(a), F.S.

³⁰ Section 627.736(1)(a)1., F.S.

³¹ Section 627.736(1)(a)2., F.S.

³² Section 627.736(1)(a)3., F.S.

bodily functions, or serious dysfunction of a body organ or part.³³ If a provider who rendered treatment or services does not determine that the insured had an emergency medical condition, the PIP medical benefit limit is \$2,500.³⁴ Massage and acupuncture are not reimbursable, regardless of the type of provider rendering such services.³⁵

The \$5,000 PIP death benefit is provided in addition to medical and disability benefits, effective January 1, 2013. Previously, the death benefit was the lesser of the unused PIP benefits, up to a limit of \$5,000.

Tort-Based Motor Vehicle Insurance Jurisdictions

In a tort-based liability system, auto injury claimants seek payment from the at-fault driver for both economic and non-economic damages, regardless of the dollar amount or severity of the injuries. A tort-based system represents a more traditional legal philosophy of holding persons responsible for injuries caused by their negligent operation of a vehicle. In theory, this encourages safer operation of automobiles and is generally viewed by the public as consistent with the concept of personal responsibility.

Bad Faith

Common Law and Statutory Bad Faith

Bad faith law was designed to protect insureds who have paid their premiums and who have fulfilled their contractual obligations by cooperating fully with their insurer in the resolution of claims. Bad faith jurisprudence holds insurers accountable for failing to fulfill their obligations.³⁶ There are two distinct but very similar types of bad faith causes of action that may be initiated against an insurer: first-party and third-party.

Florida courts have recognized common law third-party bad faith causes of action since 1938.³⁷ A third-party bad faith cause of action arises when an insurer fails in good faith to settle a third party's claim against the insured within policy limits and exposes the insured to liability in excess of his or her insurance coverage.³⁸ Third-party bad faith causes of actions arose in response to the argument that there was a practice in the insurance industry of rejecting without sufficient investigation or consideration claims presented by third parties against an insured, thereby exposing the insured individual to judgments exceeding the coverage limits of the policy while the insurer remained protected by a policy limit.³⁹ With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.⁴⁰ Florida courts recognized common law third-party bad faith causes of action in part because the

³³ Section 627.732(16), F.S.

³⁴ Section 627.736(1)(a)4., F.S.

³⁵ Section 627.736(1)(a)5., F.S.

³⁶ *Harvey v. GEICO General Insurance Company*, 251 So.3d 1, 6, (Fla. 2018)(quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665 at 682).

³⁷ *Auto Mut. Indem. Co. v. Shaw*, 184, So. 852 (Fla. 1938).

³⁸ *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).

³⁹ *Allstate Indem. Co. v. Ruiz*, 899 So.2d 1121, 1125 (Fla. 2005).

⁴⁰ *Id.*

insurers had the power and authority to litigate or settle any claim, and thus owed the insured a corresponding duty of good faith and fair dealing in handling these third-party claims.⁴¹

In contrast to common law third-party bad faith causes of action, Florida courts do not recognize a common law first-party bad faith cause of action by the insured against its own insurer.⁴² If an insurer acts in bad faith in settling a claim filed by its insured, the only common law remedy available to the insured is a breach of contract action against its own insurer with recoverable damages limited to those contemplated by the parties to the policy.⁴³

The 1982 Legislature's enactment of s. 624.155, F.S., created a statutory first-party bad faith cause of action,⁴⁴ codified Florida Supreme Court precedent authorizing a common-law third-party bad faith cause of action,⁴⁵ and eliminated the distinction between statutory first- and third-party bad faith causes of action.⁴⁶

Section 624.155, F.S., provides that any party may bring a bad faith action against an insurer, and defines bad faith on the part of the insurer as:

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.⁴⁷

Civil Remedy Notice

As a condition precedent to bringing a bad faith action under s. 624.155, F.S., the insured must have provided the insurer and the Department of Financial Services at least 60 days written notice of the alleged violation.⁴⁸ The notice must specify the following information:

- The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated;
- The facts and circumstance giving rise to the violation;
- The name of any individual involved in the violation;
- A reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third-party claimant, she or he shall not be required to reference

⁴¹ *Id.*

⁴² *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).

⁴³ *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, 753 So.2d 1278, 1281 (Fla. 2000).

⁴⁴ Chapter 82-243, s. 9, L.O.F.

⁴⁵ *Macola v. Government Employees Ins. Co.*, 953 So.2d 451, 456 (Fla. 2006). See also *State Farm Fire & Cas. Co. v. Zebrowski*, 706 So.2d 275, 277 (Fla. 1997).

⁴⁶ *Id.*

⁴⁷ Section 624.155(1)(b)(1)-(3), F.S.

⁴⁸ Section 624.155(3), F.S.

the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request; and

- A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized under s. 624.155, F.S.⁴⁹

The 60-day window contemplated under s. 624.155, F.S., provides insurers with a final opportunity to comply with their claim-handling obligations when a good-faith decision by the insurer would indicate that contractual benefits are owed.⁵⁰ If the insurer in turn fails to respond to a civil remedy notice within the 60-day window, there is presumption of bad faith sufficient to shift the burden to the insurer to show why it did not respond.⁵¹

In *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, the Florida Supreme Court addressed the question of whether an insurer that paid all contractual damages within the 60-day window, but none of the extra-contractual damages, satisfied the requirement for payment of damages under s. 624.155(3)(c), F.S., thereby precluding the claimant's bad faith action. The Florida Supreme Court answered in the affirmative, explaining:

Section 624.155 does not impose on an insurer the obligation to pay whatever the insured demands. The 60-day window is designed to be a cure period that will encourage payment of the underlying claim, and avoid unnecessary bad faith litigation. Surely an insurer need not immediately pay 100 percent of the damages claimed to flow from bad faith conduct in order to avoid the chance that the insured will succeed on a bad faith cause of action. If the insurer may avoid a bad faith action only by paying in advance every penny of the damages that it faces if it loses at trial, the insurer would have no reason to pay.⁵²

Legal Standard of Proof

Each bad faith case is determined on its own facts and ordinarily the question of failure to act in good faith with due regard for the interests of the insured is for the jury.⁵³ In Florida, the question of whether an insurer has acted in bad faith in handling claims against the insured is determined under a “totality of the circumstances” standard.⁵⁴ In *Harvey v. Geico General Insurance Company*, the Florida Supreme Court explained that the critical inquiry in a bad faith case is whether “the insurer diligently, and with the same haste and precision as if it were in the insured's shoes, worked on the insured's behalf to avoid an excess judgment.”⁵⁵ The claimant bringing the bad faith action has the burden of proving the insurer acted in bad faith by a preponderance of the evidence.⁵⁶

⁴⁹ Section 624.155(3)(b)(1)-(5), F.S.

⁵⁰ See *Talat Enterprises, Inc.*, 753 So.2d at 1284.

⁵¹ *Fridman v. Safeco Ins. Co. of Illinois*, 185 So.3d 1214, 1220, (Fla. 2016); *Imhof v. Nationwide Mut. Ins. Co.*, 643 So.2d 617, 619 (Fla 1994).

⁵² See *Talat Enterprises, Inc.*, 753 So.2d at 1282. (quoting *Talat Enterprises, Inc. v. Aetna Cas. & Sur. Co.*, 952 F.Supp. 773, 778 (M.D.Fla.1996)).

⁵³ *Boston Old Colony Insurance Company v. Gutierrez*, 386 So.2d 783, 785 (Fla. 1980).

⁵⁴ *Berges v. Infinity Insurance Company*, 896 So.2d 665, 680 (Fla. 2005).

⁵⁵ See *Harvey*, 259 So.3d at 7.

⁵⁶ *Cadle v. GEICO General Insurance Company*, 838 F.3d 1113, 1119 (11th Cir. 2016).

The Florida Supreme Court in *Boston Old Colony Ins. v. Gutierrez* explained why insurers have a duty of good faith to their insured:

An insurer, in handling the defense of claims against its insured, has a duty to use the same degree of care and diligence as a person of ordinary care and prudence should exercise in the management of his own business. For when the insured has surrendered to the insurer all control over the handling of the claim, including all decisions with regard to litigation and settlement, then the insurer must assume a duty to exercise such control and make such decisions in good faith and with due regard for the interests of the insured.⁵⁷ (citations omitted)

The court further explained what constitutes good faith claims handling:

This good faith duty obligates the insurer to advise the insured of settlement opportunities, to advise as to the probable outcome of the litigation, to warn of the possibility of an excess judgment, and to advise the insured of any steps he might take to avoid same. The insurer must investigate the facts, give fair consideration to a settlement offer that is not unreasonable under the facts, and settle, if possible, where a reasonably prudent person, faced with the prospect of paying the total recovery, would do so. (citations omitted)

Windshield Coverage and Deductibles

Comprehensive coverage is insurance for a broad range of loss or damage to the insured's own motor vehicle. Comprehensive coverage is not required by law. Typically, a deductible applies to comprehensive claims. However, current law prohibits a deductible on a windshield claim.⁵⁸

III. Effect of Proposed Changes:

Repeal of the Florida Motor Vehicle No-Fault Law

Section 1 repeals ss. 627.730-627.7405, F.S., which constitute the Florida Motor Vehicle No-Fault Law.

The most significant provisions repealed are s. 627.733, F.S., which contains the requirement to maintain PIP coverage, s. 627.736, F.S., which sets forth the benefits that PIP coverage must provide, and the tort exemption in s. 627.737, F.S., which prohibits tort actions to recover pain and suffering damages from PIP insureds unless death or significant and permanent injury causes such damages, and coverage for disability and death benefits under PIP.

Section 2 repeals s. 627.7407, F.S., which provided for how the Florida Motor Vehicle No-Fault Law was to be applied after being reinstated by ch. 2007-324, Laws of Florida.

⁵⁷ *Boston Old Colony Ins. v. Gutierrez*, 386 So.2d 783 (Fla. 1980).

⁵⁸ Section 627.7288, F.S.

Mandatory Bodily Injury Liability Coverage Requirements

Chapter 324, F.S., requires the owners and operators of motor vehicles to demonstrate the ability to respond to damages for liability because of crashes arising out of the use of a motor vehicle.⁵⁹ This requirement is usually met through the purchase of motor vehicle insurance.

Sections 12 and 13 amend ss. 324.021 and 324.022, F.S., respectively, to require beginning January 1, 2022, that every owner or operator of a motor vehicle that is registered in this state maintains the ability to respond to damages for liability that results from accidents arising out of the ownership, maintenance, or use of a motor vehicle that is not a commercial motor vehicle, nonpublic sector bus, or for-hire passenger transportation vehicle as follows:

- For BI or death of one person in any one crash, \$25,000.
- Subject to that limit for one person, \$50,000 for BI or death of two or more people in any one crash.

The bill retains current law that requires drivers to maintain the ability to respond to damages of \$10,000 for damage to, or the destruction of, other's property in a crash.

An owner or operator may meet the financial responsibility requirement by obtaining motor vehicle insurance that provides BI and PD coverage in at least the minimum amounts required to meet responsibility, or through insurance that provides BI and PD with a combined single coverage limit that equals the BI requirement for more than one person plus the PD requirement. Beginning January 1, 2022, the minimum combined single limit will be \$60,000. An owner or operator may also meet financial responsibility requirements through alternate methods authorized under s. 324.031, F.S., such as furnishing a certificate of self-insurance under s. 324.161, F.S., or s. 324.171, F.S.

The financial responsibility requirements related to BI are lowered for certain insureds. The lower minimums apply if the household income of the insured is less than 200 percent of the federal poverty guidelines,⁶⁰ or if the insured is a full-time secondary or post-secondary student. The minimums applicable to these insureds are \$15,000 for any one person and \$30,000 for two or more injured persons. The \$10,000 property damage minimum still applies.

Other vehicle types are subject to financial responsibility requirements of different sections of statute:

- Commercial motor vehicles are subject to s. 627.7415, F.S.
- Nonpublic sector buses are subject to s. 627.742, F.S.
- For-hire passenger transportation vehicles are subject to s. 324.032, F.S.

Motorcycles are not required to meet the foregoing requirements established by the bill, as the bill retains current law in s. 324.022, F.S., which defines motor vehicles for purposes of that section as self-propelled vehicles with four or more wheels. However, as under current law, if a

⁵⁹ Owners and operators of motor vehicles may satisfy financial responsibility requirements by alternate means, such as depositing security with the Department of Highway Safety and Motor Vehicles pursuant to s. 324.161, F.S., or qualifying as a self-insurer pursuant to s. 324.171, F.S.

⁶⁰ The federal poverty guidelines are published annually by the U.S. Department of Health and Human Services. The current guidelines are available at: <https://aspe.hhs.gov/2021-poverty-guidelines>.

motorcycle is involved in a crash and caused bodily injury to another, the license of the operator and registration of the motorcycle is subject to suspension under s. 324.051, F.S., if the operator or owner did not have a motor vehicle liability policy in effect at the time of the crash.

Required Provisions in Motor Vehicle Liability Policies

Section 22 amends s. 324.151, F.S., which requires motor vehicle liability insurance policies that serve as proof of financial responsibility under s. 324.031(a), F.S. The bill requires policies issued to the owner of a motor vehicle that is required to be registered in this state to insure all named insureds, except for a named driver excluded pursuant to new s. 727.747, F.S., discussed below; and to also insure:

- Any resident relative⁶¹ of a named insured, and
- Any operator using the vehicle with the permission of the owner of the vehicle insured by the policy from liability resulting from the use of the motor vehicle referenced in the policy.

The bill authorizes an insurer to include provisions in its policy excluding coverage for a motor vehicle not designated as an insured vehicle on the policy if such motor vehicle does not qualify as a newly acquired vehicle,⁶² does not qualify as a temporary substitute vehicle,⁶³ and was owned by the insured or furnished for an insured's regular use for more than 30 consecutive days before an event giving rise to a claim.

A motor vehicle liability insurance policy issued to a person who does not own a motor vehicle must insure the named insureds against liability for damages arising out of the use of any motor vehicle not owned by the named insureds.

All motor vehicle liability policies providing coverage for accidents occurring within the United States or Canada must provide liability coverage having the minimum limits of \$25,000 for BI or death of one person in any one crash, \$50,000 for BI or death of two or more people in any one crash, and \$10,000 for PD.

Section 47 amends s. 627.7275, F.S., to require all motor vehicle insurance policies delivered or issued in Florida for a motor vehicle registered or principally garaged in this state to include the minimum limits of BI liability coverage and PD liability coverage as required by s. 324.022, F.S.

Motor vehicle insurance under policies made available to applicants seeking reinstatement of the applicant's driving privileges after such privileges were revoked or suspended for driving under the influence must provide coverage of at least the minimum limits of BI and PD liability

⁶¹ Defined in this section to mean "a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes his or her home in the same family unit or residence as the named insured, whether or not he or she temporarily lives elsewhere."

⁶² Defined in this section to mean "a vehicle owned by a named insured or resident relative of the named insured which was acquired within 30 days before an accident."

⁶³ Defined in this section to mean "any motor vehicle, as defined in s. 320.01(1), F.S., which is not owned by the named insured and which is temporarily used with the permission of the owner as a substitute for the owned motor vehicle designated on the policy when the owned vehicle is withdrawn from normal use because of breakdown, repair, servicing, loss, or destruction."

coverage under s. 324.021(7), F.S.,⁶⁴ or s. 324.023, F.S.⁶⁵ These sections require drivers who plead guilty or nolo contendere to a charge of driving under the influence to meet additional liability insurance requirements.

Meeting Financial Responsibility through a Certificate of Self-Insurance

Section 17 amends s. 324.031, F.S., which allows owners and operators of motor vehicles that are not for-hire vehicles to prove financial responsibility by providing evidence of holding a motor vehicle liability policy covering the motor vehicle being operated. Two alternatives are also available under the statute. Such persons may prove financial responsibility by furnishing a certificate of self-insurance that shows a deposit of cash with a financial institution, or furnishing a certificate of self-insurance issued by the DHSMV based on demonstrating sufficient net unencumbered worth.

Under the bill, a person furnishing a certificate of self-insurance showing a deposit of cash must, beginning January 1, 2022, furnish a certificate of deposit equal to the number of vehicles owned times \$60,000, to a maximum of \$240,000. Current law requires a deposit equal to the number of vehicles times \$30,000, to a maximum of \$120,000. All persons using this method must maintain insurance coverage having limits of at least \$125,000/\$250,000/\$50,000 BI/PD or a \$300,000 BI/PD combined single limit. Under current law, this coverage must be maintained as an excess coverage in excess of \$10,000/\$20,000/\$10,000 BI/PD or \$30,000 combined single limits. Under **Section 23** of the bill amending s. 324.161, F.S., the proof of a certificate of deposit must be provided annually, and must be from a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

The second alternative method is obtaining a certificate of self-insurance issued by the DHSMV. **Section 24** amends s. 324.171, F.S., effective January 1, 2022, to provide that a certificate of self-insurance from the DHSMV issued pursuant to this section may be obtained by a private individual with private passenger vehicles by demonstrating sufficient net unencumbered worth of at least \$100,000. Current law requires a net unencumbered worth of at least \$40,000. A person, other than a natural person, may obtain a certificate of self-insurance from the DHSMV by possessing a net unencumbered worth of at least \$100,000 for the first motor vehicle and \$50,000 for each additional vehicle. Current law requires a net unencumbered worth of \$40,000 for the first motor vehicle and \$20,000 for each additional motor vehicle. The bill retains current law that authorizes the DHSMV to promulgate by rule an alternative net worth requirement for persons other than natural persons.

Garage Liability Insurance Requirement

Section 7 amends s. 320.27, F.S., which requires the licensure of motor vehicle dealers. The bill defines “garage liability insurance” to mean, beginning January 1, 2022, combined single-limit liability coverage, including PD and BI liability coverage, of at least \$60,000.

Current law only requires at least \$25,000 in such coverage and requires \$10,000 of PIP coverage.

⁶⁴ \$25,000/\$50,000 for BI or death and \$10,000 for PD.

⁶⁵ \$100,000/\$300,000 for BI or death and \$50,000 for PD.

Section 8 amends s. 320.771, F.S., and applies the garage liability insurance requirement of s. 320.27, F.S., to recreational vehicle dealers.

Financial Responsibility Requirement for For-Hire Vehicles

Section 18 amends s. 324.032, F.S., which provides the financial responsibility requirements for for-hire passenger vehicles. The bill retains current law requiring the owner or lessee to meet the financial responsibility requirement and retains the minimum limits of coverage, which are \$125,000/\$250,000 of BI and \$50,000 of PD. The bill amends current law by specifying the coverage must be purchased by an insurer that is a member of the Florida Insurance Guaranty Association.

Commercial Motor Vehicle Coverage Requirements

Section 52 amends s. 627.7415, F.S., to increase the minimum levels of combined BI liability and PD liability coverage that commercial motor vehicles must have.

Beginning January 1, 2022, a commercial motor vehicle that weighs 26,000 pounds or more but less than 35,000 pounds must have coverage of no less than \$60,000. Current law requires \$50,000 of coverage.

A commercial motor vehicle that weighs 35,000 pounds or more but less than 44,000 pounds must have coverage of no less than \$120,000 per occurrence beginning January 1, 2022. Current law requires \$100,000 of coverage.

The bill retains current law that a commercial motor vehicle weighing 44,000 pounds or more must have coverage of no less than \$300,000 per occurrence.

Medical Payments Coverage Benefits

Section 45 creates s. 627.7265, F.S., which requires insurers to offer medical payments coverage having limits of \$5,000 and \$10,000 before issuing a motor vehicle liability insurance policy used to meet the financial responsibility requirements of s. 324.031, F.S. Medical payments coverage must be offered with no deductible, but insurers may also offer such coverage with a deductible of up to \$500. Insurers may also offer medical payments coverage with any policy limit greater than \$5,000.

Medical payments coverage must provide coverage of at least \$5,000 for medical expense incurred due to bodily injury, sickness, or disease arising out of the ownership, maintenance, or use of a motor vehicle. Medical payments coverage must pay for reasonable expenses for necessary medical, diagnostic, and rehabilitative services lawfully provided, supervised, ordered, or prescribed by licensed physicians, dentists, or chiropractic physicians, or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. The coverage also includes a death benefit of at least \$5,000. Medical payments coverage protects the named insured, resident relatives, all passengers and operators of the insured vehicle, and all persons struck by the motor vehicle while not occupying a self-propelled motor vehicle.

Upon receiving notice of an accident potentially covered by medical payments coverage benefits, the insurer must reserve \$5,000 for payment to licensed physicians and licensed dentists who provide emergency services and care or who provide hospital indigent care. The reserve amount may be used only to pay claims from such physicians or dentists until 30 days after the date the insurer receives notice of the accident. After the 30-day period, any amount of the reserve for which the insurer has not received notice may be used by the insurer to pay other claims.

An insurer providing medical payments coverage benefits may not:

- Seek a lien on any recovery in tort by judgment, settlement, or otherwise for medical payments coverage benefits, whether suit has been filed or settlement has been reached; or
- Bring a cause of action against a person to whom or for whom medical payments coverage benefits were paid, except when benefits are paid by reason of fraud by such person.

The bill authorizes an insurer providing medical payments coverage to include provisions in its policy allowing for subrogation⁶⁶ for payment of medical payments coverage benefits if the payments resulted from the wrongful act or omission of another who is not also insured under the policy paying the benefits. However, the bill makes this subrogation right inferior to the rights of the injured insured and available only after all of the insured's damages are recovered and the insured is made whole.⁶⁷

Under the bill, if an insured obtains a recovery from a third party of the full amount of the damages the insured has sustained, and delivers a release or satisfaction that impairs an insurer's subrogation right, the insured is liable to the insurer for repayment of the medical payments benefits, less any expenses of acquiring the recovery, including a prorated share of attorney fees and costs. The insured is also required to hold that net recovery in trust to be delivered to the medical payments insurer. The bill prohibits an insurer from including any provision in its policy allowing for subrogation for any death benefit paid.

Clinic Licensure and Reimbursement under Medical Payments Coverage

Section 26 amends s. 400.9905, F.S., to provide that an entity is deemed a "clinic" and must be licensed in order to receive medical payments coverage reimbursement under s. 627.7265, F.S., unless the entity is:

- Wholly owned by a licensed physician, a licensed dentist, or a licensed chiropractic physician; or by the physician, dentist, or chiropractic physician and the spouse, parent, child, or sibling of the physician, dentist, or chiropractic physician;
- A licensed hospital or ambulatory surgical center;

⁶⁶ Subrogation is the principle establishing that when an insurance company pays an insured's claim of loss caused by a third party's negligence, the insurance company stands in the place of the insured with respect to the insured's right to sue the negligent third party for damages.

⁶⁷ This appears to be a codification of the "made whole" doctrine acknowledged by the Florida Supreme Court in *Insurance Co. of North America v. Lexow*, 602 So.2d 528 (Fla. 1992). See also *Magsipock v. Larsen*, 639 So.2d 1038 (Fla. App. 1994). Generally, the principle is that an insurer does not have a common law right to subrogation, or reimbursement, against a third party causing the damages sustained by the insured unless the insured has been compensated for all of the insured's damages and been "made whole." However, the made whole doctrine may be overridden by contractual agreement under current case law. See *Florida Farm Bureau Ins. Co. v. Martin*, 377 So.2d 827 (Fla. 1979) and *Blue Cross & Blue Shield of Fla. v. Matthews*, 498 So.2d 421, 422 (Fla 1986).

- An entity that wholly owns or is wholly owned, directly or indirectly, by a licensed hospital or hospitals;
- A clinical facility affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
- A clinic certified under federal law to provide outpatient physical therapy and speech pathology services; or
- Owned by a publicly traded corporation which has \$250 million or more in total annual sales of health care services provided by licensed health care practitioners, if one or more of the persons responsible for operations of the entity are licensed health care practitioners in this state and are responsible for supervising the business and the entity's compliance with state law.

The above language is currently in s. 627.736(5)(h), F.S., and requires clinic licensure to receive reimbursement under PIP. The bill moves the requirement to this section, requires clinic licensure to receive reimbursement under medical payments coverage, and retains the exemptions from the definition of clinic detailed above.

This section of the bill also revises the definition of a “clinic” contained in s. 400.9905, F.S., of the Health Care Clinic Act, to replace references to PIP coverage and the Florida Motor Vehicle No-Fault Law with references to medical payments coverage.

Uninsured and Underinsured Motor Vehicle Insurance Coverage

Section 46 amends s. 627.727, F.S., which governs uninsured motor vehicle insurance coverage. Uninsured motorist coverage provides the policyholder with benefits if the at-fault driver does not have sufficient bodily injury coverage to make the insured whole for damages related injuries caused by the at-fault driver. Under the bill, the legal liability of an insurer providing uninsured motorist coverage *includes* damages in tort for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of past and future capacity for the enjoyment of life. Under current law, an uninsured motorist insurer is not liable for such damages unless the injury or disease is sufficiently severe under s. 627.737(2)(a)-(d), F.S., of the No-Fault Law.

Under the No-Fault Law, a person cannot recover “pain and suffering” damages in tort from the at-fault driver’s bodily injury coverage unless the person’s injuries exceed a certain severity threshold,⁶⁸ in s. 627.737(2), F.S., commonly referred to as the “verbal threshold.” Personal injury protection is considered a no-fault coverage because the injured person trades a limitation on the ability to recover pain and suffering damages for the ability to get PIP benefits even if the injured person is at fault in the accident. The bill repeals the “verbal threshold” provisions contained in the No-Fault Law in s. 627.737, F.S., thus necessitating a revision to s. 627.727(7), F.S.

⁶⁸ The injury or disease must consist in whole or in part of significant and permanent loss of an important bodily function; permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement; significant and permanent scarring or disfigurement; or death. See s. 627.737(2), F.S.

Disclosure of Information Related to Liability Insurance Coverage

Section 43 amends s. 627.4137, F.S., to provide that if an insurer fails to timely comply with the requirements of the section, the claimant may file an action to enforce the section and is entitled to an award of reasonable attorney fees and costs to be paid by the insurer. Section 627.4137, F.S., requires liability insurers to provide, within 30 days after receiving a written request from a claimant, a sworn statement setting forth the name of the insurer, name of the insured, limits of liability coverage, a statement of any policy or coverage defense the insurer currently believes is reasonably available to it, and a copy of the insurance policy. Current law also requires an insured or an insured's insurance agent to disclose to the claimant and all affected insurers, upon written request of the claimant or claimant's attorney, the name and coverage of each known insurer.

Bad Faith Actions - Civil Remedy in Section 624.155, F.S.

Section 34 amends subsections (1) and (8) of s. 624.155, F.S. Section 624.155, F.S., authorizes any person to bring a civil action against an insurer when damaged by an insurer through specified bad faith acts or statutory violations. The bill specifies that the cause of action under s. 624.155, F.S., for an insurer's bad faith failure to settle a claim is not available with regard to a third-party bad faith failure to settle claim. Section 624.156, F.S., is created in Section 34 of the bill and applies to all bad faith failure to settle actions related to a motor vehicle insurance policy. The bill also clarifies the prohibition in subsection (8) against a person obtaining judgments under multiple bad faith remedies, whether under statute or common law.

Bad Faith Failure to Settle Action against a Motor Vehicle Insurer

Section 35 creates s. 624.156, F.S., the provisions of which apply to all third-party actions for bad faith failure to settle against motor vehicle insurers.

Scope - Subsection (1) specifies that s. 624.156, F.S., applies in all actions against any insurer by a third party for bad faith failure to settle related to a motor vehicle accident. Accordingly, it revises the common law cause of action for third-party bad faith failure to settle and does not allow bringing such actions outside the provisions of this section. Nor may a third-party action for bad faith failure to settle be brought under s. 624.155, F.S., pursuant to the bill's revision to s. 624.155(1), F.S.

Defining the Duty of Good Faith – Subsection (2) provides that in handling claims, an insurer stands as a fiduciary for its insured and must handle claims in good faith. The insurer must comply with the best practice standards of subsection (4) using the same degree of care and diligence as a person of ordinary care and prudence would exercise in the management of his or her own business. This is essentially the duty of good faith that the Florida Supreme Court established in a 1938 decision,⁶⁹ and since then has consistency maintained.⁷⁰

⁶⁹ *Auto Mut. Indem. Co. v. Shaw*, 184 So. 852 (Fla. 1938).

⁷⁰ See *Boston Old Colony Ins. v. Gutierrez*, 386 So.2d 783 (Fla. 1980), *Berges v. Infinity Ins. Co.*, 896 So.2d 665 at 672-673 (Fla. 2004), and *Harvey v. GEICO General Ins. Co.*, 259 So.3d 1, at 6-7 (Fla 2018).

Defining Bad Faith Failure to Settle – Subsection (3) defines “bad faith failure to settle” as an insurer’s failure to settle a claim when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for the insured’s interests. This definition reflects Florida common law and is taken directly from section 404.4 of the Florida Standard Jury Instructions in Civil Cases.⁷¹ This standard is used in both first and third party bad faith failure to settle claims.⁷²

Best Practice Standards for Insurance Claim Handling – Subsection (4) sets forth best practice claim handling standards that a motor vehicle insurer is subject to upon the earlier of receiving notice of a claim or a demand for settlement under subsection (6). An insurer must:

- Assign a licensed and appointed insurance adjuster to investigate the claim and resolve coverage questions.
- Evaluate every claim fairly, honestly, and with due regard for the insured’s interests. consider the full extent of the claimant’s recoverable damages; and consider the information in a reasonable and prudent manner.
- Request from an insured or claimant additional relevant information deemed necessary.
- Communicate with the utmost honesty and with complete candor.
- Make reasonable efforts to explain to nonattorneys matters requiring expertise beyond the level normally expected of a layperson with no training in insurance or claims handling.
- Save all written communications and note and save all verbal communications.
- Provide the insured, upon request, with all nonprivileged communications related to the insurer’s handling of the claim.
- Provide, at the insurer’s expense, reasonable accommodations necessary to communicate effectively with an insured covered under the Americans with Disabilities Act.
- In third-party claims, communicate to the insured:
 - The identity of any other person or entity the insurer knows may be liable;
 - The insurer’s activity on and evaluation of the claim;
 - The likelihood and possible extent of an excess judgment;
 - Steps the insured can take to avoid exposure to an excess judgment;
 - Requests for examinations under oath and an explanation of the consequences of an insured’s failure to submit to an examination under oath; and
 - Any demands for settlement under subsection (6) or settlement offers.

Conditions Precedent to Filing a Third-Party Action for Bad Faith Failure to Settle –

Subsection (5) requires the claimant, as a condition precedent to filing a third-party bad faith failure to settle action, to:

- Serve a demand for settlement under subsection (6) within the insurer’s limits of liability in exchange for a release of further liability against the insured; and
- Obtain a final judgment in excess of the policy limits against the insured.

Demand for Settlement – Subsection (6) provides that the claimant’s demand for settlement, which is a condition precedent to filing a third-party bad faith failure to settle action, must do all of the following:

⁷¹ <https://jury.flcourts.org/civil-jury-instructions-home/civil-instructions/#404>.

⁷² See *State Farm Mutual Automobile Insurance Co. v. LaForet*, 658 So.2d 55 (Fla. 1995).

- Identify the date and location of the loss; the name, address, and birthdate of the claimant; the name of each insured to whom the demand is directed; and the legal and factual basis of the claim.
- Provide a reasonably detailed description of the claimant's known injuries caused or aggravated by the incident on which the claim is based, the medical treatment causally related to the incident on which the claim is based, and the type and amount of known damages incurred and any future damages the claimant reasonably anticipates incurring.
- State the amount of the demand for settlement.
- State whether the demand is conditioned on the completion of the claimant examining the insured under oath as provided in subsection (8).
- Provide a physical address, e-mail address, and facsimile number for further communications.
- Release the insured from further liability if the settlement is completed.
- Be served upon the insurer by certified mail at a specified address.

Prohibition on Conditions for Accepting a Demand for Settlement; Exception – Subsection (7) generally prohibits a claimant from placing conditions on a demand for settlement. The claimant may, however, condition the demand on conducting an examination under oath (EUO) of the insured as provided in subsection (8). The EUO may be regarding whether:

- The insured can satisfy a claim for damages in excess of the insurance policy limits;
- Any other person may be liable for the insured's negligence; and
- Other insurance exists which may cover damages sustained by the claimant.

Examinations Under Oath – Subsection (8) provides a third-party claimant the right to examine under oath the insured one time for up to 2 hours. Only the issues detailed in subsection (7) may be addressed in the EUO; the claimant may not examine the insured regarding liability. The claimant may request that the insured bring to the EUO relevant documents in the insured's possession, custody or control. Examples of such documents are credit reports, insurance policies, bank statements, tax returns, deeds, titles, and other documents that prove assets and liabilities. The parties must cooperate when scheduling the EUO, which must occur within 30 days after an insurer accepts a settlement demand.

The claimant may withdraw a settlement demand within 7 days after an examination under oath. This is necessary because the demand must be within policy limits and made prior to conducting the EUO.

The claimant may also withdraw a settlement demand if the insured refuses to submit to an EUO. When the insured refuses to submit to an EUO, the insurer may accept a demand for settlement without requiring the claimant release the insured from liability. When an insurer accepts a demand for settlement under such a circumstance, the insurer is excused from its duty to defend the insured.

Safe Harbor – Subsection (9) provides that an insurer may not be held liable in any third-party action for bad faith failure to settle where there is a single claimant if the insurer tenders its policy limits within 60 days after receiving a demand for settlement under subsection (6).

Black's Law Dictionary defines "tender" as "a valid and sufficient offer of performance"⁷³ thus the insurer obtains the safe harbor when it offers to accept a settlement demand within 30 days of receiving the demand. The safe harbor will also apply when the insurer tenders policy limits and the claimant withdraws a settlement demand within 7 days after conducting an EUO. Where there are multiple claimants, the safe harbor requires the insurer to initiate an interpleader action within 60 days of notice that there are multiple claimants.

Release – Subsection (10) provides that an insurer that accepts a settlement demand is entitled to a release of its insured, unless the insured refused to submit to an EUO under paragraph (8)(f).

Burden of Proof in Bad Faith Failure to Settle Actions – Subsection (11) provides that in all bad faith failure to settle actions the claimant must prove by the preponderance of the evidence that the insurer violated its duty of good faith as defined in subsection (2), and that the insurer in bad faith failed to settle as defined in subsection (3). This will be the burden of proof in any third-party failure to settle action against a motor vehicle insurer.

Matters the Trier of Fact Must Consider – Subsection (11) also requires the trier of fact, when determining whether the claimant has met its burden to prove both that the insurer violated the duty of good faith and in bad faith failed to settle, to consider all of the following:

- Whether the insurer complied with the best practice claim handling standards of subsection (4).
- Whether the insurer in bad faith failed to settle the claim.
- Whether the claimant or insured failed to timely provide relevant information to the insurer.
- Whether the claimant or insured misrepresented or omitted material facts to the insurer.
- Whether the insured denied liability or requested that the case be defended after the insurer fully advised the insured as to the facts and risks.
- Whether the insurer timely informed the insured of a demand to settle within the limits of coverage, the right to retain personal counsel, and the risk of litigation
- The insurer's willingness to negotiate with the claimant in anticipation of settlement.
- The amount of damages the claimant incurred or was likely to incur in the future under the facts known or reasonably available at the time of the insurer's response.
- If applicable, whether there were multiple third-party claimants seeking compensation that in the aggregate exceeded the insureds policy limits, and if so, whether the insurer breached its duty to attempt to minimize the magnitude of possible excess judgments against the insured and settle as many claims as possible within policy limits in exchange for a release of the insured from further liability.
- Additional factors the court determines to be relevant.

The bill allows the trier of fact to be informed that an excess judgment occurred, but prohibits informing the trier of fact of the amount of the excess judgment.

Damages – Subsection (12) provides that a motor vehicle insurer that is found to have violated its duty of good faith and to have in bad faith failed to settle is liable for the amount of the excess judgment. Other damages, including punitive damages, are not recoverable.

⁷³ Black's Law Dictionary (11th ed. 2019).

Demand for Settlement by a Judgment Creditor – Subsection (13) provides that a judgment creditor that serves a demand for settlement must be subrogated to the rights of the insured against the insurer when the judgment exceeds the insured's limits of liability.

Limitation on Multiple Remedies – Subsection (14) specifies that a person is not entitled to judgment under multiple bad faith remedies.

Rate Filings

Section 39 amends s. 627.0651, F.S., providing that initial rate filings for motor vehicle liability policies submitted to the OIR on or after January 1, 2022, must reflect the financial responsibility requirements of the amended s. 324.022, F.S., and may be approved only through the file and use process for making rates for motor vehicle insurance set out in that section of law.

Named Driver Exclusion

Section 53 creates s. 627.747, F.S., authorizing a private passenger motor vehicle policy to exclude an identified individual from coverages. Currently, the OIR requires insurers to provide exceptions to named driver exclusions up to statutorily required minimum limits for PIP coverage, property damage liability coverage, BI liability coverage (if the policy is used to meet financial responsibility requirements), and UM coverage in certain circumstances.⁷⁴

Under the bill, if an identified individual is specifically excluded by name on the policy declarations page or by endorsement, and a policyholder consents to such exclusion in writing, a private passenger motor vehicle policy may exclude an identified individual from the following coverages:

- Property damage liability coverage.
- Bodily injury liability coverage.
- Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the policyholder has purchased such coverage.
- Any coverage the policyholder is not required by law to purchase.

However, a private passenger motor vehicle policy may not exclude coverage when:

- The identified excluded individual is injured while not operating a motor vehicle;
- The exclusion is unfairly discriminatory under the Florida Insurance Code, as determined by the Office of Insurance Regulation; or
- The exclusion is inconsistent with the underwriting rules filed by the insurer.

An individual excluded by name in an insurance policy would not be covered for damages that occur while operating a motor vehicle that is insured under the policy, unless the excluded driver has purchased a separate policy that provides motor vehicle insurance coverage.

⁷⁴ See Office of Insurance Regulation, *Senate Bill 518 Agency Analysis*, pg. 2 (Oct. 30, 2017) (on file with the Senate Committee on Banking and Insurance.)

Windshield Coverage, Deductibles and Repairs

Section 50 amends s. 627.7288, F.S., to allow an insurer writing comprehensive insurance on a motor vehicle the option to offer a windshield deductible of up to \$200, provided that the insurer gives the insured an actuarially reasonable credit or discount.

Section 33 amends s. 559.920, F.S., (a statute establishing consumer protections), to add that, related to windshield repair, a motor vehicle repair shop or employee thereof may not threaten, coerce, or intimidate an insured into selecting a particular motor vehicle glass repair facility or motor vehicle repair shop; waive or offer to waive the insured's deductible or offer a rebate, gift, gift card, cash, coupon, or anything of value to a third party in exchange for a referral of an insured to the motor vehicle glass repair facility or motor vehicle repair shop in connection with any claim under an insurance policy; or waive or offer to waive the insured's deductible or offer a rebate, gift, gift card, cash, coupon or anything of value to an insured in exchange for the insured filing a motor vehicle windshield claim under an insurance policy.

Application of Bill

Applicability and Construction of Bill and Notice to Policyholders of New Motor Vehicle Insurance Requirements

Section 48 creates s. 627.7278, F.S., applying financial responsibility requirements and optional medical payments coverage created by the bill as follows:

- Effective January 1, 2022:
 - All motor vehicle insurance policies issued or renewed may not include PIP.
 - All persons must maintain at least minimum security requirements, which is the ability to respond to damages for liability because of motor vehicle crashes in the amounts required in s. 324.021(7), F.S., for private use motor vehicles, for-hire passenger transportation vehicles, commercial motor vehicles, and nonpublic sector buses.
 - Any new or renewal motor vehicle insurance policy delivered or issued in this state must provide coverage that complies with minimum security requirements.
 - An existing motor vehicle insurance policy that provides PIP and property damage liability coverage, but does not meet the new bodily injury liability requirements, is deemed to meet the bodily injury requirements until the policy is renewed, non-renewed or cancelled on or after January 1, 2022, and the provisions of the No-Fault law and other related statutes remain in full force and effect for motor vehicle accidents covered under a policy issued under the No-Fault law before that date, until the policy is renewed, nonrenewed, or canceled.
- Insurers must allow each insured who has a policy providing PIP that is effective before January 1, 2022, and whose policy does not meet minimum security requirements, to eliminate PIP coverage and obtain coverage providing minimum security requirements effective on or after January 1, 2022. The insurer is also required to offer each insured the optional medical payments coverage required by the bill. Insurers may not impose additional fees solely to change coverage, but may charge an additional premium that is actuarially indicated.
- By September 1, 2021, each motor vehicle insurer shall provide notice that:
 - The Florida Motor Vehicle No-Fault Law is repealed effective January 1, 2022, and that PIP coverage is no longer required or available for purchase.

- Effective January 1, 2022, a person subject to the financial security requirements of s. 324.022, F.S., must maintain minimum security requirements for BI and PD liability in the following amounts:
 - \$25,000 for BI or death of one person in any one crash and, subject to such limits, \$50,000 for BI or death of two or more persons in any one crash; or
 - \$15,000 for BI or death of one person in any one crash, subject to such limits, \$30,000 for BI or death of two or more persons in any one crash, applicable only if the insured's household earns 200 percent or less of the federal poverty guidelines or the insured is a full-time student enrolled in a secondary or post-secondary school; and
 - \$10,000 for PD in any one crash, regardless of income or status as a student.
- BI liability coverage protects the insured, up to the coverage limits, against loss if the insured is legally responsible for the death of or bodily injury to others in a motor vehicle accident.
- Effective January 1, 2022, each holder of a motor vehicle liability insurance policy purchased as proof of financial responsibility must be offered the optional medical payments coverage benefits at limits of \$5,000 and \$10,000 without a deductible, may be offered such coverage at limits greater than \$5,000, and may be offered coverage with a deductible of up to \$500. Medical payments coverage pays covered medical expenses, up to the limits, for injuries sustained in a motor vehicle crash by the named insured, resident relatives, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons who are struck by the insured motor vehicle and suffer bodily injury while not an occupant of a self-propelled motor vehicle. Medical payments coverage pays for reasonable expenses for necessary medical, diagnostic, and rehabilitative services that are lawfully provided, supervised, ordered, or prescribed by a licensed physician, a licensed dentist, or a licensed chiropractic physician, or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Medical payments coverage also provides a death benefit of at least \$5,000.
- A policyholder may obtain uninsured and underinsured motorist coverage, which provides benefits to a policyholder entitled to recover bodily injury damages resulting from a motor vehicle accident with an uninsured or underinsured owner or operator of a motor vehicle.
- A policy effective before January 1, 2022, is deemed to meet minimum security requirements until it is renewed, non-renewed, or canceled on or after January 1, 2022.
- A policyholder may change coverages to eliminate PIP protection and obtain coverage providing minimum security requirements.
- If the policyholder has any questions, he or she should contact the person named at the telephone number provided in the notice.

This section is effective upon the act becoming a law.

Application of Suspensions for Failure to Maintain Security

Section 15 creates s. 324.0222, F.S., requiring all driver license and motor vehicle registration suspensions for failure to maintain security as required by law in effect before January 1, 2022, to remain in full force and effect after January 1, 2022. A driver may reinstate a suspended driver's license or registration as provided under s. 324.0221, F.S.

Technical and Conforming Changes

Section 3 amends s. 316.646, F.S., which requires drivers to maintain and be able to display proof of security demonstrating compliance with financial responsibility requirements. The bill makes conforming changes necessitated by the bill's amendment or repeal of other sections of law and inserts a cross-reference to the revised s. 324.021(7), F.S., which contains the minimum insurance requirements for purposes of proof of financial responsibility beginning January 1, 2022.

Section 4 amends s. 318.18(2), F.S., regarding nonmoving traffic violations, to remove a reference to PIP and conform cross references.

Section 5 amends s. 320.02, F.S., which contains the requirements to register a motor vehicle. The bill amends the section to require proof of motor vehicle insurance that meets the minimum limits of BI and PD liability, remove references to PIP, and make other conforming changes.

Section 6 amends s. 320.0609, F.S., to eliminate a reference to PIP in a provision specifying that transferring a license plate from a vehicle disposed of to a newly acquired vehicle does not constitute a new registration.

Section 9 amends s. 322.251, F.S., regarding notice of cancellation, suspension, or revocation of a driver's license to repeal references to the No-Fault Law.

Section 10 amends s. 322.34, F.S., regarding driving on a suspended, revoked, canceled, or disqualified driver's license, to delete a reference to the No-Fault Law.

Section 11 amends s. 324.011, F.S., which provides the purpose of ch. 324, F.S., to specify that under the chapter all owners or operators of a motor vehicle required to be registered in this state must establish, maintain and show proof of financial responsibility. Currently, financial responsibility requirements only apply after an operator is involved in a crash or convicted of certain traffic offenses.

Section 14 amends s. 324.0221, F.S., which requires insurers to report motor vehicle insurance cancellations to the DHSMV, to remove references to PIP and replace the reference to PD coverage with a reference to liability coverage, and conform cross references.

Section 16 corrects cross references in s. 324.023, F.S., which requires drivers who plead guilty or nolo contendere to a charge of driving under the influence to meet additional liability insurance requirements.

Section 19 amends s. 324.051, F.S., regarding crash reports, to refer to motor vehicle liability policies rather than automobile liability policies.

Section 20 amends s. 324.071, F.S., to provide stylistic changes to provisions governing the reinstatement of a suspended license.

Section 21 amends s. 324.091, F.S., which requires owners and operators involved in a crash or conviction case to furnish evidence of liability insurance, by deleting references to an automobile liability policy while retaining references to a motor vehicle liability policy.

Section 25 amends s. 324.251, F.S., to revise the short title of ch. 324, F.S., to the “Financial Responsibility Law of 2021” and state it will be effective at 12:01 a.m., on January 1, 2022. Currently the chapter is the “Financial Responsibility Law of 1955.”

Sections 27 and 28 amend s. 400.991, F.S., and s. 400.9935, F.S., respectively, of the Health Care Clinic Act to remove references to PIP and the No-Fault Law and insert references to medical payments coverage.

Section 29 revises the definition of a “third party benefit” in s. 409.901, F.S., for purposes of Medicaid to refer to medical payments coverage rather than PIP coverage.

Section 30 amends s. 409.910(11), F.S., to specify that the Agency for Health Care Administration may recoup the total amount of medical assistance provided by Medicaid from motor vehicle insurance coverage benefits provided to a Medicaid beneficiary. Current law refers to PIP.

Section 31 amends s. 456.057, F.S., regarding patient records, to correct a cross-reference.

Section 32 amends s. 456.072, F.S., to allow the Department of Health to discipline licensees for submitting claims for medical payments coverage reimbursement when treatment is not rendered or when treatment is intentionally upcoded. The department currently has such disciplinary authority with regard to false billing under PIP coverage. The bill relocates from the repealed s. 627.732, F.S., the existing definition of “upcoded,” and replaces references to PIP with references to medical payments coverage.

Section 36 amends s. 626.9541(1)(i) and (o), F.S., regarding unfair insurance trade practices related to motor vehicle insurance. The bill deletes the unfair trade practice in paragraph (i) for failing to pay claims within statutory time periods required under the No-Fault Law to conform to the repeal of those time frames by the bill. The section makes a technical amendment to paragraph (o) to reference BI liability coverage, PD liability coverage, and medical payments coverage, rather than PIP, in the prohibitions against the unfair insurance trade practice of increasing premium or cancelling a motor vehicle insurance policy solely because the insured was involved in a motor vehicle accident without having information the insured was substantially at fault.

Section 37 amends s. 626.989, F.S., to revise the “fraudulent insurance acts” detailed in the section to refer to medical payments coverage, rather than the No-Fault Law.

Section 38 amends s. 627.06501, F.S., regarding insurance discounts for completing a driver improvement course, to delete a reference to PIP and insert a reference to medical payments coverage.

Sections 40 and 41 amend s. 627.0652, F.S., and s. 627.0653, F.S., respectively, relating to insurance discounts for motor vehicle coverage, by replacing references to PIP with references to medical payments coverage.

Section 42 amends s. 627.4132, F.S., regarding the general prohibition against stacking of motor vehicle coverages, to refer to BI and PD instead of PIP or other coverage.

Section 44 amends s. 627.7263, F.S., which generally makes the rental and leasing driver's insurance primary, to delete references to PIP and insert references to medical payments coverage.

Section 49 amends s. 627.728, F.S., which governs cancellations of motor vehicle insurance policies, to delete a reference to PIP in the definition of "policy."

Section 51 amends s. 627.7295, F.S., to revise definitions relating to motor vehicle insurance contracts by deleting references to PIP and inserting references to BI liability coverage, and make other conforming and editorial changes.

Section 54 amends s. 627.748, F.S., relating to insurance requirements for transportation network companies, to remove references to PIP required under the repealed No-Fault law and inserts cross-references to the revised financial responsibility requirements applied to for-hire passenger transportation vehicles in Section 17 of the bill.

Section 55 amends s. 627.749, F.S., relating to insurance requirements for autonomous vehicles, to delete a reference to PIP in those insurance requirements.

Section 56 amends s. 627.8405, F.S., regarding prohibited acts of premium finance companies, to replace a reference to a PIP/PD only policy with a reference to a policy that only provides BI/PD.

Section 57 amends s. 627.915, F.S., which requires private passenger automobile insurers to report information annually to the office, to remove references to PIP.

Section 58 amends s. 628.909, F.S., which applies certain provisions of the Insurance Code to captive insurance companies, to delete references to the No-Fault Law.

Section 59 amends s. 705.184, F.S., which governs derelict or abandoned motor vehicles on the premises of public-use airports, to delete references to s. 627.736, F.S., which is repealed by the bill.

Section 60 amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles and vessels, to delete references to s. 627.736, F.S., which is repealed by the bill.

Section 61 amends s. 817.234, F.S., regarding false and fraudulent insurance claims, to delete references to PIP and replace them with references to medical payments coverage.

Appropriation

Section 62 appropriates for the 2021-2022 fiscal year \$83,651 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for the purpose of implementing the act.

Effective Date

Section 63 provides that except as otherwise expressly provided in the act and this section, which take effect upon this act becoming a law, the act is effective January 1, 2022.

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:**

Bodily injury coverage is not a required coverage under Florida law unless a person is involved in certain accidents causing bodily injury, convicted of certain offenses, or is otherwise required to maintain BI liability coverage in statute. Failure to maintain BI coverage, when required, can result in the suspension of a license or registration. The reinstatement fee under s. 324.071, F.S., for such suspension under current law is \$15. CS/CS/SB 54 retains this reinstatement fee for a license suspension based upon a crash report under s. 324.051(2), F.S.; a registration suspension under s. 324.072, F.S., based on a license suspension pursuant to s. 322.26, F.S., or s. 322.27, F.S.; suspension of the operating privileges of a nonresident driver under s. 324.081, F.S.; or suspension of license and registration under s. 324.121, F.S., for failure to satisfy a judgment.

The bill retains the current reinstatement fees under s. 324.0221, F.S., for a suspended license or registration for failure to maintain required insurance based on a report by an insurer. The reinstatement fee for such suspensions under s. 324.0221, F.S., is \$150 for a first reinstatement, while second and subsequent reinstatements within 3 years of the first reinstatement require fees of \$250 and \$500, respectively.

B. Private Sector Impact:

The fiscal impact to policyholders, health insurers, health care providers, and injured claimants is indeterminate. However, in a 2016 report, *Florida Office of Insurance Regulation: Review of Personal Injury Protection Legislation*, provided, among other information, actuarial estimates of the savings expected from repealing the No-Fault Law.⁷⁵ The report concludes, based only on repeal of the No-Fault Law with financial responsibility limits of \$25,000/\$50,000, that a 5.6 percent savings would be realized in the statewide average premium charge.⁷⁶ The 2016 PIP Study estimated that health insurers would cover approximately \$469.7 million of current PIP loss if No-Fault were repealed.⁷⁷ Health care providers would cover approximately \$32.8 million of current PIP losses.⁷⁸ Injured claimants would cover approximately \$82.9 million of current PIP losses.⁷⁹ In an addendum to the study, Pinnacle evaluated the effect on premiums of enacting legislation⁸⁰ that provides that a motor vehicle insurer is not liable for a bad faith failure to settle when it offers to pay the claimant the lesser of the amount demanded or policy limits with 45 days of receiving written notice of the loss. Pinnacle estimated such a provision would reduce BI premiums by 0.9 percent.⁸¹

The actuarial consulting firm Milliman, Inc., estimated the impact of similar, but not identical, legislation in 2018, on behalf of the Property and Casualty Insurers Association of America. The Milliman report, dated January 25, 2018, estimated that repealing PIP and mandating BI coverage of at least \$25,000/\$50,000 would increase premiums on average by \$67 (5.3 percent), increase premiums on average for drivers that currently purchase full coverage by \$105 (7.2 percent), and increase premiums on average \$230 (50.1 percent) for drivers who currently purchase only PIP and PD at the minimum mandatory limits.⁸² The report estimates that mandating \$5,000 of MedPay in addition to mandating BI coverage of at least \$25,000/\$50,000 would increase premiums on average by \$115.85 (9.2 percent).⁸³ The report identifies as cost-drivers increasing premiums the

⁷⁵ Office of Insurance Regulation, *Review of Personal Injury Protection Legislation*, (Sept. 13, 2016), Appendix 3, p. 1. Available at <http://www.floir.com/siteDocuments/FLAIRReviewPIP20160913.pdf> (last accessed January 27, 2021).

⁷⁶ That is the average premium savings for a driver purchasing BI, UM, PD, Comprehensive, and Collision coverages.

⁷⁷ See Office of Insurance Regulation fn. 52 at pg. 68.

⁷⁸ See *id.*

⁷⁹ See *id.*

⁸⁰ Senate Bill 1088 (2015).

⁸¹ Office of Insurance Regulation, *Review of Personal Injury Protection Legislation – Addendum: Impact of Florida Third-Party Bad Faith Reform*, pg. 6 (Sept. 27, 2016). Available at <https://www.floir.com/siteDocuments/FloridaBadFaithAddendumFinal.pdf> (last accessed January 27, 2021).

⁸² Milliman, Inc., *Florida Personal Auto Insurance Impact of Repealing No-Fault Coverage – Prepared for Property Casualty Insurers Association of America*, pg. 4 (Jan. 25, 2018). Available at http://floridapolitics.com/wp-content/uploads/2018/02/Impact-of-Repealing-No-Fault_Final.pdf (last accessed January 27, 2021).

⁸³ See Milliman at pg. 6.

elimination of the No-Fault verbal threshold for noneconomic damages and the elimination of the PIP co-insurance provisions (20 percent for medical expenses and 40 percent for loss of income expenses).⁸⁴ The Milliman report estimated that the adoption of legislation creating a condition precedent to bringing a first-party or third-party bad faith claim requiring that time limited demands be in writing, specify relevant details of the claim, include required documentation, and remain open for 45 to 90 days, could decrease bad faith costs by up to 50 percent, or 6.7 percent of premium.⁸⁵

Policyholders who reside in the same household as a high-risk individual who is of driving age could see a decrease in their rates if they exclude such drivers from one or more of the specified coverages.

C. Government Sector Impact:

The bill appropriates \$83,651 in FY 2021-22 nonrecurring funds from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to implement the act.

The Florida Office of Insurance Regulation estimates that implementation of this bill requires salaries and benefits at a recurring cost of \$228,602 annually, commencing in FY 2021-22. They also estimate a need for nonrecurring computer programming costs of \$20,000 in FY 2021-22.

The fiscal impact to state and local governments is otherwise indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771, 322.251, 322.34, 324.011, 324.021, 324.022, 324.0221, 324.023, 324.031, 324.032, 324.051, 324.071, 324.091, 324.151, 324.161, 324.171, 324.251, 400.9905, 400.991, 400.9935, 409.901, 409.910, 456.057, 456.072, 559.920, 624.155, 626.9541, 626.989, 627.06501, 627.0651, 627.0652, 627.0653, 627.4132, 627.4137, 627.7263, 627.727, 627.7275, 627.728, 627.7288, 627.7295, 627.7415, 627.748, 627.749, 627.8405, 627.915, 628.909, 705.184, 713.78, and 817.234.

This bill creates the following sections of the Florida Statutes: 324.0222, 624.156, 627.7265, 627.7278, and 627.747.

⁸⁴ See Milliman at pgs. 9-10.

⁸⁵ See Milliman at pgs. 15-16.

This bill repeals the following sections of the Florida Statutes: 627.730, 627.731, 627.7311, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, 627.7405, and 627.7407.

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 Judiciary on February 15, 2021:

The committee substitute:

- Allows persons to purchase BI at limits of 15/30 if such person has a household income that does not exceed 200 percent of the federal poverty level, or is a full time secondary or post-secondary student.
- Clarifies that motorcycles need not meet financial responsibility unless they lack liability insurance and the owner or operator was in a crash, and is liable for unsatisfied bodily injury damages.
- Increases the bad faith safe harbor time-frame from 30 to 60 days when there is a single claimant and the insurer tenders limits, and creates a safe harbor in a multiple claimant situation that applies if an insurer files an interpleader within 60 days.
- Allows an insurer that sells windshield coverage to offer up to a \$200 deductible for windshields for an appropriate premium credit or discount, maintaining the current law requirement to offer windshield coverage with no deductible.

CS by Banking and Insurance on January 26, 2021:

The committee substitute provides that s. 624.156, F.S., created by the bill will apply to all third party bad faith failure to settle actions against motor vehicle insurers. The amendment also specifies that the failure to settle cause of action under the civil remedy provided in s. 624.155, F.S., does not apply to a third-party bad faith failure to settle action subject to the newly created s. 624.156, F.S. Thus, s. 624.156, F.S., will exclusively govern all third-party bad faith failure to settle actions against a motor vehicle insurer.

The committee substitute also creates within s. 624.155, F.S., a first-party bad faith cause of action for failure to settle when such failure is caused by a failure to communicate with the insured in accordance with specified best practices. In the filed bill, these best practices regarding communication with a first-party insured were part of s. 624.156, F.S.

B. Amendments:

None.



356652

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 294 - 1347
and insert:

Section 3. Present subsection (5) of section 316.646,
Florida Statutes, is redesignated as subsection (6), a new
subsection (5) is added to that section, and subsection (1) of
that section is amended, to read:

316.646 Security required; proof of security and display
thereof.—

(1) Any person required by s. 324.022 to maintain liability



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~~security for property damage, liability security, required by s. 324.023 to maintain liability security for~~ bodily injury, or death, ~~or required by s. 627.733 to maintain personal injury protection security on a motor vehicle~~ shall have in his or her immediate possession at all times while operating such motor vehicle proper proof of maintenance of the ~~required~~ security required under s. 324.021(7).

(a) Such proof must ~~shall~~ be in a uniform paper or electronic format, as prescribed by the department, a valid insurance policy, an insurance policy binder, a certificate of insurance, or such other proof as may be prescribed by the department.

(b)1. The act of presenting to a law enforcement officer an electronic device displaying proof of insurance in an electronic format does not constitute consent for the officer to access any information on the device other than the displayed proof of insurance.

2. The person who presents the device to the officer assumes the liability for any resulting damage to the device.

(5) Upon implementation of the motor vehicle insurance online verification system established in s. 324.252, a law enforcement officer, during a traffic stop or crash investigation, shall access information from the online verification system to establish compliance with this chapter and chapter 324 and to verify the current validity of the policy described on any insurance identification card produced by the operator of a motor vehicle during the traffic stop or crash investigation.

Section 4. Paragraph (b) of subsection (2) of section



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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:

(2) Thirty dollars for all nonmoving traffic violations and:

(b) For all violations of ss. 320.0605, 320.07(1), 322.065, and 322.15(1). A ~~Any~~ person who is cited for a violation of s. 320.07(1) shall be charged a delinquent fee pursuant to s. 320.07(4).

1. If a person who is cited for a violation of s. 320.0605 or s. 320.07 can show proof of having a valid registration at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10, from which the clerk shall remit \$2.50 to the Department of Revenue for deposit into the General Revenue Fund. A person who finds it impossible or impractical to obtain a valid registration certificate must submit an affidavit detailing the reasons for the impossibility or impracticality. The reasons may include, but are not limited to, the fact that the vehicle was sold, stolen, or destroyed; that the state in which the vehicle is registered does not issue a certificate of registration; or that the vehicle is owned by another person.

2. If a person who is cited for a violation of s. 322.03, s. 322.065, or s. 322.15 can show a driver license issued to him or her and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10, from which the clerk shall remit \$2.50 to the Department of Revenue for deposit into the General Revenue Fund.



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70 3. If a person who is cited for a violation of s. 316.646
71 can show proof of security as required by s. 324.021(7) ~~s.~~
72 ~~627.733~~, issued to the person and valid at the time of arrest,
73 the clerk of the court may dismiss the case and may assess a
74 dismissal fee of up to \$10, from which the clerk shall remit
75 \$2.50 to the Department of Revenue for deposit into the General
76 Revenue Fund. A person who finds it impossible or impractical to
77 obtain proof of security must submit an affidavit detailing the
78 reasons for the impracticality. The reasons may include, but are
79 not limited to, the fact that the vehicle has since been sold,
80 stolen, or destroyed; ~~that the owner or registrant of the~~
81 ~~vehicle is not required by s. 627.733 to maintain personal~~
82 ~~injury protection insurance;~~ or that the vehicle is owned by
83 another person.

84 Section 5. Paragraphs (a) and (d) of subsection (5) of
85 section 320.02, Florida Statutes, are amended, and paragraph (f)
86 is added to that subsection, to read:

87 320.02 Registration required; application for registration;
88 forms.—

89 (5)(a) Proof that bodily injury liability coverage and
90 property damage liability coverage ~~personal injury protection~~
91 ~~benefits~~ have been purchased if required under s. 324.022, s.
92 324.032, or s. 627.742 ~~s. 627.733, that property damage~~
93 ~~liability coverage has been purchased as required under s.~~
94 ~~324.022, that bodily injury liability or death~~ coverage has been
95 purchased if required under s. 324.023, and that combined bodily
96 liability insurance and property damage liability insurance have
97 been purchased if required under s. 627.7415 must ~~shall~~ be
98 provided in the manner prescribed by law by the applicant at the



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time of application for registration of any motor vehicle that is subject to such requirements. The issuing agent may not ~~shall refuse to~~ issue registration if such proof of purchase is not provided. Insurers shall furnish uniform proof-of-purchase cards in a paper or electronic format in a form prescribed by the department and include the name of the insured's insurance company, the coverage identification number, and the make, year, and vehicle identification number of the vehicle insured. The card must contain a statement notifying the applicant of the penalty specified under s. 316.646(4). The card or insurance policy, insurance policy binder, or certificate of insurance or a photocopy of any of these; an affidavit containing the name of the insured's insurance company, the insured's policy number, and the make and year of the vehicle insured; or such other proof as may be prescribed by the department constitutes ~~shall constitute~~ sufficient proof of purchase. If an affidavit is provided as proof, it must be in substantially the following form:

Under penalty of perjury, I ...(Name of insured)... do hereby certify that I have ...(bodily injury liability and Personal Injury Protection, property damage liability, ~~and, if required, Bodily Injury Liability~~)... insurance currently in effect with ...(Name of insurance company)... under ...(policy number)... covering ...(make, year, and vehicle identification number of vehicle).... ...(Signature of Insured)...

Such affidavit must include the following warning:



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128 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
129 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
130 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
131 SUBJECT TO PROSECUTION.
132

133 If an application is made through a licensed motor vehicle
134 dealer as required under s. 319.23, the original or a photocopy
135 ~~photostatic copy~~ of such card, insurance policy, insurance
136 policy binder, or certificate of insurance or the original
137 affidavit from the insured must ~~shall~~ be forwarded by the dealer
138 to the tax collector of the county or the Department of Highway
139 Safety and Motor Vehicles for processing. By executing the
140 ~~aforsaid~~ affidavit, a ~~no~~ licensed motor vehicle dealer is not
141 ~~will be~~ liable in damages for any inadequacy, insufficiency, or
142 falsification of any statement contained therein. ~~A card must~~
143 ~~also indicate the existence of any bodily injury liability~~
144 ~~insurance voluntarily purchased.~~

145 (d) The verifying of ~~proof of personal injury protection~~
146 ~~insurance, proof of property damage liability insurance, proof~~
147 ~~of combined bodily liability insurance and property damage~~
148 ~~liability insurance, or~~ proof of financial responsibility
149 ~~insurance~~ and the issuance or failure to issue the motor vehicle
150 registration under ~~the provisions of~~ this chapter may not be
151 construed in any court as a warranty of the reliability or
152 accuracy of the evidence of such proof or as meaning that the
153 provisions of any insurance policy furnished as proof of
154 financial responsibility comply with state law. Neither the
155 department nor any tax collector is liable in damages for any
156 inadequacy, insufficiency, falsification, or unauthorized



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modification of any item of ~~the proof of personal injury protection insurance, proof of property damage liability insurance, proof of combined bodily liability insurance and property damage liability insurance, or~~ proof of financial responsibility before ~~insurance prior to~~, during, or subsequent to the verification of the proof. The issuance of a motor vehicle registration does not constitute prima facie evidence or a presumption of insurance coverage.

(f) Upon implementation of the motor vehicle insurance online verification system established in s. 324.252, the online verification system may be used in lieu of the verification procedures in this subsection.

Section 6. Paragraph (b) of subsection (1) of section 320.0609, Florida Statutes, is amended to read:

320.0609 Transfer and exchange of registration license plates; transfer fee.—

(1)

(b) The transfer of a license plate from a vehicle disposed of to a newly acquired vehicle does not constitute a new registration. The application for transfer must ~~shall~~ be accepted without requiring proof of ~~personal injury protection or~~ liability insurance.

Section 7. Subsection (3) of section 320.27, Florida Statutes, is amended, and paragraph (g) is added to subsection (1) of that section, to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context



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clearly indicates a different meaning:

(g) "Garage liability insurance" means, beginning January 1, 2022, combined single-limit liability coverage, including property damage and bodily injury liability coverage, in the amount of at least \$60,000.

(3) APPLICATION AND FEE.—~~The application for the license application must shall~~ be in such form as may be prescribed by the department and is shall be subject to such rules ~~with respect thereto~~ as may be so prescribed by the department it. Such application must shall be verified by oath or affirmation and must shall contain a full statement of the name and birth date of the person or persons applying for the license therefor; the name of the firm or copartnership, with the names and places of residence of all members ~~thereof~~, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or places of residence of the applicant; and the prior business in which the applicant has been engaged and its the location ~~thereof~~. ~~The Such~~ application must shall describe the exact location of the place of business and must shall state whether the place of business is owned by the applicant and when acquired, or, if leased, a true copy of the lease must shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a



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suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which must ~~shall~~ be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business that will ~~which shall~~ be conducted at that location. The application must ~~shall~~ contain a statement that the applicant is either franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell must ~~shall~~ be included, or an independent (nonfranchised) motor vehicle dealer. The application must ~~shall~~ contain other relevant information as may be required by the department. The applicant shall furnish, including evidence, in a form approved by the department, that the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy having the coverages and limits of the garage liability insurance coverage in accordance with paragraph (1)(g), ~~which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.~~ However, a salvage motor vehicle dealer as defined in subparagraph (1)(c)5. is exempt from the requirements for garage liability insurance ~~and personal injury protection insurance~~ on those vehicles that cannot be legally operated on roads, highways, or streets in this state. Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage



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liability insurance policy or a general liability insurance policy coupled with a business automobile policy. Such policy must ~~shall~~ be for the license period, and evidence of a new or continued policy must ~~shall~~ be delivered to the department at the beginning of each license period. Upon making an initial application, the applicant shall pay to the department a fee of \$300 in addition to any other fees required by law. Applicants may choose to extend the licensure period for 1 additional year for a total of 2 years. An initial applicant shall pay to the department a fee of \$300 for the first year and \$75 for the second year, in addition to any other fees required by law. An applicant for renewal shall pay to the department \$75 for a 1-year renewal or \$150 for a 2-year renewal, in addition to any other fees required by law. Upon making an application for a change of location, the applicant ~~person~~ shall pay a fee of \$50 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant shall, ~~must~~ file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of state and federal processing must ~~shall~~ be borne by the applicant and is in addition to the fee for licensure. The department may issue a license to an applicant pending the



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results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

Section 8. Paragraph (j) of subsection (3) of section 320.771, Florida Statutes, is amended to read:

320.771 License required of recreational vehicle dealers.—

(3) APPLICATION.—The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(j) A statement that the applicant is insured under a garage liability insurance policy in accordance with s. 320.27(1) (g), ~~which shall include, at a minimum, \$25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection,~~ if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles. However, a garage liability policy is not required for the licensure of a mobile home dealer who sells only park trailers.

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and may ~~shall~~ not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

Section 9. Subsections (1) and (2) of section 322.251, Florida Statutes, are amended to read:

322.251 Notice of cancellation, suspension, revocation, or



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disqualification of license.—

(1) All orders of cancellation, suspension, revocation, or disqualification issued under ~~the provisions of~~ this chapter, chapter 318, or chapter 324 must, ~~or ss. 627.732-627.734 shall~~ be given either by personal delivery thereof to the licensee whose license is being canceled, suspended, revoked, or disqualified or by deposit in the United States mail in an envelope, first class, postage prepaid, addressed to the licensee at his or her last known mailing address furnished to the department. Such mailing by the department constitutes notification, and any failure by the person to receive the mailed order will not affect or stay the effective date or term of the cancellation, suspension, revocation, or disqualification of the licensee's driving privilege.

(2) The giving of notice and an order of cancellation, suspension, revocation, or disqualification by mail is complete upon expiration of 20 days after deposit in the United States mail for all notices except those issued under chapter 324 ~~or ss. 627.732-627.734~~, which are complete 15 days after deposit in the United States mail. Proof of the giving of notice and an order of cancellation, suspension, revocation, or disqualification in either manner must ~~shall~~ be made by entry in the records of the department that such notice was given. The entry is admissible in the courts of this state and constitutes sufficient proof that such notice was given.

Section 10. Paragraph (a) of subsection (8) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—



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(8)(a) Upon the arrest of a person for the offense of driving while the person's driver license or driving privilege is suspended or revoked, the arresting officer shall determine:

1. Whether the person's driver license is suspended or revoked, or the person is under suspension or revocation equivalent status.

2. Whether the person's driver license has remained suspended or revoked, or the person has been under suspension or revocation equivalent status, since a conviction for the offense of driving with a suspended or revoked license.

3. Whether the suspension, revocation, or suspension or revocation equivalent status was made under s. 316.646 ~~or s. 627.733~~, relating to failure to maintain required security, or under s. 322.264, relating to habitual traffic offenders.

4. Whether the driver is the registered owner or co-owner of the vehicle.

Section 11. Section 324.011, Florida Statutes, is amended to read:

324.011 Legislative intent; purpose of chapter.—It is the intent of the Legislature that this chapter ensure that the privilege of owning or operating a motor vehicle in this state be exercised ~~to recognize the existing privilege to own or operate a motor vehicle on the public streets and highways of this state when such vehicles are used~~ with due consideration for others' safety ~~others~~ and ~~their~~ property, promoting ~~and to promote~~ safety, and providing ~~provide~~ financial security requirements for ~~such~~ owners and ~~or~~ operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle.



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Therefore, the purpose of this chapter is to require that every owner or operator of a motor vehicle required to be registered in this state establish, maintain, and it is required herein that the operator of a motor vehicle involved in a crash or convicted of certain traffic offenses meeting the operative provisions of s. 324.051(2) shall respond for such damages and show proof of financial ability to respond for damages arising out of the ownership, maintenance, or use of a motor vehicle in future accidents as a requisite to owning or operating a motor vehicle in this state his or her future exercise of such privileges.

Section 12. Subsections (1) and (7) and paragraph (c) of subsection (9) of section 324.021, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle that is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle that is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any personal delivery device or mobile carrier as defined in s. 316.003, bicycle, electric bicycle, or moped. ~~However, the term "motor vehicle" does not include a motor vehicle as defined in s. 627.732(3)~~



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~~when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.~~

(7) PROOF OF FINANCIAL RESPONSIBILITY.—Beginning January 1, 2022, That proof of ability to respond in damages for liability on account of crashes arising out of the ownership, maintenance, or use of a motor vehicle:

(a) With respect to a motor vehicle other than a commercial motor vehicle, nonpublic sector bus, or for-hire passenger transportation vehicle, in the amounts specified in s. 324.022(1). ~~amount of \$10,000 because of bodily injury to, or death of, one person in any one crash;~~

~~(b) Subject to such limits for one person, in the amount of \$20,000 because of bodily injury to, or death of, two or more persons in any one crash;~~

~~(c) In the amount of \$10,000 because of injury to, or destruction of, property of others in any one crash; and~~

~~(b)-(d)~~ (b) With respect to commercial motor vehicles and nonpublic sector buses, in the amounts specified in s. 627.7415 ss. 627.7415 and 627.742, respectively.

(c) With respect to nonpublic sector buses, in the amounts specified in s. 627.742.

(d) With respect to for-hire passenger transportation vehicles, in the amounts specified in s. 324.032.

(9) OWNER; OWNER/LESSOR.—

(c) *Application.*—

1. The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for



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commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term "rental company" also includes:

a. A related rental or leasing company that is a subsidiary of the same parent company as that of the renting or leasing company that rented or leased the vehicle.

b. The holder of a motor vehicle title or an equity interest in a motor vehicle title if the title or equity interest is held pursuant to or to facilitate an asset-backed securitization of a fleet of motor vehicles used solely in the business of renting or leasing motor vehicles to the general public and under the dominion and control of a rental company, as described in this subparagraph, in the operation of such rental company's business.

2. Furthermore, with respect to commercial motor vehicles as defined in s. 207.002 or s. 320.01 ~~s. 627.732~~, the limits on liability in subparagraphs (b)2. and 3. do not apply if, at the time of the incident, the commercial motor vehicle is being used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is required pursuant to such act to carry placards warning others of the hazardous cargo, unless at the time of lease or rental either:



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a. The lessee indicates in writing that the vehicle will not be used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

b. The lessee or other operator of the commercial motor vehicle has in effect insurance with limits of at least \$5 million ~~\$5,000,000~~ combined property damage and bodily injury liability.

3.a. A motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle at no charge or at a reasonable daily charge to a service customer whose vehicle is being held for repair, service, or adjustment by the motor vehicle dealer is immune from any cause of action and is not liable, vicariously or directly, under general law solely by reason of being the owner of the temporary replacement vehicle for harm to persons or property that arises out of the use, or operation, of the temporary replacement vehicle by any person during the period the temporary replacement vehicle has been entrusted to the motor vehicle dealer's service customer if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner, or its leasing or rental affiliate.

b. For purposes of this section, and notwithstanding any other provision of general law, a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that gives possession, control, or use of a temporary replacement vehicle to a motor vehicle dealer's service customer may not be adjudged liable in a civil proceeding absent negligence or criminal wrongdoing on the part of the motor vehicle dealer, or the motor



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vehicle dealer's leasing or rental affiliate, if the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate executes a written rental or use agreement and obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage required in the state. Any subsequent determination that the driver license or insurance information provided to the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, was in any way false, fraudulent, misleading, nonexistent, canceled, not in effect, or invalid does not alter or diminish the protections provided by this section, unless the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, had actual knowledge thereof at the time possession of the temporary replacement vehicle was provided.

c. For purposes of this subparagraph, the term "service customer" does not include an agent or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate, and does not include an employee of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate unless the employee was provided a temporary replacement vehicle:

(I) While the employee's personal vehicle was being held for repair, service, or adjustment by the motor vehicle dealer;

(II) In the same manner as other customers who are provided a temporary replacement vehicle while the customer's vehicle is being held for repair, service, or adjustment; and

(III) The employee was not acting within the course and scope of their employment.



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(12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—Every for-hire vehicle as defined in s. 320.01(15) which is offered or used to provide transportation for persons, including taxicabs, limousines, and jitneys.

Section 13. Section 324.022, Florida Statutes, is amended to read:

324.022 Financial responsibility requirements ~~for property damage.~~—

(1)(a) Beginning January 1, 2022, every owner or operator of a motor vehicle required to be registered in this state shall establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of:

1. Twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$50,000 for bodily injury to, or the death of, two or more persons in any one crash; and

2. Ten thousand dollars for ~~\$10,000 because of damage to,~~ or destruction of, property of others in any one crash.

(b) The requirements of paragraph (a) ~~this section~~ may be met by one of the methods established in s. 324.031; by self-insuring as authorized by s. 768.28(16); or by maintaining a motor vehicle liability insurance policy that ~~an insurance policy providing coverage for property damage liability in the amount of at least \$10,000 because of damage to, or destruction of, property of others in any one accident arising out of the use of the motor vehicle. The requirements of this section may also be met by having a policy which provides~~ combined property



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damage liability and bodily injury liability coverage for any
one crash arising out of the ownership, maintenance, or use of a
motor vehicle and that conforms to the requirements of s.

324.151 in the amount of at least \$60,000 for every owner or
operator subject to the financial responsibility required in
paragraph (a) \$30,000 for combined property damage liability and
bodily injury liability for any one crash arising out of the use
of the motor vehicle. The policy, with respect to coverage for
property damage liability, must meet the applicable requirements
of s. 324.151, subject to the usual policy exclusions that have
been approved in policy forms by the Office of Insurance
Regulation. No insurer shall have any duty to defend uncovered
claims irrespective of their joinder with covered claims.

(c) Notwithstanding paragraph (a), the following owners or
operators may instead establish and continuously maintain the
ability to respond in damages for liability on account of
accidents arising out of the use of the motor vehicle in the
amount of \$15,000 for bodily injury to, or the death of, one
person in any one crash and, subject to such limits for one
person, in the amount of \$30,000 for bodily injury to, or the
death of, two or more persons in any one crash; and \$10,000 for
damage to, or destruction of, property of others in any one
crash:

1. An owner or operator who has a household income that is
200 percent or less of the most current federal poverty
guidelines established by the United States Department of Health
and Human Services; or

2. An owner or operator who meets the definition of a full-
time student in a secondary education program under s.



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1011.61(1)(a) or meets the definition of a full-time student in
a postsecondary education program under s. 1009.40.

(2) As used in this section, the term:

(a) "Motor vehicle" means any self-propelled vehicle that
has four or more wheels and that is of a type designed and
required to be licensed for use on the highways of this state,
and any trailer or semitrailer designed for use with such
vehicle. The term does not include the following:

1. A mobile home as defined in s. 320.01.

2. A motor vehicle that is used in mass transit and
designed to transport more than five passengers, exclusive of
the operator of the motor vehicle, and that is owned by a
municipality, transit authority, or political subdivision of the
state.

3. A school bus as defined in s. 1006.25, which must
maintain security as required under s. 316.615.

4. A commercial motor vehicle as defined in s. 207.002 or
s. 320.01, which must maintain security as required under ss.
324.031 and 627.7415.

5. A nonpublic sector bus, which must maintain security as
required under ss. 324.031 and 627.742.

~~6.4. A vehicle providing for-hire passenger transportation~~
~~vehicle, which must that is subject to the provisions of s.~~
~~324.031. A taxicab shall maintain security as required under s.~~
~~324.032 s. 324.032(1).~~

~~7.5. A personal delivery device as defined in s. 316.003.~~

8. A motorcycle as defined in s. 320.01(26), unless s.
324.051 applies; in such case, paragraph (1)(a) and the
applicable proof of insurance provisions of s. 320.02 apply.



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(b) "Owner" means the person who holds legal title to a motor vehicle or the debtor or lessee who has the right to possession of a motor vehicle that is the subject of a security agreement or lease with an option to purchase.

(3) Each nonresident owner or registrant of a motor vehicle that, whether operated or not, has been physically present within this state for more than 90 days during the preceding 365 days shall maintain security as required by subsection (1). The security must be ~~that is~~ in effect continuously throughout the period the motor vehicle remains within this state.

(4) An ~~The~~ owner or registrant of a motor vehicle who is ~~exempt from the requirements of this section if she or he is a~~ member of the United States Armed Forces and is called to or on active duty outside the United States in an emergency situation is exempt from this section while he or she. ~~The exemption provided by this subsection applies only as long as the member of the Armed Forces is on such active duty. This exemption outside the United States and applies only while the vehicle covered by the security is not operated by any person. Upon receipt of a written request by the insured to whom the exemption provided in this subsection applies, the insurer shall cancel the coverages and return any unearned premium or suspend the security required by this section. Notwithstanding s. 324.0221(2) s. 324.0221(3), the department may not suspend the registration or operator's license of an any owner or registrant of a motor vehicle during the time she or he qualifies for the an exemption under this subsection. An Any owner or registrant of a motor vehicle who qualifies for the an exemption under this subsection shall immediately notify the department before prior~~



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to and at the end of the expiration of the exemption.

Section 14. Subsections (1) and (2) of section 324.0221, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

324.0221 Reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.—

(1)(a) Each insurer that has issued a policy providing ~~personal injury protection coverage or property damage~~ liability coverage shall report the cancellation or nonrenewal thereof to the department within 10 days after the processing date or effective date of each cancellation or nonrenewal. Upon the issuance of a policy providing ~~personal injury protection coverage or property damage~~ liability coverage to a named insured not previously insured by the insurer during that calendar year, the insurer shall report the issuance of the new policy to the department within 10 days. The report must ~~shall~~ be in the form ~~and format~~ and contain any information required by the department and must be provided in a format that is compatible with the data processing capabilities of the department. Failure by an insurer to file proper reports with the department as required by this subsection constitutes a violation of the Florida Insurance Code. These records may ~~shall~~ be used by the department only for enforcement and regulatory purposes, including the generation by the department of data regarding compliance by owners of motor vehicles with the requirements for financial responsibility coverage.

(b) With respect to an insurance policy providing ~~personal injury protection coverage or property damage~~ liability coverage, each insurer shall notify the named insured, or the



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first-named insured in the case of a commercial fleet policy, in writing that any cancellation or nonrenewal of the policy will be reported by the insurer to the department. The notice must also inform the named insured that failure to maintain bodily injury liability ~~personal injury protection~~ coverage and property damage liability coverage on a motor vehicle when required by law may result in the loss of registration and driving privileges in this state and inform the named insured of the amount of the reinstatement fees required by this section. This notice is for informational purposes only, and an insurer is not civilly liable for failing to provide this notice.

(c) An insurer must transmit weekly, in a format prescribed by the department, the insurer's records of all active insurance policies, commonly known as the "book of business," to enable the department to identify uninsured vehicles.

(d) The department may verify information from an insurer as provided in s. 324.252. This paragraph does not relieve an insurer from the reporting requirements of this section.

(2) The department shall suspend, after due notice and an opportunity to be heard, the registration and driver license of any owner or registrant of a motor vehicle for ~~with respect to~~ which security is required under s. 324.022, s. 324.032, s. 627.7415, or s. 627.742 ~~ss. 324.022 and 627.733~~ upon:

(a) The department's records showing that the owner or registrant of such motor vehicle did not have the ~~in full force and effect when~~ required security in full force and effect ~~that complies with the requirements of ss. 324.022 and 627.733;~~ or

(b) Notification by the insurer to the department, in a form approved by the department, of cancellation or termination



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of the required security.

(4) The department may implement by rule a method of insurance verification.

Section 15. Section 324.0222, Florida Statutes, is created to read:

324.0222 Application of suspensions for failure to maintain security; reinstatement.—All suspensions for failure to maintain required security as required by law in effect before January 1, 2022, remain in full force and effect after January 1, 2022. A driver may reinstate a suspended driver license or registration as provided under s. 324.0221.

Section 16. Section 324.023, Florida Statutes, is amended to read:

324.023 Financial responsibility for bodily injury or death.—In addition to any other financial responsibility required by law, every owner or operator of a motor vehicle that is required to be registered in this state, or that is located within this state, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence under s. 316.193 after October 1, 2007, shall, by one of the methods established in s. 324.031(1)(a) or (b) ~~s. 324.031(1) or (2)~~, establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle in the amount of \$100,000 because of bodily injury to, or death of, one person in any one crash and, subject to such limits for one person, in the amount of \$300,000 because of bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in



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any one crash. If the owner or operator chooses to establish and maintain such ability by furnishing a certificate of deposit pursuant to s. 324.031(1)(b) ~~s. 324.031(2)~~, such certificate of deposit must be at least \$350,000. Such higher limits must be carried for a minimum period of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, the owner or operator is ~~shall be~~ exempt from this section.

Section 17. Section 324.031, Florida Statutes, is amended to read:

324.031 Manner of proving financial responsibility.-

~~(1) The owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association.~~ The operator or owner of a motor vehicle other than a for-hire passenger transportation vehicle ~~any other vehicle~~ may prove his or her financial responsibility by:

(a) ~~(1)~~ Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in ss. 324.021(8) and 324.151 which provides liability coverage for the motor vehicle being operated;

(b) ~~(2)~~ Furnishing a certificate of self-insurance showing a deposit of cash in accordance with s. 324.161; or

(c) ~~(3)~~ Furnishing a certificate of self-insurance issued by



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the department in accordance with s. 324.171.

(2) Beginning January 1, 2022, any person, ~~including any firm, partnership, association, corporation, or other person, other than a natural person,~~ electing to use the method of proof specified in paragraph (1)(b) subsection (2) shall do both of the following:

(a) Furnish a certificate of deposit equal to the number of vehicles owned times \$60,000 ~~\$30,000~~, up to a maximum of \$240,000. ~~\$120,000;~~

(b) ~~In addition, any such person, other than a natural person, shall~~ Maintain insurance ~~providing~~ coverage that meets the requirements of s. 324.151 and has limits of:

1. At least \$125,000 for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$250,000 for bodily injury to, or the death of, two or more persons in any one crash; and \$50,000 for damage to, or destruction of, property of others in any one crash; or

2. At least \$300,000 for combined bodily injury liability and property damage liability for any one crash ~~in excess of limits of \$10,000/20,000/10,000 or \$30,000 combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits. These increased limits shall not affect the requirements for proving financial responsibility under s. 324.032(1).~~

Section 18. Section 324.032, Florida Statutes, is amended to read:

324.032 ~~Manner of proving~~ Financial responsibility ~~for~~ for-hire passenger transportation vehicles. ~~Notwithstanding the~~



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~~provisions of s. 324.031:~~

(1) An owner or a lessee of a for-hire passenger transportation vehicle that is required to be registered in this state shall establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the ownership, maintenance, or use of the for-hire passenger transportation vehicle, in the amount of:

(a) One hundred twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$250,000 for bodily injury to, or the death of, two or more persons in any one crash; and ~~A person who is either the owner or a lessee required to maintain insurance under s. 627.733(1)(b) and who operates one or more taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, but with minimum limits of \$125,000/250,000/50,000.~~

(b) Fifty thousand dollars for damage to, or destruction of, property of others in any one crash ~~A person who is either the owner or a lessee required to maintain insurance under s. 324.021(9)(b) and who operates limousines, jitneys, or any other for-hire passenger vehicles, other than taxicabs, may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.031.~~

(2) Except as provided in subsection (3), the requirements of this section must be met by the owner or lessee providing satisfactory evidence of holding a motor vehicle liability



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policy conforming to the requirements of s. 324.151 which is
issued by an insurance carrier that is a member of the Florida
Insurance Guaranty Association.

~~(3)(2)~~ An owner or a lessee who ~~is required to maintain~~
~~insurance under s. 324.021(9)(b) and who~~ operates at least 300
~~taxicabs, limousines, jitneys, or any other~~ for-hire passenger
transportation vehicles may provide financial responsibility by
complying with ~~the provisions of~~ s. 324.171, which must ~~such~~
~~compliance to~~ be demonstrated by maintaining at its principal
place of business an audited financial statement, prepared in
accordance with generally accepted accounting principles, and
providing to the department a certification issued by a
certified public accountant that the applicant's net worth is at
least equal to the requirements of s. 324.171 as determined by
the Office of Insurance Regulation of the Financial Services
Commission, including claims liabilities in an amount certified
as adequate by a Fellow of the Casualty Actuarial Society.

Upon request by the department, the applicant shall ~~must~~ provide
the department at the applicant's principal place of business in
this state access to the applicant's underlying financial
information and financial statements that provide the basis of
the certified public accountant's certification. The applicant
shall reimburse the requesting department for all reasonable
costs incurred by it in reviewing the supporting information.
The maximum amount of self-insurance permissible under this
subsection is \$300,000 and must be stated on a per-occurrence
basis, and the applicant shall maintain adequate excess
insurance issued by an authorized or eligible insurer licensed



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or approved by the Office of Insurance Regulation. All risks self-insured shall remain with the owner or lessee providing it, and the risks are not transferable to any other person, unless a policy complying with subsections (1) and (2) ~~subsection (1)~~ is obtained.

Section 19. Subsection (2) of section 324.051, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

324.051 Reports of crashes; suspensions of licenses and registrations.—

(2)(a) Thirty days after receipt of notice of any accident described in paragraph (1)(a) involving a motor vehicle within this state, the department shall suspend, after due notice and opportunity to be heard, the license of each operator and all registrations of the owner of the vehicles operated by such operator whether or not involved in such crash and, in the case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence satisfactory to the department that:

1. The motor vehicle was legally parked at the time of such crash.

2. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.

3. Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all



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parties injured as the result of said crash and has complied with one of the provisions of s. 324.031.

4. Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.

5. One year has elapsed since such owner or operator was suspended pursuant to subsection (3), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection does ~~shall~~ not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such crash or traffic conviction a motor vehicle ~~an automobile~~ liability policy with respect to all of the registered motor vehicles owned by such operator or owner.

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such crash or traffic conviction a motor vehicle ~~an automobile~~ liability policy or bond with respect to his or her operation of motor vehicles not owned by him or her.

3. To such operator or owner if the liability of such operator or owner for damages resulting from such crash is, in the judgment of the department, covered by any other form of liability insurance or bond.

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.



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No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021(7).

(4) As used in this section, the term "motor vehicle" includes a motorcycle as defined in s. 320.01(26).

Section 20. Section 324.071, Florida Statutes, is amended to read:

324.071 Reinstatement; renewal of license; reinstatement fee.—~~An~~ Any operator or owner whose license or registration has been suspended pursuant to s. 324.051(2), s. 324.072, s. 324.081, or s. 324.121 may effect its reinstatement upon compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or s. 324.081(2) and (3), as the case may be, and with one of the provisions of s. 324.031 and upon payment to the department of a nonrefundable reinstatement fee of \$15. Only one such fee may ~~shall~~ be paid by any one person regardless ~~irrespective~~ of the number of licenses and registrations to be then reinstated or issued to such person. ~~All~~ Such fees must ~~shall~~ be deposited to a department trust fund. If ~~When~~ the reinstatement of any license or registration is effected by compliance with s. 324.051(2)(a)3. or 4., the department may ~~shall~~ not renew the license or registration within ~~a period of~~ 3 years after ~~from~~ such reinstatement, nor may ~~shall~~ any other license or registration be issued in the name of such person, unless the operator continues ~~is continuing~~ to comply with ~~one of the provisions of~~ s. 324.031.

Section 21. Subsection (1) of section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—



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(1) Each owner and operator involved in a crash or conviction case within the purview of this chapter shall furnish evidence of ~~automobile liability insurance or~~ motor vehicle liability insurance within 14 days after the date of the mailing of notice of crash by the department in the form and manner as it may designate. Upon receipt of evidence that a ~~an automobile liability policy or~~ motor vehicle liability policy was in effect at the time of the crash or conviction case, the department shall forward to the insurer such information for verification in a method as determined by the department. The insurer shall respond to the department within 20 days after the notice as to whether ~~or not~~ such information is valid. If the department determines that a ~~an automobile liability policy or~~ motor vehicle liability policy was not in effect and did not provide coverage for both the owner and the operator, it must ~~shall~~ take action as it is authorized to do under this chapter.

Section 22. Section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy that serves as ~~to be~~ proof of financial responsibility under s. 324.031(1)(a) must ~~s. 324.031(1), shall~~ be issued to owners or operators of motor vehicles under the following provisions:

(a) A motor vehicle ~~An owner's~~ liability insurance policy issued to an owner of a motor vehicle required to be registered in this state must ~~shall~~ designate by explicit description or by appropriate reference all motor vehicles for ~~with respect to~~ which coverage is thereby granted. The policy must ~~and shall~~



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insure the person or persons ~~owner~~ named therein and, except for
a named driver excluded pursuant to s. 627.747, must insure any
resident relative of a named insured ~~other person as operator~~
~~using such motor vehicle or motor vehicles with the express or~~
~~implied permission of such owner against loss~~ from the liability
imposed by law for damage arising out of the ownership,
maintenance, or use of any ~~such~~ motor vehicle ~~or motor vehicles~~
~~within the United States or the Dominion of Canada, subject to~~
~~limits, exclusive of interest and costs with respect to each~~
~~such motor vehicle as is provided for under s. 324.021(7).~~

Except for a named driver excluded pursuant to s. 627.747, the
policy must also insure any person operating an insured motor
vehicle with the express or implied permission of a named
insured against loss from the liability imposed by law for
damage arising out of the use of any vehicle. However, the
insurer may include provisions in its policy excluding liability
coverage for a motor vehicle not designated as an insured
vehicle on the policy if such motor vehicle does not qualify as
a newly acquired vehicle or as a temporary substitute vehicle
and was owned by the insured or was furnished for an insured's
regular use for more than 30 consecutive days before the event
giving rise to the claim. Insurers may make available, with
respect to property damage liability coverage, a deductible
amount not to exceed \$500. In the event of a property damage
loss covered by a policy containing a property damage deductible
provision, the insurer shall pay to the third-party claimant the
amount of any property damage liability settlement or judgment,
subject to policy limits, as if no deductible existed.

(b) A motor vehicle liability insurance policy issued to a



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969 person who does not own a motor vehicle must ~~An operator's motor~~
970 ~~vehicle liability policy of insurance shall~~ insure the person or
971 persons named therein against loss from the liability imposed
972 ~~upon him or her~~ by law for damages arising out of the use ~~by the~~
973 ~~person~~ of any motor vehicle not owned by him or her, ~~with the~~
974 ~~same territorial limits and subject to the same limits of~~
975 ~~liability as referred to above with respect to an owner's policy~~
976 ~~of liability insurance.~~

977 (c) All such motor vehicle liability policies must provide
978 liability coverage with limits, exclusive of interest and costs,
979 as specified under s. 324.021(7) for accidents occurring within
980 the United States or Canada. The policies must ~~shall~~ state the
981 name and address of the named insured, the coverage afforded by
982 the policy, the premium charged therefor, the policy period, and
983 the limits of liability, and must ~~shall~~ contain an agreement or
984 be endorsed that insurance is provided in accordance with the
985 coverage defined in this chapter ~~as respects bodily injury and~~
986 ~~death or property damage or both~~ and is subject to ~~all~~
987 ~~provisions of this chapter. The said policies must~~ ~~shall~~ also
988 contain a provision that the satisfaction by an insured of a
989 judgment for such injury or damage may ~~shall~~ not be a condition
990 precedent to the right or duty of the insurance carrier to make
991 payment on account of such injury or damage, and must ~~shall~~ also
992 contain a provision that bankruptcy or insolvency of the insured
993 or of the insured's estate does ~~shall~~ not relieve the insurance
994 carrier of any of its obligations under the said policy.

995 (2) ~~The provisions of This section is~~ ~~shall~~ not be
996 applicable to any motor vehicle ~~automobile~~ liability policy
997 unless and until it is furnished as proof of financial



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responsibility for the future pursuant to s. 324.031, and then
applies only from and after the date the said policy is so
furnished.

(3) As used in this section, the term:

(a) "Newly acquired vehicle" means a vehicle owned by a
named insured or resident relative of the named insured which
was acquired no more than 30 days before an accident.

(b) "Resident relative" means a person related to a named
insured by any degree by blood, marriage, or adoption, including
a ward or foster child, who usually makes his or her home in the
same family unit or residence as the named insured, regardless
of whether he or she temporarily lives elsewhere.

(c) "Temporary substitute vehicle" means any motor vehicle
as defined in s. 320.01(1) which is not owned by the named
insured and which is temporarily used with the permission of the
owner as a substitute for the owned motor vehicle designated on
the policy when the owned vehicle is withdrawn from normal use
because of breakdown, repair, servicing, loss, or destruction.

Section 23. Section 324.161, Florida Statutes, is amended
to read:

324.161 Proof of financial responsibility; deposit.—If a
person elects to prove his or her financial responsibility under
the method of proof specified in s. 324.031(1)(b), he or she
annually must obtain and submit to the department proof of a
certificate of deposit in the amount required under s.
324.031(2) from a financial institution insured by the Federal
Deposit Insurance Corporation or the National Credit Union
Administration ~~Annually, before any certificate of insurance may~~
~~be issued to a person, including any firm, partnership,~~



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~~association, corporation, or other person, other than a natural person, proof of a certificate of deposit of \$30,000 issued and held by a financial institution must be submitted to the department. A power of attorney will be issued to and held by the department and may be executed upon a judgment issued against such person making the deposit, for damages for ~~because~~ of bodily injury to or death of any person or for damages for ~~because of~~ injury to or destruction of property resulting from the use or operation of any motor vehicle occurring after such deposit was made. Money so deposited is ~~shall~~ not ~~be~~ subject to attachment or execution unless such attachment or execution arises ~~shall arise~~ out of a lawsuit ~~suit~~ for such damages as ~~as~~ aforesaid.~~

Section 24. Subsections (1) and (2) of section 324.171, Florida Statutes, are amended to read:

324.171 Self-insurer.—

(1) A ~~Any~~ person may qualify as a self-insurer by obtaining a certificate of self-insurance from the department. ~~which may, in its discretion and~~ Upon application of such a person, the department may issue a said certificate of self-insurance to an applicant who satisfies ~~when such person has satisfied the requirements of this section. Effective January 1, 2022 to qualify as a self-insurer under this section:~~

(a) A private individual with private passenger vehicles shall possess a net unencumbered worth of at least \$100,000 ~~\$40,000~~.

(b) A person, including any firm, partnership, association, corporation, or other person, other than a natural person, shall:



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1. Possess a net unencumbered worth of at least \$100,000
~~\$40,000~~ for the first motor vehicle and \$50,000 ~~\$20,000~~ for each
additional motor vehicle; or

2. Maintain sufficient net worth, in an amount determined
by the department, to be financially responsible for potential
losses. The department annually shall determine the minimum net
worth sufficient to satisfy this subparagraph ~~as determined~~
~~annually by the department,~~ pursuant to rules adopted
~~promulgated~~ by the department, with the assistance of the Office
of Insurance Regulation of the Financial Services Commission, ~~to~~
~~be financially responsible for potential losses.~~ The rules must
consider any ~~shall take into consideration~~ excess insurance
carried by the applicant. The department's determination must
~~shall~~ be based upon reasonable actuarial principles considering
the frequency, severity, and loss development of claims incurred
by casualty insurers writing coverage on the type of motor
vehicles for which a certificate of self-insurance is desired.

(c) The owner of a commercial motor vehicle, as defined in
s. 207.002 or s. 320.01, may qualify as a self-insurer subject
to the standards provided ~~for~~ in subparagraph (b)2.

(2) The self-insurance certificate must ~~shall~~ provide
limits of liability insurance in the amounts specified under s.
324.021(7) ~~or s. 627.7415 and shall provide personal injury~~
~~protection coverage under s. 627.733(3) (b).~~

Section 25. Section 324.251, Florida Statutes, is amended
to read:

324.251 Short title.—This chapter may be cited as the
"Financial Responsibility Law of 2021 ~~1955~~" and is ~~shall become~~
effective at 12:01 a.m., January 1, 2022 ~~October 1, 1955~~.



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Section 26. Section 324.252, Florida Statutes, is created to read:

324.252 Motor vehicle insurance online verification system.—The department shall establish an online verification system for motor vehicle insurance. The goal of the system is to identify uninsured motorists and to aid the department in the enforcement of the financial responsibility law.

(1) The online verification system must meet all of the following requirements:

(a) Be accessible through the Internet by authorized personnel of the department, the courts, law enforcement personnel, any other entities authorized by the department, and insurers authorized by the Office of Insurance Regulation to offer motor vehicle insurance.

(b) Send requests to insurers for verification of evidence of insurance for motor vehicles registered in this state via online services established by the insurers in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration (IICMVA), with enhancements, additions, and modifications as required by the department. However, the enhancements, additions, and modifications may not conflict with, nullify, or add requirements that are inconsistent with the specifications or standards of the IICMVA.

(c) Be operational by January 1, 2025. The Motor Vehicle Insurance Online Verification Task Force established in s. 324.255 must conduct a pilot program for at least 9 months to test the system before statewide use. The system may not be used in any enforcement action until successful completion of the



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pilot program.

(d) Be available 24 hours per day, except for allowed
downtime for system maintenance and other work, as needed, to
verify the insurance status of any vehicle registered in this
state through the insurer's National Association of Insurance
Commissioners (NAIC) company code, in combination with other
identifiers, such as vehicle identification number, policy
number, or other characteristics or markers as specified by the
Motor Vehicle Insurance Online Verification Task Force.

(e) Include appropriate provisions, consistent with
industry standards as specified by the Motor Vehicle Insurance
Online Verification Task Force, to secure the system's data
against unauthorized access.

(f) Include a disaster recovery plan to ensure service
continuity in the event of a disaster.

(g) Include information that enables the department to make
inquiries of evidence of insurance by using multiple data
elements for greater matching accuracy, specifically the
insurer's NAIC company code in combination with other
identifiers, such as vehicle identification number, policy
number, or other characteristics or markers as specified by the
Motor Vehicle Insurance Online Verification Task Force.

(h) Include a self-reporting mechanism for insurers with
fewer than 2,000 vehicles insured within this state or for
individual entities that are self-insured.

(2) The department has the following powers and duties:

(a) Upon advance notice, the department shall allow online
services established by an insurer to have reasonable downtime
for system maintenance and other work, as needed. An insurer is



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not subject to administrative penalties or disciplinary actions
when its online services are not available under such
circumstances or when an outage is unplanned by the insurer and
is reasonably outside its control.

(b) Upon recommendation of the Motor Vehicle Insurance
Online Verification Task Force, the department may contract with
a private vendor that has personnel with extensive operational
and management experience in the development, deployment, and
operation of insurance online verification systems.

(c) The department and its private vendor, if any, shall
each maintain a contact person for the insurers during the
establishment, implementation, and operation of the system.

(d) The department shall maintain a historical record of
the system data for 6 months after the date of any verification
request and response.

(3) An insurance company authorized to issue insurance
policies for motor vehicles registered in this state:

(a) Shall comply with the verification requirements of
motor vehicle insurance for every motor vehicle insured by that
company in this state as required by department rule;

(b) Shall maintain policyholder records in order to confirm
insurance coverage for 6 months after the date of any
verification request and response;

(c) Shall cooperate with the department in establishing,
implementing, and maintaining the system; and

(d) Is immune from civil liability for good faith efforts
to comply with this section. An online verification request or
response may not be used as the basis of a civil action against
an insurer.



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(4) A law enforcement officer, during a traffic stop or crash investigation, shall query information from the online verification system to establish compliance with this chapter and to verify the current validity of the policy described on any insurance identification card produced by the operator of a motor vehicle during the traffic stop or crash investigation.

(5) This section does not apply to vehicles insured under commercial motor vehicle coverage. As used in this subsection, the term "commercial motor vehicle coverage" means any coverage provided to an insured under a commercial coverage form and rated from a commercial manual approved by the Office of Insurance Regulation. However, insurers of such vehicles may participate in the online verification system on a voluntary basis.

(6) The department may adopt rules to administer this section.

Section 27. Section 324.255, Florida Statutes, is created to read:

324.255 Motor Vehicle Insurance Online Verification Task Force.—The Motor Vehicle Insurance Online Verification Task Force, a task force as defined in s. 20.03(8), is established adjunct to the department.

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

(a) Facilitate the implementation of the motor vehicle insurance online verification system established in s. 324.252, including recommending data and cybersecurity processes and protocols.

(b) Assist in the development of a detailed guide for insurers by providing data fields and other information



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necessary for compliance with the online verification system.

(c) Coordinate a pilot program and conduct the program for at least 9 months to test the online verification system and to identify necessary changes to be implemented before statewide use.

(d) Issue recommendations based on periodic reviews of the online verification system.

(2) The task force shall consist of nine voting members and one nonvoting member.

(a) The nine voting members must be appointed by January 31, 2022, in the following manner:

1. Three representatives of the department, representing the Florida Highway Patrol, the Division of Motorist Services, and the Information Systems Administration, appointed by the executive director of the department.

2. One representative of the Office of Insurance Regulation, appointed by the Commissioner of Insurance.

3. Three representatives of the motor vehicle insurance industry, appointed by the Chief Financial Officer as follows:

a. One member must represent the motor vehicle insurer with the largest national market share as of June 30, 2021.

b. One member must represent the motor vehicle insurer with the largest Florida market share as of June 30, 2021.

c. One member must be selected from a list of representatives recommended by the Insurance Industry Committee on Motor Vehicle Administration.

4. One representative of the Department of Financial Services, appointed by the Chief Financial Officer.

5. One representative of the Florida Digital Service,



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appointed by the Secretary of the Department of Management
Services.

(b) The executive director of the department, who shall be
a nonvoting member, shall serve as chair of the task force.

(3) By March 30, 2022, the task force shall meet to
establish procedures for the conduct of its business, and the
voting members shall elect a vice chair at that meeting. The
task force shall meet at the call of the chair, who shall
prepare the agenda for each meeting with the consent of the task
force. A majority of the voting members of the task force
constitutes a quorum, and a quorum is necessary for the purpose
of voting on any action or recommendation of the task force. All
meetings must be held in Tallahassee.

(4) The department shall provide the task force members
with administrative and technical support. Task force members
shall serve without compensation and are not entitled to
reimbursement for per diem or travel expenses.

(5) The task force shall issue a report to the department,
the President of the Senate, and the Speaker of the House of
Representatives not later than 6 months after the pilot program
concludes. The report must evaluate the online verification
system's effectiveness in identifying uninsured motorists. The
task force may also make recommendations for system enhancements
in the report or at any time before the task force's completion
of its work.

(6) By January 1, 2025, the task force shall complete its
work and submit its final report evaluating the online
verification system's effectiveness and making recommendations
for system enhancements to the department, the President of the



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Senate, and the Speaker of the House of Representatives. Upon
submission of the report, the task force expires.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 11 - 87

and insert:

requirement; requiring law enforcement officers to
access certain information during traffic stops or
crash investigations for certain purposes upon
implementation of a specified system; amending s.
318.18, F.S.; conforming a provision to changes made
by the act; making technical changes; amending s.
320.02, F.S.; revising the motor vehicle insurance
coverages that an applicant must show to register
certain vehicles with the Department of Highway Safety
and Motor Vehicles; conforming a provision to changes
made by the act; revising construction; authorizing
insurance online verification for motor vehicle
registration; amending s. 320.0609, F.S.; conforming a
provision to changes made by the act; making technical
changes; amending s. 320.27, F.S.; defining the term
"garage liability insurance"; revising garage
liability insurance requirements for motor vehicle
dealer applicants; conforming a provision to changes
made by the act; amending s. 320.771, F.S.; revising
garage liability insurance requirements for
recreational vehicle dealer license applicants;
amending ss. 322.251 and 322.34, F.S.; conforming



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1288 provisions to changes made by the act; making
1289 technical changes; amending s. 324.011, F.S.; revising
1290 legislative intent; amending s. 324.021, F.S.;
1291 revising definitions of the terms "motor vehicle" and
1292 "proof of financial responsibility"; revising minimum
1293 coverage requirements for proof of financial
1294 responsibility for specified motor vehicles; defining
1295 the term "for-hire passenger transportation vehicle";
1296 conforming provisions to changes made by the act;
1297 amending s. 324.022, F.S.; revising minimum liability
1298 coverage requirements for motor vehicle owners or
1299 operators; revising authorized methods for meeting
1300 such requirements; deleting a provision relating to an
1301 insurer's duty to defend certain claims; providing
1302 alternative minimum liability insurance coverage
1303 requirements for certain motor vehicle owners or
1304 operators; revising the vehicles that are excluded
1305 from the definition of the term "motor vehicle";
1306 providing security requirements for certain excluded
1307 vehicles; specifying circumstances when motorcycles
1308 are subject to financial responsibility requirements;
1309 conforming provisions to changes made by the act;
1310 conforming cross-references; amending s. 324.0221,
1311 F.S.; revising coverages that subject a policy to
1312 certain insurer reporting and notice requirements;
1313 requiring insurers to transmit certain information to
1314 the department; authorizing the department to verify
1315 certain information; authorizing the department to
1316 implement a method of insurance verification;



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1317 conforming provisions to changes made by the act;
1318 creating s. 324.0222, F.S.; providing that driver
1319 license or registration suspensions for failure to
1320 maintain required security which were in effect before
1321 a specified date remain in full force and effect;
1322 providing that such suspended licenses or
1323 registrations may be reinstated as provided in a
1324 specified section; amending s. 324.023, F.S.;
1325 conforming cross-references; making technical changes;
1326 amending s. 324.031, F.S.; specifying a method of
1327 proving financial responsibility; revising the amount
1328 of a certificate of deposit required to elect a
1329 certain method of proof of financial responsibility;
1330 revising excess liability coverage requirements for a
1331 person electing to use such method; amending s.
1332 324.032, F.S.; revising financial responsibility
1333 requirements for owners or lessees of for-hire
1334 passenger transportation vehicles; amending s.
1335 324.051, F.S.; specifying that motor vehicles include
1336 motorcycles for purposes of the section; making
1337 technical changes; amending ss. 324.071 and 324.091,
1338 F.S.; making technical changes; amending s. 324.151,
1339 F.S.; revising requirements for motor vehicle
1340 liability insurance policies relating to coverage, and
1341 exclusion from coverage, for certain drivers and
1342 vehicles; defining terms; conforming provisions to
1343 changes made by the act; making technical changes;
1344 amending s. 324.161, F.S.; revising requirements for a
1345 certificate of deposit that is required if a person



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1346 elects a certain method of proving financial
1347 responsibility; amending s. 324.171, F.S.; revising
1348 the minimum net worth requirements to qualify certain
1349 persons as self-insurers; conforming provisions to
1350 changes made by the act; amending s. 324.251, F.S.;
1351 revising the short title and an effective date;
1352 creating s. 324.252, F.S.; requiring the department to
1353 establish an online verification system for motor
1354 vehicle insurance; specifying system requirements;
1355 providing powers and duties of the department;
1356 specifying requirements for insurers and law
1357 enforcement officers; providing insurers immunity from
1358 liability; prohibiting the use of an online
1359 verification request or response as the basis of a
1360 civil action; providing applicability; providing
1361 rulemaking authority; creating s. 324.255, F.S.;
1362 creating the Motor Vehicle Insurance Online
1363 Verification Task Force; providing duties of the task
1364 force; providing membership; specifying meeting
1365 requirements; requiring the department to provide
1366 support; specifying report requirements; providing the
1367 date by which the task force must complete its work
1368 and submit its final report; providing for expiration
1369 of the task force;



969472

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1825 - 2102.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 102 - 177

and insert:

vehicle windshields; amending s. 626.9541, F.S.;

conforming a



524236

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1932 - 2023
and insert:

5. Other than for transportation network companies as
defined in s. 627.748, requests for examinations under oath and
an explanation of the consequences of an insured's failure to
submit to an examination under oath; and

6. Any demands for settlement under subsection (6) or
settlement offers.

(j) When a loss involves multiple claimants and the



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claimants are unwilling to settle cumulatively within the policy limits and release the insured from further liability, in addition to fulfilling the requirements of paragraphs (a)-(i), attempt to minimize the risk of excess judgments against the insured and settle as many claims as possible within the policy limits in exchange for a release of the insured from further liability.

(5) CONDITIONS PRECEDENT.—It is a condition precedent to filing a third-party action for bad faith failure to settle against an insurer that the claimant must:

(a) Serve a demand for settlement, as provided in subsection (6), within the insurer's limits of liability in exchange for a release of further liability against the insured; and

(b) Obtain a final judgment in excess of the policy limits against the insured.

(6) DEMAND FOR SETTLEMENT.—A demand for settlement must do all of the following:

(a) Identify the:

1. Date and location of loss;

2. Name, address, and date of birth of the claimant;

3. Name of each insured to whom the demand for settlement is directed; and

4. Legal and factual basis of the claim.

(b) Provide a reasonably detailed description of the claimant's:

1. Known injuries caused or aggravated by the incident on which the claim is based;

2. Medical treatment causally related to the incident on



524236

which the claim is based; and

3. Type and amount of known damages incurred and, if any, the damages the claimant reasonably anticipates incurring in the future.

(c) State the amount of the demand for settlement.

(d) State whether the demand for settlement is conditioned on the completion of an examination under oath, as authorized by subsection (8).

(e) Provide a physical address, an e-mail address, and a facsimile number for further communications, including, but not limited to, responses to the demand for settlement.

(f) Release the insured from any further liability upon the insurer's acceptance of a demand for settlement which is not withdrawn pursuant to paragraph (8) (e) or paragraph (8) (g) or accepted pursuant to paragraph (8) (f).

(g) Be served upon the insurer by certified mail at the address designated by the insurer with the Department of Financial Services under s. 624.422(2).

(7) LIMITATIONS ON CONDITIONS OF ACCEPTANCE OF A DEMAND.—A claimant may not place any conditions on acceptance of a demand for settlement other than electing the right to examine the insured under oath regarding any of the following:

(a) Whether the insured has the ability to satisfy a claim for damages in excess of the insurer's limits of liability.

(b) Whether any other person or entity may have actual or potential direct or vicarious liability for the insured's negligence.

(c) Whether any other insurance exists that may cover some or all of the damages sustained by the claimant.



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70 (8) EXAMINATION UNDER OATH.—After serving a demand for
71 settlement, a claimant may examine the insured under oath, on
72 one occasion for a period of time not to exceed 2 hours,
73 regarding only the issues in subsection (7).

74 (a) The claimant may request that the insured bring to the
75 examination relevant documents in the insured's possession,
76 custody, or control, including, but not limited to, credit
77 reports, insurance policies, bank statements, tax returns,
78 deeds, titles, and other proof of assets or liabilities.

79 (b) Except as provided in paragraph (7)(b), the claimant
80 may not examine the insured regarding liability.

81 (c) The claimant, the insurer, and the insured shall
82 cooperate in scheduling the examination under oath. The insurer
83 shall notify the insured of the date, time, and location of the
84 examination under oath.

85 (d) The examination under oath must occur within 30 days
86 after the insurer's acceptance of the settlement demand.

87 (e) The claimant may withdraw the demand for settlement if
88 the insured refuses to submit to an examination under oath.

89 (f) If the insured refuses to submit to an examination
90 under oath, the insurer may accept the demand for settlement
91 without requiring a release of the insured. An insurer that
92 accepts the demand for settlement pursuant to this paragraph
93 does not have any further duty to defend the insured and may not
94 be held liable for damages to the insured if the claimant
95 thereafter obtains an excess judgment against the insured.

96 (g) Within 7 days after the examination under oath, the
97 claimant may withdraw the demand for settlement.

98 (h) Nothing in this section applies to transportation



524236

99 network companies as defined in s. 627.748.

101 ===== T I T L E A M E N D M E N T =====

102 And the title is amended as follows:

103 Between lines 149 and 150

104 insert:

105 providing applicability;



914868

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2681 - 2692
and insert:
guidelines. An insurer or agent is not required to verify the
veracity of the applicant's or insured's representation.
However, an insurer may not deny or exclude liability coverage
under the policy solely because such representation of the
applicant or insured was false.

b. Meets the definition of a full-time student in a
secondary education program under s. 1011.61(1)(a), or meets the



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definition of a full-time student in a postsecondary education
program under s. 1009.40. An insurer must, before accepting such
representation, provide written or electronic notice to the
applicant or insured regarding the number of educational hours
that meet the definition of a full-time student. An insurer or
agent is

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 237

and insert:

persons; specifying that insurers or agents need not
verify the



569746

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 3498 and 3499
insert:

Section 61. Section 768.852, Florida Statutes, is created
to read:

768.852 Limitation on damages as a result of a motor
vehicle crash while uninsured.—

(1) Except as provided in subsection (2), if a person
suffers personal injury or wrongful death as a result of a motor
vehicle crash and the person was not in compliance with



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applicable laws requiring the maintenance of insurance coverage or other forms of financial responsibility for more than 30 days, the person or his or her personal representative may recover economic damages only.

(2) The limitation on damages in subsection (1) does not apply if the person who is liable for the personal injury or wrongful death:

(a) Was driving while under the influence of an alcoholic beverage, an inhalant, or a controlled substance;

(b) Acted intentionally, recklessly, or with gross negligence;

(c) Fled from the scene of the crash; or

(d) Was acting in furtherance of an offense or in immediate flight from an offense that constituted a felony at the time of the crash.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 282

and insert:

technical changes; creating s. 768.852, F.S.; limiting the type of damages which may be recovered by or on behalf of a person not in compliance with financial responsibility laws; providing exceptions; amending s. 817.234, F.S.; revising

By the Committees on Judiciary; and Banking and Insurance; and
Senators Burgess and Rouson

590-02131A-21

202154c2

1 A bill to be entitled
2 An act relating to motor vehicle insurance; repealing
3 ss. 627.730, 627.731, 627.7311, 627.732, 627.733,
4 627.734, 627.736, 627.737, 627.739, 627.7401,
5 627.7403, and 627.7405, F.S., which comprise the
6 Florida Motor Vehicle No-Fault Law; repealing s.
7 627.7407, F.S., relating to application of the Florida
8 Motor Vehicle No-Fault Law; amending s. 316.646, F.S.;
9 revising a requirement for proof of security on a
10 motor vehicle and the applicability of the
11 requirement; amending s. 318.18, F.S.; conforming a
12 provision to changes made by the act; making technical
13 changes; amending s. 320.02, F.S.; revising the motor
14 vehicle insurance coverages that an applicant must
15 show to register certain vehicles with the Department
16 of Highway Safety and Motor Vehicles; conforming a
17 provision to changes made by the act; revising
18 construction; amending s. 320.0609, F.S.; conforming a
19 provision to changes made by the act; making technical
20 changes; amending s. 320.27, F.S.; defining the term
21 "garage liability insurance"; revising garage
22 liability insurance requirements for motor vehicle
23 dealer applicants; conforming a provision to changes
24 made by the act; amending s. 320.771, F.S.; revising
25 garage liability insurance requirements for
26 recreational vehicle dealer license applicants;
27 amending ss. 322.251 and 322.34, F.S.; conforming
28 provisions to changes made by the act; making
29 technical changes; amending s. 324.011, F.S.; revising

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

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30 legislative intent; amending s. 324.021, F.S.;
31 revising definitions of the terms "motor vehicle" and
32 "proof of financial responsibility"; revising minimum
33 coverage requirements for proof of financial
34 responsibility for specified motor vehicles; defining
35 the term "for-hire passenger transportation vehicle";
36 conforming provisions to changes made by the act;
37 amending s. 324.022, F.S.; revising minimum liability
38 coverage requirements for motor vehicle owners or
39 operators; revising authorized methods for meeting
40 such requirements; deleting a provision relating to an
41 insurer's duty to defend certain claims; providing
42 alternative minimum liability insurance coverage
43 requirements for certain motor vehicle owners or
44 operators; revising the vehicles that are excluded
45 from the definition of the term "motor vehicle";
46 providing security requirements for certain excluded
47 vehicles; specifying circumstances when motorcycles
48 are subject to financial responsibility requirements;
49 conforming provisions to changes made by the act;
50 conforming cross-references; amending s. 324.0221,
51 F.S.; revising coverages that subject a policy to
52 certain insurer reporting and notice requirements;
53 conforming provisions to changes made by the act;
54 creating s. 324.0222, F.S.; providing that driver
55 license or registration suspensions for failure to
56 maintain required security which were in effect before
57 a specified date remain in full force and effect;
58 providing that such suspended licenses or

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59 registrations may be reinstated as provided in a
 60 specified section; amending s. 324.023, F.S.;
 61 conforming cross-references; making technical changes;
 62 amending s. 324.031, F.S.; specifying a method of
 63 proving financial responsibility; revising the amount
 64 of a certificate of deposit required to elect a
 65 certain method of proof of financial responsibility;
 66 revising excess liability coverage requirements for a
 67 person electing to use such method; amending s.
 68 324.032, F.S.; revising financial responsibility
 69 requirements for owners or lessees of for-hire
 70 passenger transportation vehicles; amending s.
 71 324.051, F.S.; specifying that motor vehicles include
 72 motorcycles for purposes of the section; making
 73 technical changes; amending ss. 324.071 and 324.091,
 74 F.S.; making technical changes; amending s. 324.151,
 75 F.S.; revising requirements for motor vehicle
 76 liability insurance policies relating to coverage, and
 77 exclusion from coverage, for certain drivers and
 78 vehicles; defining terms; conforming provisions to
 79 changes made by the act; making technical changes;
 80 amending s. 324.161, F.S.; revising requirements for a
 81 certificate of deposit that is required if a person
 82 elects a certain method of proving financial
 83 responsibility; amending s. 324.171, F.S.; revising
 84 the minimum net worth requirements to qualify certain
 85 persons as self-insurers; conforming provisions to
 86 changes made by the act; amending s. 324.251, F.S.;
 87 revising the short title and an effective date;

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202154c2

88 amending s. 400.9905, F.S.; revising the definition of
 89 the term "clinic"; amending ss. 400.991 and 400.9935,
 90 F.S.; conforming provisions to changes made by the
 91 act; amending s. 409.901, F.S.; revising the
 92 definition of the term "third-party benefit"; amending
 93 s. 409.910, F.S.; revising the definition of the term
 94 "medical coverage"; amending s. 456.057, F.S.;
 95 conforming a provision to changes made by the act;
 96 amending s. 456.072, F.S.; revising specified grounds
 97 for discipline for certain health professions;
 98 defining the term "upcoded"; amending s. 559.920,
 99 F.S.; prohibiting certain practices by motor vehicle
 100 repair shops or motor vehicle glass repair facilities
 101 with respect to the replacement or repair of motor
 102 vehicle windshields; amending s. 624.155, F.S.;
 103 providing an exception to the circumstances under
 104 which a person who is damaged may bring a civil action
 105 against an insurer; adding a cause of action against
 106 insurers in certain circumstances; providing that a
 107 person is not entitled to judgments under multiple bad
 108 faith remedies; creating s. 624.156, F.S.; providing
 109 that the section applies to bad faith failure to
 110 settle actions against any insurer brought by a third
 111 party for a loss arising out of the ownership,
 112 maintenance, or use of a motor vehicle under specified
 113 circumstances; providing that insurers have a duty of
 114 good faith; defining the term "bad faith failure to
 115 settle"; specifying best practice standards for
 116 insurers upon receiving notice of a claim or a demand

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

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117 for settlement; specifying certain requirements for
 118 insurer communications to an insured in handling
 119 third-party claims; specifying requirements for the
 120 insurer when a loss involves multiple claimants under
 121 certain conditions; specifying conditions precedent
 122 for claimants filing third-party bad faith failure to
 123 settle actions; specifying requirements for
 124 information that must be included in a demand for
 125 settlement; requiring a demand for settlement to
 126 release the insured from liability under certain
 127 conditions; requiring the demand for settlement be
 128 served upon the insurer at the address designated with
 129 the Department of Financial Services; prohibiting
 130 claimants from placing conditions on acceptance of a
 131 demand for settlement other than electing the right to
 132 examine the insured under oath regarding certain
 133 information; authorizing claimants to examine insureds
 134 under oath under certain conditions; authorizing the
 135 claimant to request the insured bring relevant
 136 documents to the examination under oath; prohibiting
 137 the claimant from examining the insured under oath
 138 regarding liability; providing an exception; requiring
 139 the claimant, insurer, and insured to cooperate in
 140 scheduling the examination under oath; specifying the
 141 timeframe within which the examination must take
 142 place; authorizing the claimant to withdraw the demand
 143 for settlement if the insured refuses to submit to an
 144 examination under oath; authorizing an insurer to
 145 accept a demand for settlement if the insured refuses

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146 to submit to an examination under oath; absolving an
 147 insurer of a duty to defend and of liability under
 148 certain circumstances; specifying the timeframe within
 149 which a claimant may withdraw a demand for settlement;
 150 providing that insurers may not be held liable in
 151 certain third-party bad faith failure to settle
 152 actions if they tender policy limits within a certain
 153 timeframe; providing that insurers may not be held
 154 liable in third-party bad faith failure to settle
 155 actions involving multiple claimants if such insurers
 156 file an interpleader action within a certain
 157 timeframe; specifying that certain provisions
 158 providing that insurers may not be held liable for a
 159 bad faith failure to settle action do not affect
 160 certain other duties of such insurers; specifying that
 161 insurers that accept demands for settlement are
 162 entitled to releases of their insureds; providing an
 163 exception; requiring claimants to prove in any third-
 164 party bad faith failure to settle action by a
 165 preponderance of the evidence that the insurer
 166 violated its duty of good faith and in bad faith
 167 failed to settle; specifying factors for the trier of
 168 fact to consider in determining whether an insurer
 169 violated its duty of good faith and in bad faith
 170 failed to settle; requiring the trier of fact to be
 171 informed of an excess judgment; prohibiting disclosure
 172 of certain judgment information to the trier of fact;
 173 limiting damages in third-party bad faith failure to
 174 settle actions; providing that judgment creditors must

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175 be subrogated to the rights of the insured under
 176 certain circumstances; prohibiting multiple bad faith
 177 remedies; amending s. 626.9541, F.S.; conforming a
 178 provision to changes made by the act; revising the
 179 type of insurance coverage applicable to a certain
 180 prohibited act; amending s. 626.989, F.S.; revising
 181 the definition of the term "fraudulent insurance act";
 182 amending s. 627.06501, F.S.; revising coverages that
 183 may provide for a reduction in motor vehicle insurance
 184 policy premium charges under certain circumstances;
 185 amending s. 627.0651, F.S.; specifying requirements
 186 for initial rate filings for motor vehicle liability
 187 policies submitted to the Office of Insurance
 188 Regulation beginning on a specified date; amending s.
 189 627.0652, F.S.; revising coverages that must provide a
 190 premium charge reduction under certain circumstances;
 191 amending s. 627.0653, F.S.; revising coverages subject
 192 to premium discounts for specified motor vehicle
 193 equipment; amending s. 627.4132, F.S.; revising
 194 coverages that are subject to a stacking prohibition;
 195 amending s. 627.4137, F.S.; requiring that insurers
 196 disclose certain information at the request of a
 197 claimant's attorney; authorizing a claimant to file an
 198 action under certain circumstances; providing for the
 199 award of reasonable attorney fees and costs under
 200 certain circumstances; amending s. 627.7263, F.S.;
 201 revising coverages that are deemed primary, except
 202 under certain circumstances, for the lessor of a motor
 203 vehicle for lease or rent; revising a notice that is

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202154c2

204 required if the lessee's coverage is to be primary;
 205 creating s. 627.7265, F.S.; specifying persons whom
 206 medical payments coverage must protect; requiring
 207 medical payments coverage to cover reasonable expenses
 208 for certain medical services provided by specified
 209 providers and facilities and to provide a death
 210 benefit; specifying the minimum medical expense and
 211 death benefit limits; specifying coverage options an
 212 insurer is required or authorized to offer; providing
 213 construction relating to limits on certain other
 214 coverages; requiring insurers, upon receiving certain
 215 notice of an accident, to hold a specified reserve for
 216 certain purposes for a certain timeframe; providing
 217 that the reserve requirement does not require insurers
 218 to establish a claim reserve for accounting purposes;
 219 specifying that an insurer providing medical payments
 220 coverage benefits may not seek a lien on a certain
 221 recovery and may not bring a certain cause of action;
 222 authorizing insurers to include policy provisions
 223 allowing for subrogation, under certain circumstances,
 224 for medical payments benefits paid; providing
 225 construction; specifying a requirement for an insured
 226 for repayment of medical payments benefits under
 227 certain circumstances; prohibiting insurers from
 228 including policy provisions allowing for subrogation
 229 for death benefits paid; amending s. 627.727, F.S.;
 230 revising the legal liability of an uninsured motorist
 231 coverage insurer; conforming provisions to changes
 232 made by the act; amending s. 627.7275, F.S.; revising

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233 required coverages for a motor vehicle insurance
 234 policy; specifying that insurers must make certain
 235 coverages available under certain circumstances;
 236 requiring insurers to make certain notices to certain
 237 persons; specifying that insurers need not verify the
 238 veracity of certain representations made by an
 239 applicant or insured; prohibiting insurers from
 240 denying or excluding certain coverages in certain
 241 circumstances; conforming provisions to changes made
 242 by the act; creating s. 627.7278, F.S.; defining the
 243 term "minimum security requirements"; providing
 244 requirements, applicability, and construction relating
 245 to motor vehicle insurance policies as of a certain
 246 date; requiring insurers to allow certain insureds to
 247 make certain coverage changes, subject to certain
 248 conditions; requiring an insurer to provide, by a
 249 specified date, a specified notice to policyholders
 250 relating to requirements under the act; amending s.
 251 627.728, F.S.; conforming a provision to changes made
 252 by the act; making technical changes; amending s.
 253 627.7288, F.S.; providing that insurers must offer
 254 policies providing certain coverages for windshield
 255 loss without a deductible; providing that insurers may
 256 offer certain deductibles for windshield loss for an
 257 appropriate premium discount or credit; amending s.
 258 627.7295, F.S.; revising the definitions of the terms
 259 "policy" and "binder"; revising the coverages of a
 260 motor vehicle insurance policy for which a licensed
 261 general lines agent may charge a specified fee;

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262 conforming provisions to changes made by the act;
 263 amending s. 627.7415, F.S.; revising additional
 264 liability insurance requirements for commercial motor
 265 vehicles; creating s. 627.747, F.S.; providing that
 266 private passenger motor vehicle policies may exclude
 267 certain identified individuals from specified
 268 coverages under certain circumstances; providing that
 269 such policies may not exclude coverage under certain
 270 circumstances; amending s. 627.748, F.S.; revising
 271 insurance requirements for transportation network
 272 company drivers; conforming provisions to changes made
 273 by the act; amending s. 627.749, F.S.; conforming a
 274 provision to changes made by the act; amending s.
 275 627.8405, F.S.; revising coverages in a policy sold in
 276 combination with an accidental death and dismemberment
 277 policy which a premium finance company may not
 278 finance; revising rulemaking authority of the
 279 Financial Services Commission; amending ss. 627.915,
 280 628.909, 705.184, and 713.78, F.S.; conforming
 281 provisions to changes made by the act; making
 282 technical changes; amending s. 817.234, F.S.; revising
 283 coverages that are the basis of specified prohibited
 284 false and fraudulent insurance claims; conforming
 285 provisions to changes made by the act; providing an
 286 appropriation; providing effective dates.

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

290 Section 1. Sections 627.730, 627.731, 627.7311, 627.732,

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291 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403,
 292 and 627.7405, Florida Statutes, are repealed.

293 Section 2. Section 627.7407, Florida Statutes, is repealed.

294 Section 3. Subsection (1) of section 316.646, Florida
 295 Statutes, is amended to read:

296 316.646 Security required; proof of security and display
 297 thereof.—

298 (1) Any person required by s. 324.022 to maintain liability
 299 security for property damage, liability security, required by s.
 300 324.023 to maintain liability security for bodily injury, or
 301 death, or required by s. 627.733 to maintain personal injury
 302 protection security on a motor vehicle shall have in his or her
 303 immediate possession at all times while operating such motor
 304 vehicle proper proof of maintenance of the ~~required~~ security
 305 required under s. 324.021(7).

306 (a) Such proof must ~~shall~~ be in a uniform paper or
 307 electronic format, as prescribed by the department, a valid
 308 insurance policy, an insurance policy binder, a certificate of
 309 insurance, or such other proof as may be prescribed by the
 310 department.

311 (b)1. The act of presenting to a law enforcement officer an
 312 electronic device displaying proof of insurance in an electronic
 313 format does not constitute consent for the officer to access any
 314 information on the device other than the displayed proof of
 315 insurance.

316 2. The person who presents the device to the officer
 317 assumes the liability for any resulting damage to the device.

318 Section 4. Paragraph (b) of subsection (2) of section
 319 318.18, Florida Statutes, is amended to read:

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320 318.18 Amount of penalties.—The penalties required for a
 321 noncriminal disposition pursuant to s. 318.14 or a criminal
 322 offense listed in s. 318.17 are as follows:

323 (2) Thirty dollars for all nonmoving traffic violations
 324 and:

325 (b) For all violations of ss. 320.0605, 320.07(1), 322.065,
 326 and 322.15(1). A ~~Any~~ person who is cited for a violation of s.
 327 320.07(1) shall be charged a delinquent fee pursuant to s.
 328 320.07(4).

329 1. If a person who is cited for a violation of s. 320.0605
 330 or s. 320.07 can show proof of having a valid registration at
 331 the time of arrest, the clerk of the court may dismiss the case
 332 and may assess a dismissal fee of up to \$10, from which the
 333 clerk shall remit \$2.50 to the Department of Revenue for deposit
 334 into the General Revenue Fund. A person who finds it impossible
 335 or impractical to obtain a valid registration certificate must
 336 submit an affidavit detailing the reasons for the impossibility
 337 or impracticality. The reasons may include, but are not limited
 338 to, the fact that the vehicle was sold, stolen, or destroyed;
 339 that the state in which the vehicle is registered does not issue
 340 a certificate of registration; or that the vehicle is owned by
 341 another person.

342 2. If a person who is cited for a violation of s. 322.03,
 343 s. 322.065, or s. 322.15 can show a driver license issued to him
 344 or her and valid at the time of arrest, the clerk of the court
 345 may dismiss the case and may assess a dismissal fee of up to
 346 \$10, from which the clerk shall remit \$2.50 to the Department of
 347 Revenue for deposit into the General Revenue Fund.

348 3. If a person who is cited for a violation of s. 316.646

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349 can show proof of security as required by s. 324.021(7) ~~or~~
 350 ~~627.733~~, issued to the person and valid at the time of arrest,
 351 the clerk of the court may dismiss the case and may assess a
 352 dismissal fee of up to \$10, from which the clerk shall remit
 353 \$2.50 to the Department of Revenue for deposit into the General
 354 Revenue Fund. A person who finds it impossible or impractical to
 355 obtain proof of security must submit an affidavit detailing the
 356 reasons for the impracticality. The reasons may include, but are
 357 not limited to, the fact that the vehicle has since been sold,
 358 stolen, or destroyed; ~~that the owner or registrant of the~~
 359 ~~vehicle is not required by s. 627.733 to maintain personal~~
 360 ~~injury protection insurance~~; or that the vehicle is owned by
 361 another person.

362 Section 5. Paragraphs (a) and (d) of subsection (5) of
 363 section 320.02, Florida Statutes, are amended to read:

364 320.02 Registration required; application for registration;
 365 forms.—

366 (5) (a) Proof that bodily injury liability coverage and
 367 property damage liability coverage ~~personal injury protection~~
 368 ~~benefits~~ have been purchased if required under s. 324.022, s.
 369 324.032, or s. 627.742 ~~s. 627.733, that property damage~~
 370 ~~liability coverage has been purchased as required under s.~~
 371 ~~324.022~~, that bodily injury liability or death coverage has been
 372 purchased if required under s. 324.023, and that combined bodily
 373 liability insurance and property damage liability insurance have
 374 been purchased if required under s. 627.7415 must ~~shall~~ be
 375 provided in the manner prescribed by law by the applicant at the
 376 time of application for registration of any motor vehicle that
 377 is subject to such requirements. The issuing agent may not ~~shall~~

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378 ~~refuse to~~ issue registration if such proof of purchase is not
 379 provided. Insurers shall furnish uniform proof-of-purchase cards
 380 in a paper or electronic format in a form prescribed by the
 381 department and include the name of the insured's insurance
 382 company, the coverage identification number, and the make, year,
 383 and vehicle identification number of the vehicle insured. The
 384 card must contain a statement notifying the applicant of the
 385 penalty specified under s. 316.646(4). The card or insurance
 386 policy, insurance policy binder, or certificate of insurance or
 387 a photocopy of any of these; an affidavit containing the name of
 388 the insured's insurance company, the insured's policy number,
 389 and the make and year of the vehicle insured; or such other
 390 proof as may be prescribed by the department constitutes ~~shall~~
 391 ~~constitute~~ sufficient proof of purchase. If an affidavit is
 392 provided as proof, it must be in substantially the following
 393 form:

394
 395 Under penalty of perjury, I ...(Name of insured)... do hereby
 396 certify that I have ...(bodily injury liability and Personal
 397 ~~Injury Protection~~, property damage liability, ~~and, if required,~~
 398 ~~Bodily Injury Liability~~)... insurance currently in effect with
 399 ...(Name of insurance company)... under ...(policy number)...
 400 covering ...(make, year, and vehicle identification number of
 401 vehicle).... ...(Signature of Insured)...

402
 403 Such affidavit must include the following warning:

404
 405 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 406 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA

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LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
SUBJECT TO PROSECUTION.

If an application is made through a licensed motor vehicle
dealer as required under s. 319.23, the original or a photocopy
~~photostatic copy~~ of such card, insurance policy, insurance
policy binder, or certificate of insurance or the original
affidavit from the insured must ~~shall~~ be forwarded by the dealer
to the tax collector of the county or the Department of Highway
Safety and Motor Vehicles for processing. By executing the
~~aforsaid~~ affidavit, a ~~no~~ licensed motor vehicle dealer is not
~~will be~~ liable in damages for any inadequacy, insufficiency, or
falsification of any statement contained therein. A card must
~~also indicate the existence of any bodily injury liability~~
~~insurance voluntarily purchased.~~

(d) The verifying of ~~proof of personal injury protection~~
~~insurance, proof of property damage liability insurance, proof~~
~~of combined bodily liability insurance and property damage~~
~~liability insurance, or~~ proof of financial responsibility
insurance and the issuance or failure to issue the motor vehicle
registration under ~~the provisions of~~ this chapter may not be
construed in any court as a warranty of the reliability or
accuracy of the evidence of such proof or as meaning that the
provisions of any insurance policy furnished as proof of
financial responsibility comply with state law. Neither the
department nor any tax collector is liable in damages for any
inadequacy, insufficiency, falsification, or unauthorized
modification of any item of ~~the proof of personal injury~~
~~protection insurance, proof of property damage liability~~

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~~insurance, proof of combined bodily liability insurance and~~
~~property damage liability insurance, or~~ proof of financial
responsibility ~~before insurance prior to~~, during, or subsequent
to the verification of the proof. The issuance of a motor
vehicle registration does not constitute prima facie evidence or
a presumption of insurance coverage.

Section 6. Paragraph (b) of subsection (1) of section
320.0609, Florida Statutes, is amended to read:

320.0609 Transfer and exchange of registration license
plates; transfer fee.—

(1)

(b) The transfer of a license plate from a vehicle disposed
of to a newly acquired vehicle does not constitute a new
registration. The application for transfer must ~~shall~~ be
accepted without requiring proof of ~~personal injury protection~~
~~or~~ liability insurance.

Section 7. Subsection (3) of section 320.27, Florida
Statutes, is amended, and paragraph (g) is added to subsection
(1) of that section, to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases
when used in this section have the meanings respectively
ascribed to them in this subsection, except where the context
clearly indicates a different meaning:

(g) "Garage liability insurance" means, beginning January
1, 2022, combined single-limit liability coverage, including
property damage and bodily injury liability coverage, in the
amount of at least \$60,000.

(3) APPLICATION AND FEE.—~~The application for the license~~

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465 ~~application must shall~~ be in such form as may be prescribed by
 466 the department and ~~is shall be~~ subject to such rules with
 467 ~~respect thereto~~ as may be so prescribed by ~~the department it~~.
 468 Such application ~~must shall~~ be verified by oath or affirmation
 469 and ~~must shall~~ contain a full statement of the name and birth
 470 date of the person or persons applying for the license therefor;
 471 the name of the firm or copartnership, with the names and places
 472 of residence of all members ~~thereof~~, if such applicant is a firm
 473 or copartnership; the names and places of residence of the
 474 principal officers, if the applicant is a body corporate or
 475 other artificial body; the name of the state under whose laws
 476 the corporation is organized; the present and former place or
 477 places of residence of the applicant; and the prior business in
 478 which the applicant has been engaged and its the location
 479 thereof. ~~The Such~~ application ~~must shall~~ describe the exact
 480 location of the place of business and ~~must shall~~ state whether
 481 the place of business is owned by the applicant and when
 482 acquired, or, if leased, a true copy of the lease ~~must shall~~ be
 483 attached to the application. The applicant shall certify that
 484 the location provides an adequately equipped office and is not a
 485 residence; that the location affords sufficient unoccupied space
 486 upon and within which adequately to store all motor vehicles
 487 offered and displayed for sale; and that the location is a
 488 suitable place where the applicant can in good faith carry on
 489 such business and keep and maintain books, records, and files
 490 necessary to conduct such business, which ~~must shall~~ be
 491 available at all reasonable hours to inspection by the
 492 department or any of its inspectors or other employees. The
 493 applicant shall certify that the business of a motor vehicle

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494 dealer is the principal business that will ~~which shall~~ be
 495 conducted at that location. The application ~~must shall~~ contain a
 496 statement that the applicant is either franchised by a
 497 manufacturer of motor vehicles, in which case the name of each
 498 motor vehicle that the applicant is franchised to sell must
 499 ~~shall~~ be included, or an independent (nonfranchised) motor
 500 vehicle dealer. The application ~~must shall~~ contain other
 501 relevant information as may be required by the department. The
 502 applicant shall furnish, including evidence, in a form approved
 503 by the department, that the applicant is insured under a garage
 504 liability insurance policy or a general liability insurance
 505 policy coupled with a business automobile policy having the
 506 coverages and limits of the garage liability insurance coverage
 507 in accordance with paragraph (1)(g), which shall include, at a
 508 minimum, \$25,000 combined single-limit liability coverage
 509 including bodily injury and property damage protection and
 510 \$10,000 personal injury protection. However, a salvage motor
 511 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
 512 from the requirements for garage liability insurance ~~and~~
 513 ~~personal injury protection insurance~~ on those vehicles that
 514 cannot be legally operated on roads, highways, or streets in
 515 this state. Franchise dealers must submit a garage liability
 516 insurance policy, and all other dealers must submit a garage
 517 liability insurance policy or a general liability insurance
 518 policy coupled with a business automobile policy. Such policy
 519 ~~must shall~~ be for the license period, and evidence of a new or
 520 continued policy ~~must shall~~ be delivered to the department at
 521 the beginning of each license period. Upon making an initial
 522 application, the applicant shall pay to the department a fee of

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\$300 in addition to any other fees required by law. Applicants may choose to extend the licensure period for 1 additional year for a total of 2 years. An initial applicant shall pay to the department a fee of \$300 for the first year and \$75 for the second year, in addition to any other fees required by law. An applicant for renewal shall pay to the department \$75 for a 1-year renewal or \$150 for a 2-year renewal, in addition to any other fees required by law. Upon making an application for a change of location, the applicant ~~person~~ shall pay a fee of \$50 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant shall, ~~must~~ file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of state and federal processing must ~~shall~~ be borne by the applicant and is in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

Section 8. Paragraph (j) of subsection (3) of section 320.771, Florida Statutes, is amended to read:

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320.771 License required of recreational vehicle dealers.—
(3) APPLICATION.—The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(j) A statement that the applicant is insured under a garage liability insurance policy in accordance with s. 320.27(1)(g), ~~which shall include, at a minimum, \$25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection,~~ if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles. However, a garage liability policy is not required for the licensure of a mobile home dealer who sells only park trailers.

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and may ~~shall~~ not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

Section 9. Subsections (1) and (2) of section 322.251, Florida Statutes, are amended to read:

322.251 Notice of cancellation, suspension, revocation, or disqualification of license.—

(1) All orders of cancellation, suspension, revocation, or disqualification issued under ~~the provisions of~~ this chapter, chapter 318, or chapter 324 must, ~~or ss. 627.732-627.734 shall~~ be given either by personal delivery thereof to the licensee whose license is being canceled, suspended, revoked, or

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disqualified or by deposit in the United States mail in an envelope, first class, postage prepaid, addressed to the licensee at his or her last known mailing address furnished to the department. Such mailing by the department constitutes notification, and any failure by the person to receive the mailed order will not affect or stay the effective date or term of the cancellation, suspension, revocation, or disqualification of the licensee's driving privilege.

(2) The giving of notice and an order of cancellation, suspension, revocation, or disqualification by mail is complete upon expiration of 20 days after deposit in the United States mail for all notices except those issued under chapter 324 ~~or ss. 627.732-627.734~~, which are complete 15 days after deposit in the United States mail. Proof of the giving of notice and an order of cancellation, suspension, revocation, or disqualification in either manner must ~~shall~~ be made by entry in the records of the department that such notice was given. The entry is admissible in the courts of this state and constitutes sufficient proof that such notice was given.

Section 10. Paragraph (a) of subsection (8) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(8) (a) Upon the arrest of a person for the offense of driving while the person's driver license or driving privilege is suspended or revoked, the arresting officer shall determine:

1. Whether the person's driver license is suspended or revoked, or the person is under suspension or revocation equivalent status.

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2. Whether the person's driver license has remained suspended or revoked, or the person has been under suspension or revocation equivalent status, since a conviction for the offense of driving with a suspended or revoked license.

3. Whether the suspension, revocation, or suspension or revocation equivalent status was made under s. 316.646 ~~or s. 627.733~~, relating to failure to maintain required security, or under s. 322.264, relating to habitual traffic offenders.

4. Whether the driver is the registered owner or co-owner of the vehicle.

Section 11. Section 324.011, Florida Statutes, is amended to read:

324.011 Legislative intent; purpose of chapter.—It is the intent of the Legislature that this chapter ensure that the privilege of owning or operating a motor vehicle in this state be exercised to recognize the existing privilege to own or operate a motor vehicle on the public streets and highways of this state when such vehicles are used with due consideration for others' safety others and their property, promoting and to promote safety, and providing provide financial security requirements for such owners and or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. Therefore, the purpose of this chapter is to require that every owner or operator of a motor vehicle required to be registered in this state establish, maintain, and it is required herein that the operator of a motor vehicle involved in a crash or convicted of certain traffic offenses meeting the operative provisions of s. 324.051(2) shall respond for such damages and

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show proof of financial ability to respond for damages arising
~~out of the ownership, maintenance, or use of a motor vehicle in~~
~~future accidents~~ as a requisite to owning or operating a motor
vehicle in this state his or her future exercise of such
~~privileges.~~

Section 12. Subsections (1) and (7) and paragraph (c) of
 subsection (9) of section 324.021, Florida Statutes, are
 amended, and subsection (12) is added to that section, to read:

324.021 Definitions; minimum insurance required.—The
 following words and phrases when used in this chapter shall, for
 the purpose of this chapter, have the meanings respectively
 ascribed to them in this section, except in those instances
 where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle that is
 designed and required to be licensed for use upon a highway,
 including trailers and semitrailers designed for use with such
 vehicles, except traction engines, road rollers, farm tractors,
 power shovels, and well drillers, and every vehicle that is
 propelled by electric power obtained from overhead wires but not
 operated upon rails, but not including any personal delivery
 device or mobile carrier as defined in s. 316.003, bicycle,
 electric bicycle, or moped. ~~However, the term "motor vehicle"~~
~~does not include a motor vehicle as defined in s. 627.732(3)~~
~~when the owner of such vehicle has complied with the~~
~~requirements of ss. 627.730-627.7405, inclusive, unless the~~
~~provisions of s. 324.051 apply; and, in such case, the~~
~~applicable proof of insurance provisions of s. 320.02 apply.~~

(7) PROOF OF FINANCIAL RESPONSIBILITY.—Beginning January 1,
2022, That proof of ability to respond in damages for liability

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on account of crashes arising out of the ownership, maintenance,
or use of a motor vehicle:

(a) With respect to a motor vehicle other than a commercial
motor vehicle, nonpublic sector bus, or for-hire passenger
transportation vehicle, in the amounts specified in s.
324.022(1). amount of \$10,000 because of bodily injury to, or
death of, one person in any one crash;

~~(b) Subject to such limits for one person, in the amount of~~
~~\$20,000 because of bodily injury to, or death of, two or more~~
~~persons in any one crash;~~

~~(c) In the amount of \$10,000 because of injury to, or~~
~~destruction of, property of others in any one crash; and~~

~~(b)(d)~~ With respect to commercial motor vehicles and
nonpublic sector buses, in the amounts specified in s. 627.7415
ss. 627.7415 and 627.742, respectively.

(c) With respect to nonpublic sector buses, in the amounts
 specified in s. 627.742.

(d) With respect to for-hire passenger transportation
 vehicles, in the amounts specified in s. 324.032.

(9) OWNER; OWNER/LESSOR.—

(c) *Application.*—

1. The limits on liability in subparagraphs (b)2. and 3. do
 not apply to an owner of motor vehicles that are used for
 commercial activity in the owner's ordinary course of business,
 other than a rental company that rents or leases motor vehicles.
 For purposes of this paragraph, the term "rental company"
 includes only an entity that is engaged in the business of
 renting or leasing motor vehicles to the general public and that
 rents or leases a majority of its motor vehicles to persons with

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no direct or indirect affiliation with the rental company. The term "rental company" also includes:

a. A related rental or leasing company that is a subsidiary of the same parent company as that of the renting or leasing company that rented or leased the vehicle.

b. The holder of a motor vehicle title or an equity interest in a motor vehicle title if the title or equity interest is held pursuant to or to facilitate an asset-backed securitization of a fleet of motor vehicles used solely in the business of renting or leasing motor vehicles to the general public and under the dominion and control of a rental company, as described in this subparagraph, in the operation of such rental company's business.

2. Furthermore, with respect to commercial motor vehicles as defined in s. 207.002 or s. 320.01 ~~s. 627.732~~, the limits on liability in subparagraphs (b)2. and 3. do not apply if, at the time of the incident, the commercial motor vehicle is being used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is required pursuant to such act to carry placards warning others of the hazardous cargo, unless at the time of lease or rental either:

a. The lessee indicates in writing that the vehicle will not be used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

b. The lessee or other operator of the commercial motor vehicle has in effect insurance with limits of at least \$5

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million \$5,000,000 combined property damage and bodily injury liability.

3.a. A motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle at no charge or at a reasonable daily charge to a service customer whose vehicle is being held for repair, service, or adjustment by the motor vehicle dealer is immune from any cause of action and is not liable, vicariously or directly, under general law solely by reason of being the owner of the temporary replacement vehicle for harm to persons or property that arises out of the use, or operation, of the temporary replacement vehicle by any person during the period the temporary replacement vehicle has been entrusted to the motor vehicle dealer's service customer if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner, or its leasing or rental affiliate.

b. For purposes of this section, and notwithstanding any other provision of general law, a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that gives possession, control, or use of a temporary replacement vehicle to a motor vehicle dealer's service customer may not be adjudged liable in a civil proceeding absent negligence or criminal wrongdoing on the part of the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, if the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate executes a written rental or use agreement and obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage

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required in the state. Any subsequent determination that the driver license or insurance information provided to the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, was in any way false, fraudulent, misleading, nonexistent, canceled, not in effect, or invalid does not alter or diminish the protections provided by this section, unless the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, had actual knowledge thereof at the time possession of the temporary replacement vehicle was provided.

c. For purposes of this subparagraph, the term "service customer" does not include an agent or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate, and does not include an employee of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate unless the employee was provided a temporary replacement vehicle:

(I) While the employee's personal vehicle was being held for repair, service, or adjustment by the motor vehicle dealer;

(II) In the same manner as other customers who are provided a temporary replacement vehicle while the customer's vehicle is being held for repair, service, or adjustment; and

(III) The employee was not acting within the course and scope of their employment.

(12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—Every for-hire vehicle as defined in s. 320.01(15) which is offered or used to provide transportation for persons, including taxicabs, limousines, and jitneys.

Section 13. Section 324.022, Florida Statutes, is amended to read:

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324.022 Financial responsibility requirements ~~for property damage.—~~

(1) (a) Beginning January 1, 2022, every owner or operator of a motor vehicle required to be registered in this state shall establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of:

1. Twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$50,000 for bodily injury to, or the death of, two or more persons in any one crash; and

2. Ten thousand dollars for \$10,000 because of damage to, or destruction of, property of others in any one crash.

(b) The requirements of paragraph (a) ~~this section~~ may be met by one of the methods established in s. 324.031; by self-insuring as authorized by s. 768.28(16); or by maintaining a motor vehicle liability insurance policy that an insurance policy providing coverage for property damage liability in the amount of at least \$10,000 because of damage to, or destruction of, property of others in any one accident arising out of the use of the motor vehicle. The requirements of this section may also be met by having a policy which provides combined property damage liability and bodily injury liability coverage for any one crash arising out of the ownership, maintenance, or use of a motor vehicle and that conforms to the requirements of s. 324.151 in the amount of at least \$60,000 for every owner or operator subject to the financial responsibility required in paragraph (a) \$30,000 for combined property damage liability and

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~~bodily injury liability for any one crash arising out of the use of the motor vehicle. The policy, with respect to coverage for property damage liability, must meet the applicable requirements of s. 324.151, subject to the usual policy exclusions that have been approved in policy forms by the Office of Insurance Regulation. No insurer shall have any duty to defend uncovered claims irrespective of their joinder with covered claims.~~

(c) Notwithstanding paragraph (a), the following owners or operators may instead establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of \$15,000 for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$30,000 for bodily injury to, or the death of, two or more persons in any one crash; and \$10,000 for damage to, or destruction of, property of others in any one crash:

1. An owner or operator who has a household income that is 200 percent or less of the most current federal poverty guidelines established by the United States Department of Health and Human Services; or

2. An owner or operator who meets the definition of a full-time student in a secondary education program under s. 1011.61(1)(a) or meets the definition of a full-time student in a postsecondary education program under s. 1009.40.

(2) As used in this section, the term:

(a) "Motor vehicle" means any self-propelled vehicle that has four or more wheels and that is of a type designed and required to be licensed for use on the highways of this state,

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and any trailer or semitrailer designed for use with such vehicle. The term does not include the following:

1. A mobile home as defined in s. 320.01.

2. A motor vehicle that is used in mass transit and designed to transport more than five passengers, exclusive of the operator of the motor vehicle, and that is owned by a municipality, transit authority, or political subdivision of the state.

3. A school bus as defined in s. 1006.25, which must maintain security as required under s. 316.615.

4. A commercial motor vehicle as defined in s. 207.002 or s. 320.01, which must maintain security as required under ss. 324.031 and 627.7415.

5. A nonpublic sector bus, which must maintain security as required under ss. 324.031 and 627.742.

~~6.4. A vehicle providing for-hire passenger transportation vehicle, which must that is subject to the provisions of s. 324.031. A taxicab shall~~ maintain security as required under s. 324.032 ~~s. 324.032(1)~~.

~~7.5. A personal delivery device as defined in s. 316.003.~~

8. A motorcycle as defined in s. 320.01(26), unless s. 324.051 applies; in such case, paragraph (1)(a) and the applicable proof of insurance provisions of s. 320.02 apply.

(b) "Owner" means the person who holds legal title to a motor vehicle or the debtor or lessee who has the right to possession of a motor vehicle that is the subject of a security agreement or lease with an option to purchase.

(3) Each nonresident owner or registrant of a motor vehicle that, whether operated or not, has been physically present

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within this state for more than 90 days during the preceding 365 days shall maintain security as required by subsection (1). The security must be that is in effect continuously throughout the period the motor vehicle remains within this state.

(4) ~~An~~ The owner or registrant of a motor vehicle who is ~~exempt from the requirements of this section if she or he is a~~ member of the United States Armed Forces and is called to or on active duty outside the United States in an emergency situation is exempt from this section while he or she. ~~The exemption provided by this subsection applies only as long as the member of the Armed Forces is on such active duty. This exemption outside the United States and applies only while the vehicle covered by the security is not operated by any person. Upon receipt of a written request by the insured to whom the exemption provided in this subsection applies, the insurer shall cancel the coverages and return any unearned premium or suspend the security required by this section. Notwithstanding s. 324.0221(2) ~~or 324.0221(3), the department may not suspend the registration or operator's license of an any owner or registrant of a motor vehicle during the time she or he qualifies for the an exemption under this subsection. An Any owner or registrant of a motor vehicle who qualifies for the an exemption under this subsection shall immediately notify the department before prior to and at the end of the expiration of the exemption.~~~~

Section 14. Subsections (1) and (2) of section 324.0221, Florida Statutes, are amended to read:

324.0221 Reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.—

(1)(a) Each insurer that has issued a policy providing

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~~personal injury protection coverage or property damage liability~~ coverage shall report the cancellation or nonrenewal thereof to the department within 10 days after the processing date or effective date of each cancellation or nonrenewal. Upon the issuance of a policy providing ~~personal injury protection coverage or property damage liability~~ coverage to a named insured not previously insured by the insurer during that calendar year, the insurer shall report the issuance of the new policy to the department within 10 days. The report must shall be in the form and ~~format~~ and contain any information required by the department and must be provided in a format that is compatible with the data processing capabilities of the department. Failure by an insurer to file proper reports with the department as required by this subsection constitutes a violation of the Florida Insurance Code. These records may shall be used by the department only for enforcement and regulatory purposes, including the generation by the department of data regarding compliance by owners of motor vehicles with the requirements for financial responsibility coverage.

(b) With respect to an insurance policy providing ~~personal injury protection coverage or property damage liability~~ coverage, each insurer shall notify the named insured, or the first-named insured in the case of a commercial fleet policy, in writing that any cancellation or nonrenewal of the policy will be reported by the insurer to the department. The notice must also inform the named insured that failure to maintain bodily injury liability ~~personal injury protection~~ coverage and property damage liability coverage on a motor vehicle when required by law may result in the loss of registration and

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driving privileges in this state and inform the named insured of the amount of the reinstatement fees required by this section. This notice is for informational purposes only, and an insurer is not civilly liable for failing to provide this notice.

(2) The department shall suspend, after due notice and an opportunity to be heard, the registration and driver license of any owner or registrant of a motor vehicle for with respect to which security is required under s. 324.022, s. 324.032, s. 627.7415, or s. 627.742 ~~ss. 324.022 and 627.733~~ upon:

(a) The department's records showing that the owner or registrant of such motor vehicle did not have the in full force and effect when required security in full force and effect that ~~complies with the requirements of ss. 324.022 and 627.733;~~ or

(b) Notification by the insurer to the department, in a form approved by the department, of cancellation or termination of the required security.

Section 15. Section 324.0222, Florida Statutes, is created to read:

324.0222 Application of suspensions for failure to maintain security; reinstatement.—All suspensions for failure to maintain required security as required by law in effect before January 1, 2022, remain in full force and effect after January 1, 2022. A driver may reinstate a suspended driver license or registration as provided under s. 324.0221.

Section 16. Section 324.023, Florida Statutes, is amended to read:

324.023 Financial responsibility for bodily injury or death.—In addition to any other financial responsibility required by law, every owner or operator of a motor vehicle that

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is required to be registered in this state, or that is located within this state, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence under s. 316.193 after October 1, 2007, shall, by one of the methods established in s. 324.031(1)(a) or (b) ~~s. 324.031(1) or (2)~~, establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle in the amount of \$100,000 because of bodily injury to, or death of, one person in any one crash and, subject to such limits for one person, in the amount of \$300,000 because of bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in any one crash. If the owner or operator chooses to establish and maintain such ability by furnishing a certificate of deposit pursuant to s. 324.031(1)(b) ~~s. 324.031(2)~~, such certificate of deposit must be at least \$350,000. Such higher limits must be carried for a minimum period of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, the owner or operator is ~~shall be~~ exempt from this section.

Section 17. Section 324.031, Florida Statutes, is amended to read:

324.031 Manner of proving financial responsibility.—

(1) The owner or operator of a taxicab, limousine, jitney, or any other for hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of

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987 ~~holding a motor vehicle liability policy as defined in s.~~
 988 ~~324.021(8) or s. 324.151, which policy is issued by an insurance~~
 989 ~~carrier which is a member of the Florida Insurance Guaranty~~
 990 ~~Association. The operator or owner of a motor vehicle other than~~
 991 ~~a for-hire passenger transportation vehicle any other vehicle~~
 992 may prove his or her financial responsibility by:

993 (a) (1) Furnishing satisfactory evidence of holding a motor
 994 vehicle liability policy as defined in ss. 324.021(8) and
 995 324.151 which provides liability coverage for the motor vehicle
 996 being operated;

997 (b) (2) Furnishing a certificate of self-insurance showing a
 998 deposit of cash in accordance with s. 324.161; or

999 (c) (3) Furnishing a certificate of self-insurance issued by
 1000 the department in accordance with s. 324.171.

1001 (2) Beginning January 1, 2022, any person, including any
 1002 firm, partnership, association, corporation, or other person,
 1003 other than a natural person, electing to use the method of proof
 1004 specified in paragraph (1) (b) subsection (2) shall do both of
 1005 the following:

1006 (a) Furnish a certificate of deposit equal to the number of
 1007 vehicles owned times \$60,000 \$30,000, up to a maximum of
 1008 \$240,000. \$120,000;

1009 (b) In addition, any such person, other than a natural
 1010 person, shall Maintain insurance providing coverage that meets
 1011 the requirements of s. 324.151 and has limits of:

1012 1. At least \$125,000 for bodily injury to, or the death of,
 1013 one person in any one crash and, subject to such limits for one
 1014 person, in the amount of \$250,000 for bodily injury to, or the
 1015 death of, two or more persons in any one crash; and \$50,000 for

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1016 damage to, or destruction of, property of others in any one
 1017 crash; or

1018 2. At least \$300,000 for combined bodily injury liability
 1019 and property damage liability for any one crash in excess of
 1020 limits of \$10,000/20,000/10,000 or \$30,000 combined single
 1021 limits, and such excess insurance shall provide minimum limits
 1022 of \$125,000/250,000/50,000 or \$300,000 combined single limits.
 1023 These increased limits shall not affect the requirements for
 1024 proving financial responsibility under s. 324.032(1).

1025 Section 18. Section 324.032, Florida Statutes, is amended
 1026 to read:

1027 324.032 Manner of proving Financial responsibility for,
 1028 for-hire passenger transportation vehicles. Notwithstanding the
 1029 provisions of s. 324.031:

1030 (1) An owner or a lessee of a for-hire passenger
 1031 transportation vehicle that is required to be registered in this
 1032 state shall establish and continuously maintain the ability to
 1033 respond in damages for liability on account of accidents arising
 1034 out of the ownership, maintenance, or use of the for-hire
 1035 passenger transportation vehicle, in the amount of:

1036 (a) One hundred twenty-five thousand dollars for bodily
 1037 injury to, or the death of, one person in any one crash and,
 1038 subject to such limits for one person, in the amount of \$250,000
 1039 for bodily injury to, or the death of, two or more persons in
 1040 any one crash; and A person who is either the owner or a lessee
 1041 required to maintain insurance under s. 627.733(1) (b) and who
 1042 operates one or more taxicabs, limousines, jitneys, or any other
 1043 for hire passenger transportation vehicles may prove financial
 1044 responsibility by furnishing satisfactory evidence of holding a

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motor vehicle liability policy, but with minimum limits of
\$125,000/250,000/50,000.

(b) Fifty thousand dollars for damage to, or destruction
of, property of others in any one crash. ~~A person who is either
the owner or a lessee required to maintain insurance under s.
324.021(9)(b) and who operates limousines, jitneys, or any other
for-hire passenger vehicles, other than taxicabs, may prove
financial responsibility by furnishing satisfactory evidence of
holding a motor vehicle liability policy as defined in s.
324.031.~~

(2) Except as provided in subsection (3), the requirements
of this section must be met by the owner or lessee providing
satisfactory evidence of holding a motor vehicle liability
policy conforming to the requirements of s. 324.151 which is
issued by an insurance carrier that is a member of the Florida
Insurance Guaranty Association.

(3)(2) An owner or a lessee who is required to maintain
insurance under s. 324.021(9)(b) and who operates at least 300
taxicabs, limousines, jitneys, or any other for-hire passenger
transportation vehicles may provide financial responsibility by
complying with the provisions of s. 324.171, which must such
compliance to be demonstrated by maintaining at its principal
place of business an audited financial statement, prepared in
accordance with generally accepted accounting principles, and
providing to the department a certification issued by a
certified public accountant that the applicant's net worth is at
least equal to the requirements of s. 324.171 as determined by
the Office of Insurance Regulation of the Financial Services
Commission, including claims liabilities in an amount certified

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as adequate by a Fellow of the Casualty Actuarial Society.

Upon request by the department, the applicant ~~shall~~ must provide
the department at the applicant's principal place of business in
this state access to the applicant's underlying financial
information and financial statements that provide the basis of
the certified public accountant's certification. The applicant
shall reimburse the requesting department for all reasonable
costs incurred by it in reviewing the supporting information.
The maximum amount of self-insurance permissible under this
subsection is \$300,000 and must be stated on a per-occurrence
basis, and the applicant shall maintain adequate excess
insurance issued by an authorized or eligible insurer licensed
or approved by the Office of Insurance Regulation. All risks
self-insured shall remain with the owner or lessee providing it,
and the risks are not transferable to any other person, unless a
policy complying with subsections (1) and (2) ~~subsection (1)~~ is
obtained.

Section 19. Subsection (2) of section 324.051, Florida
Statutes, is amended, and subsection (4) is added to that
section, to read:

324.051 Reports of crashes; suspensions of licenses and
registrations.—

(2)(a) Thirty days after receipt of notice of any accident
described in paragraph (1)(a) involving a motor vehicle within
this state, the department shall suspend, after due notice and
opportunity to be heard, the license of each operator and all
registrations of the owner of the vehicles operated by such
operator whether or not involved in such crash and, in the case

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of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence satisfactory to the department that:

1. The motor vehicle was legally parked at the time of such crash.

2. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.

3. Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said crash and has complied with one of the provisions of s. 324.031.

4. Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.

5. One year has elapsed since such owner or operator was suspended pursuant to subsection (3), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection ~~does shall~~ not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such crash or traffic conviction a motor vehicle ~~an automobile~~ liability policy with respect to all of the registered motor vehicles owned by such operator or owner.

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2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such crash or traffic conviction a motor vehicle ~~an automobile~~ liability policy or bond with respect to his or her operation of motor vehicles not owned by him or her.

3. To such operator or owner if the liability of such operator or owner for damages resulting from such crash is, in the judgment of the department, covered by any other form of liability insurance or bond.

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021(7).

(4) As used in this section, the term "motor vehicle" includes a motorcycle as defined in s. 320.01(26).

Section 20. Section 324.071, Florida Statutes, is amended to read:

324.071 Reinstatement; renewal of license; reinstatement fee.—~~An Any~~ operator or owner whose license or registration has been suspended pursuant to s. 324.051(2), s. 324.072, s. 324.081, or s. 324.121 may effect its reinstatement upon compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or s. 324.081(2) and (3), as the case may be, and with one of the provisions of s. 324.031 and upon payment to the department of a nonrefundable reinstatement fee of \$15. Only one such fee may ~~shall~~ be paid by any one person regardless ~~irrespective~~ of the

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number of licenses and registrations to be then reinstated or issued to such person. ~~All~~ Such fees must ~~shall~~ be deposited to a department trust fund. ~~If~~ ~~When~~ the reinstatement of any license or registration is effected by compliance with s. 324.051(2)(a)3. or 4., the department ~~may~~ ~~shall~~ not renew the license or registration within ~~a period of~~ 3 years after ~~from~~ such reinstatement, nor ~~may~~ ~~shall~~ any other license or registration be issued in the name of such person, unless the operator continues ~~is continuing~~ to comply with ~~one of the provisions of~~ s. 324.031.

Section 21. Subsection (1) of section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in a crash or conviction case within the purview of this chapter shall furnish evidence of ~~automobile liability insurance or~~ motor vehicle liability insurance within 14 days after the date of the mailing of notice of crash by the department in the form and manner as it may designate. Upon receipt of evidence that a ~~an automobile liability policy or~~ motor vehicle liability policy was in effect at the time of the crash or conviction case, the department shall forward to the insurer such information for verification in a method as determined by the department. The insurer shall respond to the department within 20 days after the notice as to whether ~~or not~~ such information is valid. If the department determines that a ~~an automobile liability policy or~~ motor vehicle liability policy was not in effect and did not provide coverage for both the owner and the operator, it must ~~shall~~ take action as it is authorized to do under this chapter.

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Section 22. Section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy that serves as ~~to be~~ proof of financial responsibility under s. 324.031(1)(a) must ~~or~~ ~~324.031(1),~~ shall be issued to owners or operators of motor vehicles under the following provisions:

(a) A motor vehicle ~~An owner's~~ liability insurance policy issued to an owner of a motor vehicle required to be registered in this state must ~~shall~~ designate by explicit description or by appropriate reference all motor vehicles for ~~with respect to~~ which coverage is thereby granted. The policy must ~~and shall~~ insure the person or persons ~~owner~~ named therein and, except for a named driver excluded pursuant to s. 627.747, must insure any resident relative of a named insured ~~other person as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner against loss~~ from the liability imposed by law for damage arising out of the ownership, maintenance, or use of any such motor vehicle ~~or motor vehicles within the United States or the Dominion of Canada, subject to limits, exclusive of interest and costs with respect to each such motor vehicle as is provided for under s. 324.021(7).~~ Except for a named driver excluded pursuant to s. 627.747, the policy must also insure any person operating an insured motor vehicle with the express or implied permission of a named insured against loss from the liability imposed by law for damage arising out of the use of any vehicle. However, the insurer may include provisions in its policy excluding liability

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coverage for a motor vehicle not designated as an insured vehicle on the policy if such motor vehicle does not qualify as a newly acquired vehicle or as a temporary substitute vehicle and was owned by the insured or was furnished for an insured's regular use for more than 30 consecutive days before the event giving rise to the claim. Insurers may make available, with respect to property damage liability coverage, a deductible amount not to exceed \$500. In the event of a property damage loss covered by a policy containing a property damage deductible provision, the insurer shall pay to the third-party claimant the amount of any property damage liability settlement or judgment, subject to policy limits, as if no deductible existed.

(b) A motor vehicle liability insurance policy issued to a person who does not own a motor vehicle must ~~An operator's motor vehicle liability policy of insurance shall insure the person or persons named therein against loss from the liability imposed upon him or her by law for damages arising out of the use by the person of any motor vehicle not owned by him or her, with the same territorial limits and subject to the same limits of liability as referred to above with respect to an owner's policy of liability insurance.~~

(c) All such motor vehicle liability policies must provide liability coverage with limits, exclusive of interest and costs, as specified under s. 324.021(7) for accidents occurring within the United States or Canada. The policies must ~~shall~~ state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and must ~~shall~~ contain an agreement or be endorsed that insurance is provided in accordance with the

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coverage defined in this chapter ~~as respects bodily injury and death or property damage or both~~ and is subject to all ~~provisions of~~ this chapter. The ~~said~~ policies must ~~shall~~ also contain a provision that the satisfaction by an insured of a judgment for such injury or damage may ~~shall~~ not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage, and must ~~shall~~ also contain a provision that bankruptcy or insolvency of the insured or of the insured's estate does ~~shall~~ not relieve the insurance carrier of any of its obligations under the ~~said~~ policy.

(2) ~~The provisions of~~ This section is ~~shall~~ not be applicable to any motor vehicle ~~automobile~~ liability policy unless and until it is furnished as proof of financial responsibility for the future pursuant to s. 324.031, and then applies only from and after the date the ~~said~~ policy is ~~so~~ furnished.

(3) As used in this section, the term:

(a) "Newly acquired vehicle" means a vehicle owned by a named insured or resident relative of the named insured which was acquired no more than 30 days before an accident.

(b) "Resident relative" means a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes his or her home in the same family unit or residence as the named insured, regardless of whether he or she temporarily lives elsewhere.

(c) "Temporary substitute vehicle" means any motor vehicle as defined in s. 320.01(1) which is not owned by the named insured and which is temporarily used with the permission of the owner as a substitute for the owned motor vehicle designated on

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the policy when the owned vehicle is withdrawn from normal use because of breakdown, repair, servicing, loss, or destruction.

Section 23. Section 324.161, Florida Statutes, is amended to read:

324.161 Proof of financial responsibility; deposit.—If a person elects to prove his or her financial responsibility under the method of proof specified in s. 324.031(1)(b), he or she annually must obtain and submit to the department proof of a certificate of deposit in the amount required under s. 324.031(2) from a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. Annually, before any certificate of insurance may be issued to a person, including any firm, partnership, association, corporation, or other person, other than a natural person, proof of a certificate of deposit of \$30,000 issued and held by a financial institution must be submitted to the department. A power of attorney will be issued to and held by the department and may be executed upon a judgment issued against such person making the deposit, for damages for because of bodily injury to or death of any person or for damages for because of injury to or destruction of property resulting from the use or operation of any motor vehicle occurring after such deposit was made. Money so deposited is shall not be subject to attachment or execution unless such attachment or execution arises shall arise out of a lawsuit suit for such damages as aforesaid.

Section 24. Subsections (1) and (2) of section 324.171, Florida Statutes, are amended to read:

324.171 Self-insurer.—

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(1) ~~A~~ Any person may qualify as a self-insurer by obtaining a certificate of self-insurance from the department. ~~which may, in its discretion and~~ Upon application of such a person, ~~the department may issue a said~~ certificate of self-insurance to an applicant who satisfies ~~when such person has satisfied~~ the requirements of this section. Effective January 1, 2022 ~~to qualify as a self-insurer under this section:~~

(a) A private individual with private passenger vehicles shall possess a net unencumbered worth of at least \$100,000 ~~\$40,000~~.

(b) A person, including any firm, partnership, association, corporation, or other person, other than a natural person, shall:

1. Possess a net unencumbered worth of at least \$100,000 ~~\$40,000~~ for the first motor vehicle and \$50,000 ~~\$20,000~~ for each additional motor vehicle; or

2. Maintain sufficient net worth, in an amount determined by the department, to be financially responsible for potential losses. The department annually shall determine the minimum net worth sufficient to satisfy this subparagraph as determined annually by the department, pursuant to rules adopted promulgated by the department, with the assistance of the Office of Insurance Regulation of the Financial Services Commission, ~~to be financially responsible for potential losses. The rules must consider any shall take into consideration~~ excess insurance carried by the applicant. The department's determination must shall be based upon reasonable actuarial principles considering the frequency, severity, and loss development of claims incurred by casualty insurers writing coverage on the type of motor

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vehicles for which a certificate of self-insurance is desired.

(c) The owner of a commercial motor vehicle, as defined in s. 207.002 or s. 320.01, may qualify as a self-insurer subject to the standards provided ~~for~~ in subparagraph (b)2.

(2) The self-insurance certificate ~~must shall~~ provide limits of liability insurance in the amounts specified under s. 324.021(7) ~~or s. 627.7415 and shall provide personal injury protection coverage under s. 627.733(3)(b).~~

Section 25. Section 324.251, Florida Statutes, is amended to read:

324.251 Short title.—This chapter may be cited as the “Financial Responsibility Law of 2021 ~~1955~~” and ~~is shall become~~ effective at 12:01 a.m., January 1, 2022 ~~October 1, 1955~~.

Section 26. Subsection (4) of section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.—

(4) (a) “Clinic” means an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. As used in this part, the term does not include and the licensure requirements of this part do not apply to:

~~1.(a)~~ Entities licensed or registered by the state under chapter 395; entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses under ss. 383.30-383.332, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter 484, or chapter 651; end-stage renal

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disease providers authorized under 42 C.F.R. part 494; providers certified and providing only health care services within the scope of services authorized under their respective certifications under 42 C.F.R. part 485, subpart B, subpart H, or subpart J; providers certified and providing only health care services within the scope of services authorized under their respective certifications under 42 C.F.R. part 486, subpart C; providers certified and providing only health care services within the scope of services authorized under their respective certifications under 42 C.F.R. part 491, subpart A; providers certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder; or any entity that provides neonatal or pediatric hospital-based health care services or other health care services by licensed practitioners solely within a hospital licensed under chapter 395.

~~2.(b)~~ Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.332, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 494; providers certified and providing only health care services within the scope of services authorized under their respective certifications under 42 C.F.R. part 485, subpart B, subpart H, or subpart J; providers

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1393 certified and providing only health care services within the
 1394 scope of services authorized under their respective
 1395 certifications under 42 C.F.R. part 486, subpart C; providers
 1396 certified and providing only health care services within the
 1397 scope of services authorized under their respective
 1398 certifications under 42 C.F.R. part 491, subpart A; providers
 1399 certified by the Centers for Medicare and Medicaid Services
 1400 under the federal Clinical Laboratory Improvement Amendments and
 1401 the federal rules adopted thereunder; or any entity that
 1402 provides neonatal or pediatric hospital-based health care
 1403 services by licensed practitioners solely within a hospital
 1404 licensed under chapter 395.

1405 3.(e) Entities that are owned, directly or indirectly, by
 1406 an entity licensed or registered by the state pursuant to
 1407 chapter 395; entities that are owned, directly or indirectly, by
 1408 an entity licensed or registered by the state and providing only
 1409 health care services within the scope of services authorized
 1410 pursuant to their respective licenses under ss. 383.30-383.332,
 1411 chapter 390, chapter 394, chapter 397, this chapter except part
 1412 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 1413 478, chapter 484, or chapter 651; end-stage renal disease
 1414 providers authorized under 42 C.F.R. part 494; providers
 1415 certified and providing only health care services within the
 1416 scope of services authorized under their respective
 1417 certifications under 42 C.F.R. part 485, subpart B, subpart H,
 1418 or subpart J; providers certified and providing only health care
 1419 services within the scope of services authorized under their
 1420 respective certifications under 42 C.F.R. part 486, subpart C;
 1421 providers certified and providing only health care services

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1422 within the scope of services authorized under their respective
 1423 certifications under 42 C.F.R. part 491, subpart A; providers
 1424 certified by the Centers for Medicare and Medicaid Services
 1425 under the federal Clinical Laboratory Improvement Amendments and
 1426 the federal rules adopted thereunder; or any entity that
 1427 provides neonatal or pediatric hospital-based health care
 1428 services by licensed practitioners solely within a hospital
 1429 under chapter 395.

1430 4.(d) Entities that are under common ownership, directly
 1431 or indirectly, with an entity licensed or registered by the
 1432 state pursuant to chapter 395; entities that are under common
 1433 ownership, directly or indirectly, with an entity licensed or
 1434 registered by the state and providing only health care services
 1435 within the scope of services authorized pursuant to their
 1436 respective licenses under ss. 383.30-383.332, chapter 390,
 1437 chapter 394, chapter 397, this chapter except part X, chapter
 1438 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
 1439 484, or chapter 651; end-stage renal disease providers
 1440 authorized under 42 C.F.R. part 494; providers certified and
 1441 providing only health care services within the scope of services
 1442 authorized under their respective certifications under 42 C.F.R.
 1443 part 485, subpart B, subpart H, or subpart J; providers
 1444 certified and providing only health care services within the
 1445 scope of services authorized under their respective
 1446 certifications under 42 C.F.R. part 486, subpart C; providers
 1447 certified and providing only health care services within the
 1448 scope of services authorized under their respective
 1449 certifications under 42 C.F.R. part 491, subpart A; providers
 1450 certified by the Centers for Medicare and Medicaid Services

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under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.

5.(e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan under 26 U.S.C. s. 409 that has a board of trustees at least two-thirds of which are Florida-licensed health care practitioners and provides only physical therapy services under physician orders, any community college or university clinic, and any entity owned or operated by the federal or state government, including agencies, subdivisions, or municipalities thereof.

6.(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.

7.(g) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 480, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, and that is wholly owned by one or more licensed health care practitioners, or the licensed health care practitioners set forth in this

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subparagraph ~~paragraph~~ and the spouse, parent, child, or sibling of a licensed health care practitioner if one of the owners who is a licensed health care practitioner is supervising the business activities and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) which provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

8.(h) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

9.(i) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or chapter 459 or entities that provide oncology or radiation therapy services by physicians licensed under chapter 458 or chapter 459 which are owned by a corporation whose shares are publicly traded on a recognized stock exchange.

10.(j) Clinical facilities affiliated with a college of chiropractic accredited by the Council on Chiropractic Education at which training is provided for chiropractic students.

11.(k) Entities that provide licensed practitioners to staff emergency departments or to deliver anesthesia services in facilities licensed under chapter 395 and that derive at least 90 percent of their gross annual revenues from the provision of such services. Entities claiming an exemption from licensure under this subparagraph ~~paragraph~~ must provide documentation

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demonstrating compliance.

~~12.(1)~~ Orthotic, prosthetic, pediatric cardiology, or perinatology clinical facilities or anesthesia clinical facilities that are not otherwise exempt under subparagraph 1. ~~or subparagraph 11. paragraph (a) or paragraph (k)~~ and that are a publicly traded corporation or are wholly owned, directly or indirectly, by a publicly traded corporation. As used in this subparagraph ~~paragraph~~, a publicly traded corporation is a corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange.

~~13.(m)~~ Entities that are owned by a corporation that has \$250 million or more in total annual sales of health care services provided by licensed health care practitioners where one or more of the persons responsible for the operations of the entity is a health care practitioner who is licensed in this state and who is responsible for supervising the business activities of the entity and is responsible for the entity's compliance with state law for purposes of this part.

~~14.(n)~~ Entities that employ 50 or more licensed health care practitioners licensed under chapter 458 or chapter 459 where the billing for medical services is under a single tax identification number. The application for exemption under this subsection must include ~~shall contain information that includes:~~ the name, residence, and business address and telephone ~~phone~~ number of the entity that owns the practice; a complete list of the names and contact information of all the officers and directors of the corporation; the name, residence address, business address, and medical license number of each licensed

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Florida health care practitioner employed by the entity; the corporate tax identification number of the entity seeking an exemption; a listing of health care services to be provided by the entity at the health care clinics owned or operated by the entity; and a certified statement prepared by an independent certified public accountant which states that the entity and the health care clinics owned or operated by the entity have not received payment for health care services under medical payments ~~personal injury protection insurance~~ coverage for the preceding year. If the agency determines that an entity that ~~which~~ is exempt under this subsection has received payments for medical services under medical payments ~~personal injury protection insurance~~ coverage, the agency may deny or revoke the exemption from licensure under this subsection.

~~15.(e)~~ Entities that are, directly or indirectly, under the common ownership of or that are subject to common control by a mutual insurance holding company, as defined in s. 628.703, with an entity issued a certificate of authority under chapter 624 or chapter 641 which has \$1 billion or more in total annual sales in this state.

~~16.(p)~~ Entities that are owned by an entity that is a behavioral health care service provider in at least five other states; that, together with its affiliates, have \$90 million or more in total annual revenues associated with the provision of behavioral health care services; and wherein one or more of the persons responsible for the operations of the entity is a health care practitioner who is licensed in this state, who is responsible for supervising the business activities of the entity, and who is responsible for the entity's compliance with

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state law for purposes of this part.

~~17.(g)~~ Medicaid providers.

(b) Notwithstanding paragraph (a) ~~this subsection~~, an entity ~~is shall be~~ deemed a clinic and must be licensed under this part in order to receive medical payments coverage reimbursement under s. 627.7265 unless the entity is:

1. Wholly owned by a physician licensed under chapter 458 or chapter 459 or by the physician and the spouse, parent, child, or sibling of the physician;

2. Wholly owned by a dentist licensed under chapter 466 or by the dentist and the spouse, parent, child, or sibling of the dentist;

3. Wholly owned by a chiropractic physician licensed under chapter 460 or by the chiropractic physician and the spouse, parent, child, or sibling of the chiropractic physician;

4. A hospital or ambulatory surgical center licensed under chapter 395;

5. An entity that wholly owns or is wholly owned, directly or indirectly, by a hospital or hospitals licensed under chapter 395;

6. A clinical facility affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

7. Certified under 42 C.F.R. part 485, subpart H; or

8. Owned by a publicly traded corporation, either directly or indirectly through its subsidiaries, which has \$250 million or more in total annual sales of health care services provided by licensed health care practitioners, if one or more of the persons responsible for the operations of the entity are health

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care practitioners who are licensed in this state and are responsible for supervising the business activities of the entity and the entity's compliance with state law for purposes of this subsection the Florida Motor Vehicle No-Fault Law, ss. 627.730-627.7405, unless exempted under s. 627.736(5)(h).

Section 27. Subsection (5) of section 400.991, Florida Statutes, is amended to read:

400.991 License requirements; background screenings; prohibitions.—

(5) All agency forms for licensure application or exemption from licensure under this part must contain the following statement:

INSURANCE FRAUD NOTICE.—A person commits a fraudulent insurance act, as defined in s. 626.989, Florida Statutes, if the person ~~who~~ knowingly submits a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400, Florida Statutes, with the intent to use the license, exemption from licensure, or demonstration of compliance to provide services or seek reimbursement under a motor vehicle liability insurance policy's medical payments coverage the Florida Motor Vehicle No-Fault Law, commits a fraudulent insurance act, as defined in s. 626.989, Florida Statutes. A person who presents a claim for benefits under medical payments coverage personal injury protection benefits knowing that the payee knowingly submitted such health care clinic application or document, commits insurance fraud, as

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defined in s. 817.234, Florida Statutes.

Section 28. Paragraph (g) of subsection (1) of section 400.9935, Florida Statutes, is amended to read:

400.9935 Clinic responsibilities.—

(1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

(g) Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director shall take immediate corrective action. If the clinic performs only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to motor vehicle ~~all personal injury protection~~ insurance carriers under medical payments coverage was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgment provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.

Section 29. Subsection (28) of section 409.901, Florida Statutes, is amended to read:

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409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(28) "Third-party benefit" means any benefit that is or may be available at any time through contract, court award, judgment, settlement, agreement, or any arrangement between a third party and any person or entity, including, without limitation, a Medicaid recipient, a provider, another third party, an insurer, or the agency, for any Medicaid-covered injury, illness, goods, or services, including costs of medical services related thereto, for bodily ~~personal~~ injury or for death of the recipient, but specifically excluding ~~policies of~~ policies on the recipient, unless available under terms of the policy to pay medical expenses before ~~prior to~~ death. The term includes, without limitation, collateral, as defined in this section; health insurance; ~~any benefit under a~~ health maintenance organization, a preferred provider arrangement, a prepaid health clinic, liability insurance, uninsured motorist insurance, or medical payments coverage; ~~or personal injury protection coverage~~, medical benefits under workers' compensation, and any obligation under law or equity to provide medical support.

Section 30. Paragraph (f) of subsection (11) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(11) The agency may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name

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1683 in one or more of the following capacities: individually, as
 1684 subrogee of the recipient, as assignee of the recipient, or as
 1685 lienholder of the collateral.

1686 (f) Notwithstanding any provision in this section to the
 1687 contrary, in the event of an action in tort against a third
 1688 party in which the recipient or his or her legal representative
 1689 is a party which results in a judgment, award, or settlement
 1690 from a third party, the amount recovered shall be distributed as
 1691 follows:

1692 1. After attorney ~~attorney's~~ fees and taxable costs as
 1693 defined by the Florida Rules of Civil Procedure, one-half of the
 1694 remaining recovery shall be paid to the agency up to the total
 1695 amount of medical assistance provided by Medicaid.

1696 2. The remaining amount of the recovery shall be paid to
 1697 the recipient.

1698 3. For purposes of calculating the agency's recovery of
 1699 medical assistance benefits paid, the fee for services of an
 1700 attorney retained by the recipient or his or her legal
 1701 representative shall be calculated at 25 percent of the
 1702 judgment, award, or settlement.

1703 4. Notwithstanding any other provision of this section to
 1704 the contrary, the agency shall be entitled to all medical
 1705 coverage benefits up to the total amount of medical assistance
 1706 provided by Medicaid. For purposes of this paragraph, the term
 1707 "medical coverage" means any benefits under health insurance, a
 1708 health maintenance organization, a preferred provider
 1709 arrangement, or a prepaid health clinic, and the portion of
 1710 benefits designated for medical payments under ~~coverage for~~
 1711 workers' compensation coverage, motor vehicle insurance

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1712 coverage, personal injury protection, and casualty coverage.

1713 Section 31. Paragraph (k) of subsection (2) of section
 1714 456.057, Florida Statutes, is amended to read:

1715 456.057 Ownership and control of patient records; report or
 1716 copies of records to be furnished; disclosure of information.—

1717 (2) As used in this section, the terms "records owner,"
 1718 "health care practitioner," and "health care practitioner's
 1719 employer" do not include any of the following persons or
 1720 entities; furthermore, the following persons or entities are not
 1721 authorized to acquire or own medical records, but are authorized
 1722 under the confidentiality and disclosure requirements of this
 1723 section to maintain those documents required by the part or
 1724 chapter under which they are licensed or regulated:

1725 (k) Persons or entities practicing under s. 627.7265 ~~or~~
 1726 ~~627.736(7)~~.

1727 Section 32. Paragraphs (ee) and (ff) of subsection (1) of
 1728 section 456.072, Florida Statutes, are amended to read:

1729 456.072 Grounds for discipline; penalties; enforcement.—

1730 (1) The following acts shall constitute grounds for which
 1731 the disciplinary actions specified in subsection (2) may be
 1732 taken:

1733 (ee) With respect to making a medical payments coverage
 1734 ~~personal injury protection~~ claim under s. 627.7265 as required
 1735 ~~by s. 627.736~~, intentionally submitting a claim, statement, or
 1736 bill that has been upcoded. As used in this paragraph, the term
 1737 "upcoded" means an action that submits a billing code that would
 1738 result in a greater payment amount than would be paid using a
 1739 billing code that accurately describes the services performed.
 1740 The term does not include an otherwise lawful bill by a magnetic

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1741 resonance imaging facility which globally combines both
 1742 technical and professional components, if the amount of the
 1743 global bill is not more than the components if billed
 1744 separately; however, payment of such a bill constitutes payment
 1745 in full for all components of such service ~~as defined~~
 1746 ~~in s. 627.732.~~

1747 (ff) With respect to making a medical payments coverage
 1748 ~~personal injury protection~~ claim pursuant to s. 627.7265 as
 1749 ~~required by s. 627.736~~, intentionally submitting a claim,
 1750 statement, or bill for payment of services that were not
 1751 rendered.

1752 Section 33. Section 559.920, Florida Statutes, is reordered
 1753 and amended to read:

1754 559.920 Unlawful acts and practices.—It shall be a
 1755 violation of this act for any motor vehicle repair shop or
 1756 employee thereof to do any of the following:

1757 (1) Engage or attempt to engage in repair work for
 1758 compensation of any type without first being registered with or
 1759 having submitted an affidavit of exemption to the department.†

1760 (2) Make or charge for repairs which have not been
 1761 expressly or impliedly authorized by the customer.†

1762 (3) Misrepresent that repairs have been made to a motor
 1763 vehicle.†

1764 (4) Misrepresent that certain parts and repairs are
 1765 necessary to repair a vehicle.†

1766 (5) Misrepresent that the vehicle being inspected or
 1767 diagnosed is in a dangerous condition or that the customer's
 1768 continued use of the vehicle may be harmful or cause great
 1769 damage to the vehicle.†

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1770 (6) Fraudulently alter any customer contract, estimate,
 1771 invoice, or other document.†

1772 (7) Fraudulently misuse any customer's credit card.†

1773 (8) Make or authorize in any manner or by any means
 1774 whatever any written or oral statement which is untrue,
 1775 deceptive or misleading, and which is known, or which by the
 1776 exercise of reasonable care should be known, to be untrue,
 1777 deceptive or misleading.†

1778 (9) Make false promises of a character likely to influence,
 1779 persuade, or induce a customer to authorize the repair, service,
 1780 or maintenance of a motor vehicle.†

1781 (10) Substitute used, rebuilt, salvaged, or straightened
 1782 parts for new replacement parts without notice to the motor
 1783 vehicle owner and to her or his insurer if the cost of repair is
 1784 to be paid pursuant to an insurance policy and the identity of
 1785 the insurer or its claims adjuster is disclosed to the motor
 1786 vehicle repair shop.†

1787 (11) Cause or allow a customer to sign any work order that
 1788 does not state the repairs requested by the customer or the
 1789 automobile's odometer reading at the time of repair.†

1790 (12) Fail or refuse to give to a customer a copy of any
 1791 document requiring the customer's signature upon completion or
 1792 cancellation of the repair work.†

1793 (13) Willfully depart from or disregard accepted practices
 1794 and professional standards.†

1795 (14) Have repair work subcontracted without the knowledge
 1796 or consent of the customer unless the motor vehicle repair shop
 1797 or employee thereof demonstrates that the customer could not
 1798 reasonably have been notified.†

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1799 (15) Conduct the business of motor vehicle repair in a
 1800 location other than that stated on the registration
 1801 certificate.~~+~~
 1802 (16) Rebuild or restore a rebuilt vehicle without the
 1803 knowledge of the owner in such a manner that it does not conform
 1804 to the original vehicle manufacturer's established repair
 1805 procedures or specifications and allowable tolerances for the
 1806 particular model and year.~~+~~~~or~~
 1807 (17) With respect to the replacement or repair of a motor
 1808 vehicle windshield:
 1809 (a) Threaten, coerce, or intimidate an insured into
 1810 selecting a particular motor vehicle glass repair facility or
 1811 motor vehicle repair shop;
 1812 (b) Waive or offer to waive the insured's deductible or
 1813 offer a rebate, gift, gift card, cash, coupon, or anything of
 1814 value to a third party in exchange for a referral of an insured
 1815 to the motor vehicle glass repair facility or motor vehicle
 1816 repair shop in connection with any claim under an insurance
 1817 policy; or
 1818 (c) Waive or offer to waive the insured's deductible or
 1819 offer a rebate, gift, gift card, cash, coupon, or anything of
 1820 value to an insured in exchange for the insured filing a motor
 1821 vehicle windshield claim under an insurance policy.
 1822 ~~(19)-(17)~~ Perform any other act that is a violation of this
 1823 part or that constitutes fraud or misrepresentation.
 1824 (18) Violate any provision of s. 713.585.
 1825 Section 34. Paragraph (b) of subsection (1) and subsection
 1826 (8) of section 624.155, Florida Statutes, are amended to read:
 1827 624.155 Civil remedy.—

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1828 (1) Any person may bring a civil action against an insurer
 1829 when such person is damaged:
 1830 (b) By the commission of any of the following acts by the
 1831 insurer:
 1832 1. Except for a third-party bad faith failure to settle
 1833 claim subject to s. 624.156, not attempting in good faith to
 1834 settle claims when, under all the circumstances, it could and
 1835 should have done so, had it acted fairly and honestly toward its
 1836 insured and with due regard for her or his interests;
 1837 2. Making claims payments to insureds or beneficiaries not
 1838 accompanied by a statement setting forth the coverage under
 1839 which payments are being made; ~~or~~
 1840 3. Except as to liability coverages, failing to promptly
 1841 settle claims, when the obligation to settle a claim has become
 1842 reasonably clear, under one portion of the insurance policy
 1843 coverage in order to influence settlements under other portions
 1844 of the insurance policy coverage; or
 1845 4. When handling a first-party claim under a motor vehicle
 1846 insurance policy, not attempting in good faith to settle such
 1847 claim pursuant to subparagraph 1. when such failure is caused by
 1848 a failure to communicate to an insured:
 1849 a. Information on who is adjusting the claim;
 1850 b. Any issues that may impair the insured's coverage;
 1851 c. Information that might resolve the issue in a prompt
 1852 manner;
 1853 d. Any basis for the insurer's rejection or nonacceptance
 1854 of any settlement offer; or
 1855 e. Any needed extensions to respond to a time-limited
 1856 settlement offer.

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Notwithstanding the provisions of the above to the contrary, a person pursuing a remedy under this section need not prove that such act was committed or performed with such frequency as to indicate a general business practice.

(8) The civil remedy specified in this section does not preempt any other remedy or cause of action provided for pursuant to any other statute or pursuant to the common law of this state. A Any person is may obtain a judgment under either the common-law remedy of bad faith or this statutory remedy, but shall not be entitled to a judgment under multiple bad faith both remedies, whether under statute or common law. This section shall not be construed to create a common-law cause of action. The damages recoverable pursuant to this section shall include those damages which are a reasonably foreseeable result of a specified violation of this section by the authorized insurer and may include an award or judgment in an amount that exceeds the policy limits.

Section 35. Section 624.156, Florida Statutes, is created to read:

624.156 Bad faith failure to settle actions against motor vehicle insurers by third-party claimants.—

(1) SCOPE.—This section applies in all actions against any insurer by a third party for bad faith failure to settle, whether under statute or common law, for a loss arising out of the ownership, maintenance, or use of a motor vehicle operated or principally garaged in this state at the time of an accident, regardless of whether the insurer is authorized to do business in this state or issued a policy in this state.

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(2) DUTY OF GOOD FAITH.—In handling claims, an insurer has a fiduciary duty to its insured and must handle claims in good faith. The insurer shall comply with the best practice standards of subsection (4) using the same degree of care and diligence as a person of ordinary care and prudence would exercise in the management of his or her own business.

(3) BAD FAITH FAILURE TO SETTLE.—“Bad faith failure to settle” means an insurer’s failure to settle a claim when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for the insured’s interests.

(4) BEST PRACTICE STANDARDS.—Upon the earlier of receiving notice of a claim or, under subsection (6), a demand for settlement, an insurer must do all of the following:

(a) Assign a duly licensed and appointed insurance adjuster to investigate the claim and resolve any questions concerning the existence or extent of the insured’s coverage.

(b) Evaluate every claim fairly, honestly, and with due regard for the interests of its insured, consider the full extent of the claimant’s recoverable damages, and consider the information in a reasonable and prudent manner.

(c) Request from the insured or claimant additional relevant information deemed necessary.

(d) Conduct all verbal and written communications with the utmost honesty and complete candor.

(e) Make reasonable efforts to explain to nonattorneys matters requiring expertise beyond the level normally expected of a layperson with no training in insurance or claims-handling issues.

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1915 (f) Save all written communications and note and save all
 1916 verbal communications in a reasonable manner.
 1917 (g) Provide the insured, upon request, with all
 1918 nonprivileged communications related to the insurer's handling
 1919 of the claim.
 1920 (h) Provide, at the insurer's expense, reasonable
 1921 accommodations necessary to communicate effectively with an
 1922 insured covered under the Americans with Disabilities Act.
 1923 (i) In handling third-party claims, communicate to an
 1924 insured:
 1925 1. The identity of any other person or entity the insurer
 1926 knows may be liable;
 1927 2. The insurer's activity on and evaluation of the claim;
 1928 3. The likelihood and possible extent of an excess
 1929 judgment;
 1930 4. Steps the insured can take to avoid exposure to an
 1931 excess judgment;
 1932 5. Requests for examinations under oath and an explanation
 1933 of the consequences of an insured's failure to submit to an
 1934 examination under oath; and
 1935 6. Any demands for settlement under subsection (6) or
 1936 settlement offers.
 1937 (j) When a loss involves multiple claimants and the
 1938 claimants are unwilling to settle cumulatively within the policy
 1939 limits and release the insured from further liability, in
 1940 addition to fulfilling the requirements of paragraphs (a)-(i),
 1941 attempt to minimize the risk of excess judgments against the
 1942 insured and settle as many claims as possible within the policy
 1943 limits in exchange for a release of the insured from further

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1944 liability.
 1945 (5) CONDITIONS PRECEDENT.—It is a condition precedent to
 1946 filing a third-party action for bad faith failure to settle
 1947 against an insurer that the claimant must:
 1948 (a) Serve a demand for settlement, as provided in
 1949 subsection (6), within the insurer's limits of liability in
 1950 exchange for a release of further liability against the insured;
 1951 and
 1952 (b) Obtain a final judgment in excess of the policy limits
 1953 against the insured.
 1954 (6) DEMAND FOR SETTLEMENT.—A demand for settlement must do
 1955 all of the following:
 1956 (a) Identify the:
 1957 1. Date and location of loss;
 1958 2. Name, address, and date of birth of the claimant;
 1959 3. Name of each insured to whom the demand for settlement
 1960 is directed; and
 1961 4. Legal and factual basis of the claim.
 1962 (b) Provide a reasonably detailed description of the
 1963 claimant's:
 1964 1. Known injuries caused or aggravated by the incident on
 1965 which the claim is based;
 1966 2. Medical treatment causally related to the incident on
 1967 which the claim is based; and
 1968 3. Type and amount of known damages incurred and, if any,
 1969 the damages the claimant reasonably anticipates incurring in the
 1970 future.
 1971 (c) State the amount of the demand for settlement.
 1972 (d) State whether the demand for settlement is conditioned

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1973 on the completion of an examination under oath, as authorized by
 1974 subsection (8).

1975 (e) Provide a physical address, an e-mail address, and a
 1976 facsimile number for further communications, including, but not
 1977 limited to, responses to the demand for settlement.

1978 (f) Release the insured from any further liability upon the
 1979 insurer's acceptance of a demand for settlement which is not
 1980 withdrawn pursuant to paragraph (8) (e) or paragraph (8) (g) or
 1981 accepted pursuant to paragraph (8) (f).

1982 (g) Be served upon the insurer by certified mail at the
 1983 address designated by the insurer with the Department of
 1984 Financial Services under s. 624.422(2).

1985 (7) LIMITATIONS ON CONDITIONS OF ACCEPTANCE OF A DEMAND.—A
 1986 claimant may not place any conditions on acceptance of a demand
 1987 for settlement other than electing the right to examine the
 1988 insured under oath regarding any of the following:

1989 (a) Whether the insured has the ability to satisfy a claim
 1990 for damages in excess of the insurer's limits of liability.

1991 (b) Whether any other person or entity may have actual or
 1992 potential direct or vicarious liability for the insured's
 1993 negligence.

1994 (c) Whether any other insurance exists that may cover some
 1995 or all of the damages sustained by the claimant.

1996 (8) EXAMINATION UNDER OATH.—After serving a demand for
 1997 settlement, a claimant may examine the insured under oath, on
 1998 one occasion for a period of time not to exceed 2 hours,
 1999 regarding only the issues in subsection (7).

2000 (a) The claimant may request that the insured bring to the
 2001 examination relevant documents in the insured's possession,

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2002 custody, or control, including, but not limited to, credit
 2003 reports, insurance policies, bank statements, tax returns,
 2004 deeds, titles, and other proof of assets or liabilities.

2005 (b) Except as provided in paragraph (7) (b), the claimant
 2006 may not examine the insured regarding liability.

2007 (c) The claimant, the insurer, and the insured shall
 2008 cooperate in scheduling the examination under oath. The insurer
 2009 shall notify the insured of the date, time, and location of the
 2010 examination under oath.

2011 (d) The examination under oath must occur within 30 days
 2012 after the insurer's acceptance of the settlement demand.

2013 (e) The claimant may withdraw the demand for settlement if
 2014 the insured refuses to submit to an examination under oath.

2015 (f) If the insured refuses to submit to an examination
 2016 under oath, the insurer may accept the demand for settlement
 2017 without requiring a release of the insured. An insurer that
 2018 accepts the demand for settlement pursuant to this paragraph
 2019 does not have any further duty to defend the insured and may not
 2020 be held liable for damages to the insured if the claimant
 2021 thereafter obtains an excess judgment against the insured.

2022 (g) Within 7 days after the examination under oath, the
 2023 claimant may withdraw the demand for settlement.

2024 (9) SAFE HARBOR.—When one claim arises out of a single
 2025 occurrence, an insurer is not liable in a bad faith failure to
 2026 settle action if the insurer tenders its policy limits within 60
 2027 days after receiving a demand for settlement under subsection
 2028 (6).

2029 (a) When competing claims arise out of a single occurrence
 2030 and the sum of the competing claims exceeds the policy limits,

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an insurer is not liable in a bad faith failure to settle action if the insurer initiates an interpleader action at policy limits within 60 days after receiving notice of the competing claims. If the court finds for one or more of the claimants, the court must award the claimants their respective pro rata share of the interpleaded funds.

(b) This subsection does not affect an insurer's duties to its insured other than duties related to bad faith failure to settle.

(10) RELEASE.—An insurer that accepts a demand for settlement under subsection (6) shall be entitled to a release of its insured, except as provided in paragraph (8)(f).

(11) BURDEN OF PROOF.—In any third-party action for bad faith failure to settle, the claimant must prove by the preponderance of the evidence that the insurer violated its duty of good faith under subsection (2) and that the insurer in bad faith failed to settle, as defined in subsection (3).

(a) In determining whether an insurer violated its duty of good faith under subsection (2) and in bad faith failed to settle, as defined in subsection (3), the trier of fact shall consider all of the following:

1. Whether the insurer complied with the best practice standards of subsection (4) using the same degree of care and diligence as a person of ordinary care and prudence would exercise in the management of his or her own business.

2. Whether the insurer failed to settle a claim when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for the insured's interests.

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3. Whether the claimant or insured failed to provide relevant information to the insurer on a timely basis.

4. Whether the claimant or insured misrepresented material facts to the insurer or made material omissions of fact to the insurer.

5. Whether the insured denied liability or requested that the case be defended after the insurer fully advised the insured as to the facts and risks.

6. Whether the insurer timely informed the insured of a demand to settle within the limits of coverage, the right to retain personal counsel, and the risk of litigation.

7. The insurer's willingness to negotiate with the claimant in anticipation of settlement.

8. The amount of damages the claimant incurred or was likely to incur in the future under the facts known or reasonably available at the time of the insurer's response.

9. If applicable, whether there were multiple third-party claimants seeking, in the aggregate, compensation in excess of the policy limits from the insured; and, if so, whether the insurer breached its duty to attempt to minimize the magnitude of possible excess judgments against the insured and to attempt to settle as many claims as possible within the policy limits in exchange for a release of the insured from further liability.

10. Additional factors that the court determines to be relevant.

(b) The trier of fact, in determining whether an insurer in bad faith failed to settle, must be informed that an excess judgment occurred but may not be informed of the amount of the excess judgment.

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(12) DAMAGES.—An insurer that is found to have violated its duty of good faith under subsection (2) and in bad faith failed to settle, as defined in subsection (3), is liable for the amount of any excess judgment. No other damages, including, but not limited to, punitive damages, may be awarded in a third-party bad faith failure to settle action.

(13) ENFORCEMENT.—If a judgment creditor has served a demand for settlement under subsection (6) and the judgment exceeds the insured's limits of liability, the judgment creditor must be subrogated to the rights of the insured against the insurer for common law bad faith.

(14) LIMITATION ON MULTIPLE REMEDIES.—A person is not entitled to a judgment under multiple bad faith remedies, whether under statute or common law.

Section 36. Paragraphs (i) and (o) of subsection (1) of section 626.9541, Florida Statutes, are amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(i) *Unfair claim settlement practices.*—

1. Attempting to settle claims on the basis of an application, when serving as a binder or intended to become a part of the policy, or any other material document which was altered without notice to, or knowledge or consent of, the insured;

2. Making a material misrepresentation ~~made~~ to an insured or any other person having an interest in the proceeds payable

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under such contract or policy, for the purpose and with the intent of effecting settlement of such claims, loss, or damage under such contract or policy on less favorable terms than those provided in, and contemplated by, such contract or policy; ~~or~~

3. Committing or performing with such frequency as to indicate a general business practice any of the following:

a. Failing to adopt and implement standards for the proper investigation of claims;

b. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

c. Failing to acknowledge and act promptly upon communications with respect to claims;

d. Denying claims without conducting reasonable investigations based upon available information;

e. Failing to affirm or deny full or partial coverage of claims, and, as to partial coverage, the dollar amount or extent of coverage, or failing to provide a written statement that the claim is being investigated, upon the written request of the insured within 30 days after proof-of-loss statements have been completed;

f. Failing to promptly provide a reasonable explanation in writing to the insured of the basis in the insurance policy, in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement;

g. Failing to promptly notify the insured of any additional information necessary for the processing of a claim; or

h. Failing to clearly explain the nature of the requested information and the reasons why such information is necessary.

~~i. Failing to pay personal injury protection insurance~~

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claims within the time periods required by s. 627.736(4)(b). The office may order the insurer to pay restitution to a policyholder, medical provider, or other claimant, including interest at a rate consistent with the amount set forth in s. 55.03(1), for the time period within which an insurer fails to pay claims as required by law. Restitution is in addition to any other penalties allowed by law, including, but not limited to, the suspension of the insurer's certificate of authority.

4. Failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 90 days after an insurer receives notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by an act of God, prevented by the impossibility of performance, or due to actions by the insured or claimant that constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed.

(o) *Illegal dealings in premiums; excess or reduced charges for insurance.*—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved

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by the office, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges collected from a Florida resident in excess of or less than those specified in the policy and as fixed by the insurer.

Notwithstanding any other provision of law, this provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VIII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(4), in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer. This subparagraph shall not be construed to prohibit collection of a premium for a universal life or a variable or indeterminate value insurance policy made in accordance with the terms of the contract.

3.a. Imposing or requesting an additional premium for bodily injury liability coverage, property damage liability coverage ~~a policy of motor vehicle liability, personal injury protection, medical payments coverage payment, or collision coverage in a motor vehicle liability insurance policy insurance or any combination thereof~~ or refusing to renew the policy solely because the insured was involved in a motor vehicle accident unless the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident.

b. An insurer which imposes and collects such a surcharge

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or which refuses to renew such policy shall, in conjunction with the notice of premium due or notice of nonrenewal, notify the named insured that he or she is entitled to reimbursement of such amount or renewal of the policy under the conditions listed below and will subsequently reimburse him or her or renew the policy, if the named insured demonstrates that the operator involved in the accident was:

(I) Lawfully parked;

(II) Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;

(III) Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident;

(IV) Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;

(V) Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation;

(VI) Finally adjudicated not to be liable by a court of competent jurisdiction;

(VII) In receipt of a traffic citation which was dismissed or nolle prossed; or

(VIII) Not at fault as evidenced by a written statement from the insured establishing facts demonstrating lack of fault which are not rebutted by information in the insurer's file from which the insurer in good faith determines that the insured was substantially at fault.

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c. In addition to the other provisions of this subparagraph, an insurer may not fail to renew a policy if the insured has had only one accident in which he or she was at fault within the current 3-year period. However, an insurer may nonrenew a policy for reasons other than accidents in accordance with s. 627.728. This subparagraph does not prohibit nonrenewal of a policy under which the insured has had three or more accidents, regardless of fault, during the most recent 3-year period.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:

a. A second infraction committed within an 18-month period, or a third or subsequent infraction committed within a 36-month period.

b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as such handicap or physical disability does not substantially impair such person's mechanically assisted driving ability.

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7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured with the same exposure at a higher premium rate or continuing an existing contract or coverage with the same exposure at an increased premium.

8. No insurer may issue a nonrenewal notice on any insurance contract or coverage, or require execution of a consent to rate endorsement, for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium without meeting any applicable notice requirements.

9. No insurer shall, with respect to premiums charged for motor vehicle insurance, unfairly discriminate solely on the basis of age, sex, marital status, or scholastic achievement.

10. Imposing or requesting an additional premium for motor vehicle comprehensive or uninsured motorist coverage solely because the insured was involved in a motor vehicle accident or was convicted of a moving traffic violation.

11. No insurer shall cancel or issue a nonrenewal notice on any insurance policy or contract without complying with any applicable cancellation or nonrenewal provision required under the Florida Insurance Code.

12. No insurer shall impose or request an additional premium, cancel a policy, or issue a nonrenewal notice on any insurance policy or contract because of any traffic infraction

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when adjudication has been withheld and no points have been assessed pursuant to s. 318.14(9) and (10). However, this subparagraph does not apply to traffic infractions involving accidents in which the insurer has incurred a loss due to the fault of the insured.

Section 37. Paragraph (a) of subsection (1) of section 626.989, Florida Statutes, is amended to read:

626.989 Investigation by department or Division of Investigative and Forensic Services; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(1) For the purposes of this section:

(a) A person commits a "fraudulent insurance act" if the person:

1. Knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, self-insurer, self-insurance fund, servicing corporation, purported insurer, broker, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a claim for payment or other benefit pursuant to any insurance policy, which the person knows to contain materially false information concerning any fact material thereto or if the person conceals, for the purpose of misleading another, information concerning any fact material thereto.

2. Knowingly submits:

a. A false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic,

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seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400 with an intent to use the license, exemption from licensure, or demonstration of compliance to provide services or seek reimbursement under a motor vehicle liability insurance policy's medical payments coverage ~~the Florida Motor Vehicle No-Fault Law~~.

b. A claim for payment or other benefit under medical payments coverage, ~~pursuant to a personal injury protection insurance policy under the Florida Motor Vehicle No-Fault Law~~ if the person knows that the payee knowingly submitted a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, or exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400.

Section 38. Subsection (1) of section 627.06501, Florida Statutes, is amended to read:

627.06501 Insurance discounts for certain persons completing driver improvement course.—

(1) Any rate, rating schedule, or rating manual for the liability, medical payments ~~personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office may provide for an appropriate reduction in premium charges as to such coverages if when the principal operator on the covered vehicle has successfully completed a driver improvement course approved and certified by the Department of Highway Safety and Motor Vehicles which is effective in reducing crash or violation rates, or both, as determined pursuant to s. 318.1451(5). Any discount, not to

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exceed 10 percent, used by an insurer is presumed to be appropriate unless credible data demonstrates otherwise.

Section 39. Subsection (15) is added to section 627.0651, Florida Statutes, to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(15) Initial rate filings for motor vehicle liability policies which are submitted to the office on or after January 1, 2022, must reflect the financial responsibility requirements in s. 324.022 then in effect and may be approved only through the file and use process under s. 627.0651(1)(a).

Section 40. Subsection (1) of section 627.0652, Florida Statutes, is amended to read:

627.0652 Insurance discounts for certain persons completing safety course.—

(1) Any rates, rating schedules, or rating manuals for the liability, medical payments ~~personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office must ~~shall~~ provide for an appropriate reduction in premium charges as to such coverages if when the principal operator on the covered vehicle is an insured 55 years of age or older who has successfully completed a motor vehicle accident prevention course approved by the Department of Highway Safety and Motor Vehicles. Any discount used by an insurer is presumed to be appropriate unless credible data demonstrates otherwise.

Section 41. Subsections (1), (3), and (6) of section 627.0653, Florida Statutes, are amended to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

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(1) Any rates, rating schedules, or rating manuals for the liability, medical payments ~~personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office ~~must~~ shall provide a premium discount if the insured vehicle is equipped with factory-installed, four-wheel antilock brakes.

(3) Any rates, rating schedules, or rating manuals for ~~personal injury protection coverage and~~ medical payments coverage, ~~if offered~~, of a motor vehicle insurance policy filed with the office ~~must~~ shall provide a premium discount if the insured vehicle is equipped with one or more air bags that ~~which~~ are factory installed.

(6) The Office of Insurance Regulation may approve a premium discount to any rates, rating schedules, or rating manuals for the liability, medical payments ~~personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office if the insured vehicle is equipped with an automated driving system or electronic vehicle collision avoidance technology that is factory installed or a retrofitted system and that complies with National Highway Traffic Safety Administration standards.

Section 42. Section 627.4132, Florida Statutes, is amended to read:

627.4132 Stacking of coverages prohibited.—If an insured or named insured is protected by any type of motor vehicle insurance policy for bodily injury and property damage liability, ~~personal injury protection, or other coverage~~, the policy ~~must~~ shall provide that the insured or named insured is protected only to the extent of the coverage she or he has on

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the vehicle involved in the accident. However, if none of the insured's or named insured's vehicles ~~are~~ is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with applicable coverage. Coverage on any other vehicles ~~may~~ shall not be added to or stacked upon that coverage. This section does not ~~apply~~:

(1) Apply to uninsured motorist coverage that ~~which~~ is separately governed by s. 627.727.

(2) ~~To~~ Reduce the coverage available by reason of insurance policies insuring different named insureds.

Section 43. Subsection (1) of section 627.4137, Florida Statutes, is amended to read:

627.4137 Disclosure of certain information required.—

(1) Each insurer which does or may provide liability insurance coverage to pay all or a portion of any claim which might be made shall provide, within 30 days of the written request of the claimant or the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager or superintendent setting forth the following information with regard to each known policy of insurance, including excess or umbrella insurance:

(a) The name of the insurer.

(b) The name of each insured.

(c) The limits of the liability coverage.

(d) A statement of any policy or coverage defense which such insurer reasonably believes is available to such insurer at the time of filing such statement.

(e) A copy of the policy.

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In addition, the insured, or her or his insurance agent, upon written request of the claimant or the claimant's attorney, shall disclose the name and coverage of each known insurer to the claimant and shall forward such request for information as required by this subsection to all affected insurers. The insurer shall then supply the information required in this subsection to the claimant within 30 days of receipt of such request. If an insurer fails to timely comply with this section, the claimant may file an action in a court of competent jurisdiction to enforce this section. If the court determines that the insurer violated this section, the claimant is entitled to an award of reasonable attorney fees and costs to be paid by the insurer.

Section 44. Section 627.7263, Florida Statutes, is amended to read:

627.7263 Rental and leasing driver's insurance to be primary; exception.—

(1) The valid and collectible liability insurance and medical payments coverage ~~or personal injury protection insurance providing coverage~~ for the lessor of a motor vehicle for rent or lease is primary unless otherwise stated in at least 10-point type on the face of the rental or lease agreement. Such insurance is primary for the limits of liability ~~and personal injury protection~~ coverage as required by s. 324.021(7) and the medical payments coverage limit specified under s. 627.7265 ~~ss. 324.021(7) and 627.736~~.

(2) If the lessee's coverage is to be primary, the rental or lease agreement must contain the following language, in at least 10-point type:

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"The valid and collectible liability insurance and medical payments coverage ~~personal injury protection insurance~~ of an any authorized rental or leasing driver is primary for the limits of liability ~~and personal injury protection~~ coverage required under section 324.021(7), Florida Statutes, and the medical payments coverage limit specified under section 627.7265 ~~by ss. 324.021(7) and 627.736~~, Florida Statutes."

Section 45. Section 627.7265, Florida Statutes, is created to read:

627.7265 Motor vehicle insurance; medical payments coverage.—

(1) Medical payments coverage must protect the named insured, resident relatives, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons who are struck by the insured motor vehicle and suffer bodily injury while not an occupant of a self-propelled motor vehicle at a limit of at least \$5,000 for medical expense incurred due to bodily injury, sickness, or disease arising out of the ownership, maintenance, or use of a motor vehicle. Medical payments coverage must pay for reasonable expenses for necessary medical, diagnostic, and rehabilitative services that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, by a dentist licensed under chapter 466, or by a chiropractic physician licensed under chapter 460 or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. The coverage must provide an additional death benefit of at least \$5,000.

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2495 (a) Before issuing a motor vehicle liability insurance
 2496 policy that is furnished as proof of financial responsibility
 2497 under s. 324.031, the insurer must offer medical payments
 2498 coverage at limits of \$5,000 and \$10,000. The insurer may also
 2499 offer medical payments coverage at any limit greater than
 2500 \$5,000.

2501 (b) The medical payments coverage must be offered with an
 2502 option with no deductible. The insurer may also offer medical
 2503 payments coverage with a deductible not to exceed \$500.

2504 (c) This section may not be construed to limit any other
 2505 coverage made available by an insurer.

2506 (2) Upon receiving notice of an accident that is
 2507 potentially covered by medical payments coverage benefits, the
 2508 insurer must reserve \$5,000 of medical payments coverage
 2509 benefits for payment to physicians licensed under chapter 458 or
 2510 chapter 459 or dentists licensed under chapter 466 who provide
 2511 emergency services and care, as defined in s. 395.002, or who
 2512 provide hospital inpatient care. The amount required to be held
 2513 in reserve may be used only to pay claims from such physicians
 2514 or dentists until 30 days after the date the insurer receives
 2515 notice of the accident. After the 30-day period, any amount of
 2516 the reserve for which the insurer has not received notice of
 2517 such claims may be used by the insurer to pay other claims. This
 2518 subsection does not require an insurer to establish a claim
 2519 reserve for insurance accounting purposes.

2520 (3) An insurer providing medical payments coverage benefits
 2521 may not:

2522 (a) Seek a lien on any recovery in tort by judgment,
 2523 settlement, or otherwise for medical payments coverage benefits,

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2524 regardless of whether suit has been filed or settlement has been
 2525 reached without suit; or

2526 (b) Bring a cause of action against a person to whom or for
 2527 whom medical payments coverage benefits were paid, except when
 2528 medical payments coverage benefits were paid by reason of fraud
 2529 committed by that person.

2530 (4) An insurer providing medical payments coverage may
 2531 include provisions in its policy allowing for subrogation for
 2532 medical payments coverage benefits paid if the expenses giving
 2533 rise to the payments were caused by the wrongful act or omission
 2534 of another who is not also an insured under the policy paying
 2535 the medical payments coverage benefits. However, this
 2536 subrogation right is inferior to the rights of the injured
 2537 insured and is available only after all the insured's damages
 2538 are recovered and the insured is made whole. An insured who
 2539 obtains a recovery from a third party of the full amount of the
 2540 damages sustained and delivers a release or satisfaction that
 2541 impairs a medical payments insurer's subrogation right is liable
 2542 to the insurer for repayment of medical payments coverage
 2543 benefits less any expenses of acquiring the recovery, including
 2544 a prorated share of attorney fees and costs, and shall hold that
 2545 net recovery in trust to be delivered to the medical payments
 2546 insurer. The insurer may not include any provision in its policy
 2547 allowing for subrogation for any death benefit paid.

2548 Section 46. Subsections (1) and (7) of section 627.727,
 2549 Florida Statutes, are amended to read:

2550 627.727 Motor vehicle insurance; uninsured and underinsured
 2551 vehicle coverage; insolvent insurer protection.—

2552 (1) A ~~No~~ motor vehicle liability insurance policy that

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2553 ~~which~~ provides bodily injury liability coverage may not ~~shall~~ be
 2554 delivered or issued for delivery in this state with respect to
 2555 any specifically insured or identified motor vehicle registered
 2556 or principally garaged in this state, unless uninsured motor
 2557 vehicle coverage is provided therein or supplemental thereto for
 2558 the protection of persons insured thereunder who are legally
 2559 entitled to recover damages from owners or operators of
 2560 uninsured motor vehicles because of bodily injury, sickness, or
 2561 disease, including death, resulting therefrom. However, the
 2562 coverage required under this section is not applicable if ~~when~~,
 2563 or to the extent that, an insured named in the policy makes a
 2564 written rejection of the coverage on behalf of all insureds
 2565 under the policy. If ~~When~~ a motor vehicle is leased for ~~a period~~
 2566 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms
 2567 of the lease contract, provides liability coverage on the leased
 2568 vehicle, the lessee of such vehicle has ~~shall have~~ the sole
 2569 privilege to reject uninsured motorist coverage or to select
 2570 lower limits than the bodily injury liability limits, regardless
 2571 of whether the lessor is qualified as a self-insurer pursuant to
 2572 s. 324.171. Unless an insured, or a lessee having the privilege
 2573 of rejecting uninsured motorist coverage, requests such coverage
 2574 or requests higher uninsured motorist limits in writing, the
 2575 coverage or such higher uninsured motorist limits need not be
 2576 provided in or supplemental to any other policy that ~~which~~
 2577 renews, extends, changes, supersedes, or replaces an existing
 2578 policy with the same bodily injury liability limits when an
 2579 insured or lessee had rejected the coverage. When an insured or
 2580 lessee has initially selected limits of uninsured motorist
 2581 coverage lower than her or his bodily injury liability limits,

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2582 higher limits of uninsured motorist coverage need not be
 2583 provided in or supplemental to any other policy that ~~which~~
 2584 renews, extends, changes, supersedes, or replaces an existing
 2585 policy with the same bodily injury liability limits unless an
 2586 insured requests higher uninsured motorist coverage in writing.
 2587 The rejection or selection of lower limits must ~~shall~~ be made on
 2588 a form approved by the office. The form must ~~shall~~ fully advise
 2589 the applicant of the nature of the coverage and must ~~shall~~ state
 2590 that the coverage is equal to bodily injury liability limits
 2591 unless lower limits are requested or the coverage is rejected.
 2592 The heading of the form must ~~shall~~ be in 12-point bold type and
 2593 must ~~shall~~ state: "You are electing not to purchase certain
 2594 valuable coverage that ~~which~~ protects you and your family or you
 2595 are purchasing uninsured motorist limits less than your bodily
 2596 injury liability limits when you sign this form. Please read
 2597 carefully." If this form is signed by a named insured, it will
 2598 be conclusively presumed that there was an informed, knowing
 2599 rejection of coverage or election of lower limits on behalf of
 2600 all insureds. The insurer shall notify the named insured at
 2601 least annually of her or his options as to the coverage required
 2602 by this section. Such notice must ~~shall~~ be part of, and attached
 2603 to, the notice of premium, must ~~shall~~ provide for a means to
 2604 allow the insured to request such coverage, and must ~~shall~~ be
 2605 given in a manner approved by the office. Receipt of this notice
 2606 does not constitute an affirmative waiver of the insured's right
 2607 to uninsured motorist coverage if ~~where~~ the insured has not
 2608 signed a selection or rejection form. The coverage described
 2609 under this section must ~~shall~~ be over and above, but may ~~shall~~
 2610 not duplicate, the benefits available to an insured under any

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workers' compensation law, ~~personal injury protection benefits,~~
 disability benefits law, or similar law; under any automobile
 medical ~~payments expense~~ coverage; under any motor vehicle
 liability insurance coverage; or from the owner or operator of
 the uninsured motor vehicle or any other person or organization
 jointly or severally liable together with such owner or operator
 for the accident, ~~+~~ and such coverage must ~~shall~~ cover the
 difference, if any, between the sum of such benefits and the
 damages sustained, up to the maximum amount of such coverage
 provided under this section. The amount of coverage available
 under this section may ~~shall~~ not be reduced by a setoff against
 any coverage, including liability insurance. Such coverage does
~~shall~~ not inure directly or indirectly to the benefit of any
 workers' compensation or disability benefits carrier or any
 person or organization qualifying as a self-insurer under any
 workers' compensation or disability benefits law or similar law.

(7) The legal liability of an uninsured motorist coverage
 insurer includes ~~does not include~~ damages in tort for pain,
 suffering, disability or physical impairment, disfigurement,
mental anguish, and inconvenience, and the loss of capacity for
the enjoyment of life experienced in the past and to be
experienced in the future unless the injury or disease is
~~described in one or more of paragraphs (a) - (d) of s. 627.737(2).~~

Section 47. Section 627.7275, Florida Statutes, is amended
 to read:

627.7275 Motor vehicle liability.—

(1) A motor vehicle insurance policy ~~providing personal~~
~~injury protection as set forth in s. 627.736~~ may not be
 delivered or issued for delivery in this state for a with

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~~respect to any~~ specifically insured or identified motor vehicle
 registered or principally garaged in this state must provide
bodily injury liability coverage and unless the policy also
~~provides coverage for~~ property damage liability coverage as
 required under ~~by~~ s. 324.022.

(2) (a) Insurers writing motor vehicle insurance in this
 state shall make available, subject to the insurers' usual
 underwriting restrictions:

1. Coverage under policies as described in subsection (1)
 to an applicant for private passenger motor vehicle insurance
 coverage who is seeking the coverage in order to reinstate the
 applicant's driving privileges in this state if the driving
 privileges were revoked or suspended pursuant to s. 316.646 or
 s. 324.0221 due to the failure of the applicant to maintain
 required security.

2. Coverage under policies as described in subsection (1),
 which includes bodily injury ~~also provides~~ liability coverage
and property damage liability coverage, for bodily injury,
~~death, and property damage arising out of the ownership,~~
~~maintenance, or use of the motor vehicle~~ in an amount not less
 than the minimum limits required under ~~described in~~ s.
 324.021(7) or s. 324.023 and which conforms to the requirements
 of s. 324.151, to an applicant for private passenger motor
 vehicle insurance coverage who is seeking the coverage in order
 to reinstate the applicant's driving privileges in this state
 after such privileges were revoked or suspended under s. 316.193
 or s. 322.26(2) for driving under the influence.

3. Coverage that provides bodily injury liability coverage
and property damage liability coverage in the amounts specified

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2669 in s. 324.022(1)(c). An insurer may deliver or issue for
 2670 delivery only a policy providing such coverage to an applicant
 2671 or insured who, before the issuance or renewal of the policy,
 2672 represents to the insurer in writing or electronically that such
 2673 person:

2674 a. Has a household income that is 200 percent or less of
 2675 the most current federal poverty guidelines established by the
 2676 United States Department of Health and Human Services. An
 2677 insurer must, before accepting such representation, provide
 2678 written or electronic notice to the applicant or insured
 2679 regarding the dollar amounts that constitute a household income
 2680 that is 200 percent of the most current federal poverty
 2681 guidelines. An insurer is not required to verify the veracity of
 2682 the applicant's or insured's representation. However, an insurer
 2683 may not deny or exclude liability coverage under the policy
 2684 solely because such representation of the applicant or insured
 2685 was false.

2686 b. Meets the definition of a full-time student in a
 2687 secondary education program under s. 1011.61(1)(a), or meets the
 2688 definition of a full-time student in a postsecondary education
 2689 program under s. 1009.40. An insurer must, before accepting such
 2690 representation, provide written or electronic notice to the
 2691 applicant or insured regarding the number of educational hours
 2692 that meet the definition of a full-time student. An insurer is
 2693 not required to verify the veracity of the applicant's or
 2694 insured's representation. However, an insurer may not deny or
 2695 exclude liability coverage under the policy solely because such
 2696 representation of the applicant or insured was false.

2697 (b) The policies described in subparagraphs (a)1. and (a)2.

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2698 ~~must paragraph (a) shall~~ be issued for at least 6 months and, as
 2699 to the minimum coverages required under this section, may not be
 2700 canceled by the insured for any reason or by the insurer after
 2701 60 days, during which period the insurer is completing the
 2702 underwriting of the policy. After the insurer has completed
 2703 underwriting the policy, the insurer shall notify the Department
 2704 of Highway Safety and Motor Vehicles that the policy is in full
 2705 force and effect and is not cancelable for the remainder of the
 2706 policy period. A premium ~~must shall~~ be collected and the
 2707 coverage is in effect for the 60-day period during which the
 2708 insurer is completing the underwriting of the policy, whether or
 2709 not the person's driver license, motor vehicle tag, and motor
 2710 vehicle registration are in effect. Once the noncancelable
 2711 provisions of the policy become effective, the bodily injury
 2712 liability and property damage liability coverages ~~for bodily~~
 2713 ~~injury, property damage, and personal injury protection~~ may not
 2714 be reduced below the minimum limits required under s. 324.021 or
 2715 s. 324.023 during the policy period.

2716 (c) This subsection controls to the extent of any conflict
 2717 with any other section.

2718 (d) An insurer issuing a policy subject to this section may
 2719 cancel the policy if, during the policy term, the named insured,
 2720 or any other operator who resides in the same household or
 2721 customarily operates an automobile insured under the policy, has
 2722 his or her driver license suspended or revoked.

2723 (e) This subsection does not require an insurer to offer a
 2724 policy of insurance to an applicant if such offer would be
 2725 inconsistent with the insurer's underwriting guidelines and
 2726 procedures.

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Section 48. Effective upon this act becoming a law, section 627.7278, Florida Statutes, is created to read:

627.7278 Applicability and construction; notice to policyholders.—

(1) As used in this section, the term “minimum security requirements” means security that enables a person to respond in damages for liability on account of crashes arising out of the ownership, maintenance, or use of a motor vehicle, in the amounts required by s. 324.022(1), as amended by this act.

(2) Effective January 1, 2022:

(a) Motor vehicle insurance policies issued or renewed on or after that date may not include personal injury protection.

(b) All persons subject to s. 324.022, s. 324.032, s. 627.7415, or s. 627.742 must maintain at least minimum security requirements.

(c) Any new or renewal motor vehicle insurance policy delivered or issued for delivery in this state must provide coverage that complies with minimum security requirements.

(d) An existing motor vehicle insurance policy issued before that date which provides personal injury protection and property damage liability coverage that meets the requirements of s. 324.022 on December 31, 2021, but which does not meet minimum security requirements on or after January 1, 2022, is deemed to meet minimum security requirements until such policy is renewed, nonrenewed, or canceled on or after January 1, 2022. Sections 627.730-627.7405, 400.9905, 400.991, 456.057, 456.072, 627.7263, 627.727, 627.748, 627.9541(1)(i), and 817.234, Florida Statutes 2020, remain in full force and effect for motor vehicle accidents covered under a policy issued under the Florida Motor

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Vehicle No-Fault Law before January 1, 2022, until the policy is renewed, nonrenewed, or canceled.

(3) Each insurer shall allow each insured who has a new or renewal policy providing personal injury protection which becomes effective before January 1, 2022, and whose policy does not meet minimum security requirements on or after January 1, 2022, to change coverages so as to eliminate personal injury protection and obtain coverage providing minimum security requirements, which shall be effective on or after January 1, 2022. The insurer is not required to provide coverage complying with minimum security requirements in such policies if the insured does not pay the required premium, if any, by January 1, 2022, or such later date as the insurer may allow. The insurer also shall offer each insured medical payments coverage pursuant to s. 627.7265. Any reduction in the premium must be refunded by the insurer. The insurer may not impose on the insured an additional fee or charge that applies solely to a change in coverage; however, the insurer may charge an additional required premium that is actuarially indicated.

(4) By September 1, 2021, each motor vehicle insurer shall provide notice of this section to each motor vehicle policyholder who is subject to this section. The notice is subject to approval by the office and must clearly inform the policyholder that:

(a) The Florida Motor Vehicle No-Fault Law is repealed effective January 1, 2022, and that on or after that date, the insured is no longer required to maintain personal injury protection insurance coverage, that personal injury protection coverage is no longer available for purchase in this state, and

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2785 that all new or renewal policies issued on or after that date
 2786 will not contain that coverage.

2787 (b) Effective January 1, 2022, a person subject to the
 2788 financial responsibility requirements of s. 324.022 must
 2789 maintain minimum security requirements that enable the person to
 2790 respond to damages for liability on account of accidents arising
 2791 out of the use of a motor vehicle in the following amounts:

2792 1. Twenty-five thousand dollars for bodily injury to, or
 2793 the death of, one person in any one crash and, subject to such
 2794 limits for one person, in the amount of \$50,000 for bodily
 2795 injury to, or the death of, two or more persons in any one
 2796 crash; and

2797 2. Ten thousand dollars for damage to, or destruction of,
 2798 the property of others in any one crash.

2799 (c) Persons subject to the financial responsibility
 2800 requirements of s. 324.022 who have a household income of 200
 2801 percent or less of the federal poverty guidelines or who are
 2802 full-time secondary or postsecondary students may instead
 2803 maintain minimum security requirements that enable the person to
 2804 respond to damages for liability on account of accidents arising
 2805 out of the use of a motor vehicle in the following amounts:

2806 1. Fifteen thousand dollars for bodily injury to, or the
 2807 death of, one person in any one crash and, subject to such
 2808 limits for one person, in the amount of \$30,000 for bodily
 2809 injury to, or the death of, two or more persons in any one
 2810 crash; and

2811 2. Ten thousand dollars for damage to, or destruction of,
 2812 the property of others in any one crash.

2813 (d) Bodily injury liability coverage protects the insured,

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2814 up to the coverage limits, against loss if the insured is
 2815 legally responsible for the death of or bodily injury to others
 2816 in a motor vehicle accident.

2817 (e) Effective January 1, 2022, each policyholder of motor
 2818 vehicle liability insurance purchased as proof of financial
 2819 responsibility must be offered medical payments coverage
 2820 benefits that comply with s. 627.7265. The insurer must offer
 2821 medical payments coverage at limits of \$5,000 and \$10,000
 2822 without a deductible. The insurer may also offer medical
 2823 payments coverage at other limits greater than \$5,000 and may
 2824 offer coverage with a deductible of up to \$500. Medical payments
 2825 coverage pays covered medical expenses, up to the limits of such
 2826 coverage, for injuries sustained in a motor vehicle crash by the
 2827 named insured, resident relatives, persons operating the insured
 2828 motor vehicle, passengers in the insured motor vehicle, and
 2829 persons who are struck by the insured motor vehicle and suffer
 2830 bodily injury while not an occupant of a self-propelled motor
 2831 vehicle as provided in s. 627.7265. Medical payments coverage
 2832 pays for reasonable expenses for necessary medical, diagnostic,
 2833 and rehabilitative services that are lawfully provided,
 2834 supervised, ordered, or prescribed by a physician licensed under
 2835 chapter 458 or chapter 459, by a dentist licensed under chapter
 2836 466, or by a chiropractic physician licensed under chapter 460
 2837 or that are provided in a hospital or in a facility that owns,
 2838 or is wholly owned by, a hospital. Medical payments coverage
 2839 also provides a death benefit of at least \$5,000.

2840 (f) The policyholder may obtain uninsured and underinsured
 2841 motorist coverage that provides benefits, up to the limits of
 2842 such coverage, to a policyholder or other insured entitled to

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2843 recover damages for bodily injury, sickness, disease, or death
 2844 resulting from a motor vehicle accident with an uninsured or
 2845 underinsured owner or operator of a motor vehicle.

2846 (g) If the policyholder's new or renewal motor vehicle
 2847 insurance policy is effective before January 1, 2022, and
 2848 contains personal injury protection and property damage
 2849 liability coverage as required by state law before January 1,
 2850 2022, but does not meet minimum security requirements on or
 2851 after January 1, 2022, the policy is deemed to meet minimum
 2852 security requirements until it is renewed, nonrenewed, or
 2853 canceled on or after January 1, 2022.

2854 (h) A policyholder whose new or renewal policy becomes
 2855 effective before January 1, 2022, but does not meet minimum
 2856 security requirements on or after January 1, 2022, may change
 2857 coverages under the policy so as to eliminate personal injury
 2858 protection and to obtain coverage providing minimum security
 2859 requirements, including bodily injury liability coverage, which
 2860 are effective on or after January 1, 2022.

2861 (i) If the policyholder has any questions, he or she should
 2862 contact the person named at the telephone number provided in the
 2863 notice.

2864 Section 49. Paragraph (a) of subsection (1) of section
 2865 627.728, Florida Statutes, is amended to read:

2866 627.728 Cancellations; nonrenewals.—

2867 (1) As used in this section, the term:

2868 (a) "Policy" means the bodily injury and property damage
 2869 liability, ~~personal injury protection~~, medical payments,
 2870 comprehensive, collision, and uninsured motorist coverage
 2871 portions of a policy of motor vehicle insurance delivered or

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2872 issued for delivery in this state:

2873 1. Insuring a natural person as named insured or one or
 2874 more related individuals who are residents ~~resident~~ of the same
 2875 household; and

2876 2. Insuring only a motor vehicle of the private passenger
 2877 type or station wagon type which is not used as a public or
 2878 livery conveyance for passengers or rented to others; or
 2879 insuring any other four-wheel motor vehicle having a load
 2880 capacity of 1,500 pounds or less which is not used in the
 2881 occupation, profession, or business of the insured other than
 2882 farming; other than any policy issued under an automobile
 2883 insurance assigned risk plan or covering garage, automobile
 2884 sales agency, repair shop, service station, or public parking
 2885 place operation hazards.

2886
 2887 The term "policy" does not include a binder as defined in s.
 2888 627.420 unless the duration of the binder period exceeds 60
 2889 days.

2890 Section 50. Section 627.7288, Florida Statutes, is amended
 2891 to read:

2892 627.7288 Comprehensive coverage; deductibles for deductible
 2893 ~~not to apply to~~ motor vehicle glass.—

2894 (1) Authorized insurers must offer motor vehicle insurance
 2895 that does not apply any The deductible provisions of the any
 2896 policy of motor vehicle insurance to, delivered or issued in
 2897 this state by an authorized insurer, providing comprehensive
 2898 coverage or combined additional coverage that is shall not be
 2899 applicable to damage to the windshield of any motor vehicle
 2900 covered under such policy.

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2901 (2) An insurer may also offer, for an actuarially
 2902 reasonable premium credit or discount, a separate deductible no
 2903 greater than \$200 for damage to the windshield of any motor
 2904 vehicle covered under a motor vehicle insurance policy delivered
 2905 or issued by the insurer in this state.

2906 Section 51. Subsection (1), paragraph (a) of subsection
 2907 (5), and subsections (6) and (7) of section 627.7295, Florida
 2908 Statutes, are amended to read:

2909 627.7295 Motor vehicle insurance contracts.—

2910 (1) As used in this section, the term:

2911 (a) "Policy" means a motor vehicle insurance policy that
 2912 provides bodily injury liability ~~personal injury protection~~
 2913 coverage and property damage liability coverage, ~~or both~~.

2914 (b) "Binder" means a binder that provides motor vehicle
 2915 bodily injury liability coverage ~~personal injury protection~~ and
 2916 property damage liability coverage.

2917 (5)(a) A licensed general lines agent may charge a per-
 2918 policy fee of up to not to exceed \$10 to cover the
 2919 administrative costs of the agent associated with selling the
 2920 motor vehicle insurance policy if the policy covers only bodily
 2921 injury liability coverage ~~personal injury protection coverage as~~
 2922 ~~provided by s. 627.736~~ and property damage liability coverage as
 2923 provided by s. 627.7275 and if no other insurance is sold or
 2924 issued in conjunction with or collateral to the policy. The fee
 2925 is not ~~considered~~ part of the premium.

2926 (6) If a motor vehicle owner's driver license, license
 2927 plate, and registration have previously been suspended pursuant
 2928 to s. 316.646 ~~or s. 627.733~~, an insurer may cancel a new policy
 2929 only as provided in s. 627.7275.

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2930 (7) A policy of private passenger motor vehicle insurance
 2931 or a binder for such a policy may be initially issued in this
 2932 state only if, before the effective date of such binder or
 2933 policy, the insurer or agent has collected from the insured an
 2934 amount equal to at least 1 month's premium. An insurer, agent,
 2935 or premium finance company may not, directly or indirectly, take
 2936 any action that results ~~resulting~~ in the insured paying having
 2937 ~~paid~~ from the insured's own funds an amount less than the 1
 2938 month's premium required by this subsection. This subsection
 2939 applies without regard to whether the premium is financed by a
 2940 premium finance company or is paid pursuant to a periodic
 2941 payment plan of an insurer or an insurance agent.

2942 (a) This subsection does not apply:

2943 1. If an insured or member of the insured's family is
 2944 renewing or replacing a policy or a binder for such policy
 2945 written by the same insurer or a member of the same insurer
 2946 group. ~~This subsection does not apply~~

2947 2. To an insurer that issues private passenger motor
 2948 vehicle coverage primarily to active duty or former military
 2949 personnel or their dependents. ~~This subsection does not apply~~

2950 3. If all policy payments are paid pursuant to a payroll
 2951 deduction plan, an automatic electronic funds transfer payment
 2952 plan from the policyholder, or a recurring credit card or debit
 2953 card agreement with the insurer.

2954 (b) This subsection and subsection (4) do not apply if:

2955 1. All policy payments to an insurer are paid pursuant to
 2956 an automatic electronic funds transfer payment plan from an
 2957 agent, a managing general agent, or a premium finance company
 2958 and if the policy includes, at a minimum, bodily injury

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2959 ~~liability coverage and personal injury protection pursuant to~~
 2960 ~~ss. 627.730-627.7405; motor vehicle property damage liability~~
 2961 ~~coverage pursuant to s. 627.7275; or and bodily injury liability~~
 2962 ~~in at least the amount of \$10,000 because of bodily injury to,~~
 2963 ~~or death of, one person in any one accident and in the amount of~~
 2964 ~~\$20,000 because of bodily injury to, or death of, two or more~~
 2965 ~~persons in any one accident. This subsection and subsection (4)~~
 2966 ~~do not apply if~~

2967 2. An insured has had a policy in effect for at least 6
 2968 months, the insured's agent is terminated by the insurer that
 2969 issued the policy, and the insured obtains coverage on the
 2970 policy's renewal date with a new company through the terminated
 2971 agent.

2972 Section 52. Section 627.7415, Florida Statutes, is amended
 2973 to read:

2974 627.7415 Commercial motor vehicles; additional liability
 2975 insurance coverage.—Beginning January 1, 2022, commercial motor
 2976 vehicles, as defined in s. 207.002 or s. 320.01, operated upon
 2977 the roads and highways of this state must ~~shall~~ be insured with
 2978 the following minimum levels of combined bodily liability
 2979 insurance and property damage liability insurance in addition to
 2980 any other insurance requirements:

2981 (1) Sixty Fifty thousand dollars per occurrence for a
 2982 commercial motor vehicle with a gross vehicle weight of 26,000
 2983 pounds or more, but less than 35,000 pounds.

2984 (2) One hundred twenty thousand dollars per occurrence for
 2985 a commercial motor vehicle with a gross vehicle weight of 35,000
 2986 pounds or more, but less than 44,000 pounds.

2987 (3) Three hundred thousand dollars per occurrence for a

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2988 commercial motor vehicle with a gross vehicle weight of 44,000
 2989 pounds or more.

2990 (4) All commercial motor vehicles subject to regulations of
 2991 the United States Department of Transportation, 49 C.F.R. part
 2992 387, subpart A, and as may be hereinafter amended, shall be
 2993 insured in an amount equivalent to the minimum levels of
 2994 financial responsibility as set forth in such regulations.

2995 A violation of this section is a noncriminal traffic infraction,
 2996 punishable as a nonmoving violation as provided in chapter 318.

2997 Section 53. Section 627.747, Florida Statutes, is created
 2998 to read:

3000 627.747 Named driver exclusion.—

3001 (1) A private passenger motor vehicle policy may exclude an
 3002 identified individual from the following coverages while the
 3003 identified individual is operating a motor vehicle, provided
 3004 that the identified individual is specifically excluded by name
 3005 on the declarations page or by endorsement and the policyholder
 3006 consents in writing to the exclusion:

3007 (a) Property damage liability coverage.

3008 (b) Bodily injury liability coverage.

3009 (c) Uninsured motorist coverage for any damages sustained
 3010 by the identified excluded individual, if the policyholder has
 3011 purchased such coverage.

3012 (d) Any coverage the policyholder is not required by law to
 3013 purchase.

3014 (2) A private passenger motor vehicle policy may not
 3015 exclude coverage when:

3016 (a) The identified excluded individual is injured while not

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3017 operating a motor vehicle;

3018 (b) The exclusion is unfairly discriminatory under the
 3019 Florida Insurance Code, as determined by the office; or

3020 (c) The exclusion is inconsistent with the underwriting
 3021 rules filed by the insurer pursuant to s. 627.0651(13)(a).

3022 Section 54. Paragraphs (b), (c), and (g) of subsection (7),
 3023 paragraphs (a) and (b) of subsection (8), and paragraph (b) of
 3024 subsection (16) of section 627.748, Florida Statutes, are
 3025 amended to read:

3026 627.748 Transportation network companies.—

3027 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
 3028 REQUIREMENTS.—

3029 (b) The following automobile insurance requirements apply
 3030 while a participating TNC driver is logged on to the digital
 3031 network but is not engaged in a prearranged ride:

3032 1. Automobile insurance that provides:

3033 a. A primary automobile liability coverage of at least
 3034 \$50,000 for death and bodily injury per person, \$100,000 for
 3035 death and bodily injury per incident, and \$25,000 for property
 3036 damage; and

3037 b. ~~Personal injury protection benefits that meet the~~
 3038 ~~minimum coverage amounts required under ss. 627.730-627.7405;~~
 3039 ~~and~~

3040 ~~e-~~ Uninsured and underinsured vehicle coverage as required
 3041 by s. 627.727.

3042 2. The coverage requirements of this paragraph may be
 3043 satisfied by any of the following:

3044 a. Automobile insurance maintained by the TNC driver or the
 3045 TNC vehicle owner;

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3046 b. Automobile insurance maintained by the TNC; or

3047 c. A combination of sub-subparagraphs a. and b.

3048 (c) The following automobile insurance requirements apply
 3049 while a TNC driver is engaged in a prearranged ride:

3050 1. Automobile insurance that provides:

3051 a. A primary automobile liability coverage of at least \$1
 3052 million for death, bodily injury, and property damage; and

3053 b. ~~Personal injury protection benefits that meet the~~
 3054 ~~minimum coverage amounts required of a limousine under ss.~~
 3055 ~~627.730-627.7405; and~~

3056 ~~e-~~ Uninsured and underinsured vehicle coverage as required
 3057 by s. 627.727.

3058 2. The coverage requirements of this paragraph may be
 3059 satisfied by any of the following:

3060 a. Automobile insurance maintained by the TNC driver or the
 3061 TNC vehicle owner;

3062 b. Automobile insurance maintained by the TNC; or

3063 c. A combination of sub-subparagraphs a. and b.

3064 (g) Insurance satisfying the requirements under this
 3065 subsection is deemed to satisfy the financial responsibility
 3066 requirement for a motor vehicle under chapter 324 ~~and the~~
 3067 ~~security required under s. 627.733~~ for any period when the TNC
 3068 driver is logged onto the digital network or engaged in a
 3069 prearranged ride.

3070 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
 3071 EXCLUSIONS.—

3072 (a) Before a TNC driver is allowed to accept a request for
 3073 a prearranged ride on the digital network, the TNC must disclose
 3074 in writing to the TNC driver:

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1. The insurance coverage, including the types of coverage and the limits for each coverage, which the TNC provides while the TNC driver uses a TNC vehicle in connection with the TNC's digital network.

2. That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the digital network or is engaged in a prearranged ride, depending on the terms of the TNC driver's own automobile insurance policy.

3. That the provision of rides for compensation which are not prearranged rides subjects the driver to the coverage requirements imposed under s. 324.032(1) and (2) and that failure to meet such coverage requirements subjects the TNC driver to penalties provided in s. 324.221, up to and including a misdemeanor of the second degree.

(b)1. An insurer that provides an automobile liability insurance policy under this part may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle while driving that vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. Exclusions imposed under this subsection are limited to coverage while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

a. Liability coverage for bodily injury and property damage;

b. Uninsured and underinsured motorist coverage;

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c. Medical payments coverage;

d. Comprehensive physical damage coverage; and

e. Collision physical damage coverage; ~~and~~

~~f. Personal injury protection.~~

2. The exclusions described in subparagraph 1. apply notwithstanding any requirement under chapter 324. These exclusions do not affect or diminish coverage otherwise available for permissive drivers or resident relatives under the personal automobile insurance policy of the TNC driver or owner of the TNC vehicle who are not occupying the TNC vehicle at the time of loss. This section does not require that a personal automobile insurance policy provide coverage while the TNC driver is logged on to a digital network, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport riders for compensation.

3. This section must not be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride.

4. This section does not preclude an insurer from providing primary or excess coverage for the TNC driver's vehicle by contract or endorsement.

(16) LUXURY GROUND TRANSPORTATION NETWORK COMPANIES.—

(b) An entity may elect, upon written notification to the department, to be regulated as a luxury ground TNC. A luxury ground TNC must:

1. Comply with all of the requirements of this section applicable to a TNC, including subsection (17), which do not

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conflict with subparagraph 2. or which do not prohibit the company from connecting riders to drivers who operate for-hire vehicles as defined in s. 320.01(15), including limousines and luxury sedans and excluding taxicabs.

2. Maintain insurance coverage as required by subsection (7). However, if a prospective luxury ground TNC satisfies minimum financial responsibility through compliance with s. 324.032(3) ~~s. 324.032(2)~~ by using self-insurance when it gives the department written notification of its election to be regulated as a luxury ground TNC, the luxury ground TNC may use self-insurance to meet the insurance requirements of subsection (7), so long as such self-insurance complies with s. 324.032(3) ~~s. 324.032(2)~~ and provides the limits of liability required by subsection (7).

Section 55. Paragraph (a) of subsection (2) of section 627.749, Florida Statutes, is amended to read:

627.749 Autonomous vehicles; insurance requirements.—

(2) INSURANCE REQUIREMENTS.—

(a) A fully autonomous vehicle with the automated driving system engaged while logged on to an on-demand autonomous vehicle network or engaged in a prearranged ride must be covered by a policy of automobile insurance which provides:

1. Primary liability coverage of at least \$1 million for death, bodily injury, and property damage.

2. ~~Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405.~~

~~3.~~ Uninsured and underinsured vehicle coverage as required by s. 627.727.

Section 56. Section 627.8405, Florida Statutes, is amended

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to read:

627.8405 Prohibited acts; financing companies.—~~A~~ ~~No~~ premium finance company ~~shall~~, in a premium finance agreement or other agreement, may not finance the cost of or otherwise provide for the collection or remittance of dues, assessments, fees, or other periodic payments of money for the cost of:

(1) A membership in an automobile club. The term "automobile club" means a legal entity that ~~which~~, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use, or maintenance of a motor vehicle; however, the term ~~this definition of "automobile club"~~ does not include persons, associations, or corporations ~~which are~~ organized and operated solely for the purpose of conducting, sponsoring, or sanctioning motor vehicle races, exhibitions, or contests upon racetracks, or upon racecourses established and marked as such for the duration of such particular events. As used in this subsection, the term ~~words~~ "motor vehicle" has ~~used herein have~~ the same meaning as ~~defined~~ in chapter 320.

(2) An accidental death and dismemberment policy sold in combination with a policy providing only bodily injury liability coverage ~~personal injury protection~~ and property damage liability coverage ~~only policy~~.

(3) Any product not regulated under ~~the provisions of~~ this insurance code.

This section also applies to premium financing by any insurance agent or insurance company under part XVI. The commission shall

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3191 adopt rules to assure disclosure, at the time of sale, of
 3192 coverages financed with ~~personal injury protection~~ and shall
 3193 prescribe the form of such disclosure.

3194 Section 57. Subsection (1) of section 627.915, Florida
 3195 Statutes, is amended to read:

3196 627.915 Insurer experience reporting.—

3197 (1) Each insurer transacting private passenger automobile
 3198 insurance in this state shall report certain information
 3199 annually to the office. The information will be due on or before
 3200 July 1 of each year. The information must ~~shall~~ be divided into
 3201 the following categories: bodily injury liability; property
 3202 damage liability; uninsured motorist; ~~personal injury protection~~
 3203 ~~benefits~~; medical payments; and comprehensive and collision. The
 3204 information given must ~~shall~~ be on direct insurance writings in
 3205 the state alone and ~~shall~~ represent total limits data. The
 3206 information set forth in paragraphs (a)-(f) is applicable to
 3207 voluntary private passenger and Joint Underwriting Association
 3208 private passenger writings and must ~~shall~~ be reported for each
 3209 of the latest 3 calendar-accident years, with an evaluation date
 3210 of March 31 of the current year. The information set forth in
 3211 paragraphs (g)-(j) is applicable to voluntary private passenger
 3212 writings and must ~~shall~~ be reported on a calendar-accident year
 3213 basis ultimately seven times at seven different stages of
 3214 development.

3215 (a) Premiums earned for the latest 3 calendar-accident
 3216 years.

3217 (b) Loss development factors and the historic development
 3218 of those factors.

3219 (c) Policyholder dividends incurred.

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3220 (d) Expenses for other acquisition and general expense.

3221 (e) Expenses for agents' commissions and taxes, licenses,
 3222 and fees.

3223 (f) Profit and contingency factors as utilized in the
 3224 insurer's automobile rate filings for the applicable years.

3225 (g) Losses paid.

3226 (h) Losses unpaid.

3227 (i) Loss adjustment expenses paid.

3228 (j) Loss adjustment expenses unpaid.

3229 Section 58. Subsections (2) and (3) of section 628.909,
 3230 Florida Statutes, are amended to read:

3231 628.909 Applicability of other laws.—

3232 (2) The following provisions of the Florida Insurance Code
 3233 apply to captive insurance companies that ~~who~~ are not industrial
 3234 insured captive insurance companies to the extent that such
 3235 provisions are not inconsistent with this part:

3236 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
 3237 624.40851, 624.4095, 624.411, 624.425, and 624.426.

3238 (b) Chapter 625, part II.

3239 (c) Chapter 626, part IX.

3240 (d) ~~Sections 627.730-627.7405, when no-fault coverage is~~
 3241 ~~provided.~~

3242 ~~(e)~~ Chapter 628.

3243 (3) The following provisions of the Florida Insurance Code
 3244 ~~shall~~ apply to industrial insured captive insurance companies to
 3245 the extent that such provisions are not inconsistent with this
 3246 part:

3247 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
 3248 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

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(b) Chapter 625, part II, if the industrial insured captive insurance company is incorporated in this state.

(c) Chapter 626, part IX.

(d) ~~Sections 627.730-627.7405 when no-fault coverage is provided.~~

~~(e)~~ Chapter 628, except for ss. 628.341, 628.351, and 628.6018.

Section 59. Subsections (2), (6), and (7) of section 705.184, Florida Statutes, are amended to read:

705.184 Derelict or abandoned motor vehicles on the premises of public-use airports.—

(2) The airport director or the director's designee shall contact the Department of Highway Safety and Motor Vehicles to notify that department that the airport has possession of the abandoned or derelict motor vehicle and to determine the name and address of the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and any person who has filed a lien on the motor vehicle. Within 7 business days after receipt of the information, the director or the director's designee shall send notice by certified mail, return receipt requested, to the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all persons of record claiming a lien against the motor vehicle. The notice must ~~shall~~ state the fact of possession of the motor vehicle, that charges for reasonable towing, storage, and parking fees, if any, have accrued and the amount thereof, that a lien as provided in subsection (6) will be claimed, that the lien is subject to enforcement pursuant to law, that the owner

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or lienholder, if any, has the right to a hearing as set forth in subsection (4), and that any motor vehicle which, at the end of 30 calendar days after receipt of the notice, has not been removed from the airport upon payment in full of all accrued charges for reasonable towing, storage, and parking fees, if any, may be disposed of as provided in s. 705.182(2)(a), (b), (d), or (e), including, but not limited to, the motor vehicle being sold free of all prior liens after 35 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are more than 5 years of age or after 50 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are 5 years of age or less.

(6) The airport pursuant to this section or, if used, a licensed independent wrecker company pursuant to s. 713.78 shall have a lien on an abandoned or derelict motor vehicle for all reasonable towing, storage, and accrued parking fees, if any, except that no storage fee may ~~shall~~ be charged if the motor vehicle is stored less than 6 hours. As a prerequisite to perfecting a lien under this section, the airport director or the director's designee must serve a notice in accordance with subsection (2) on the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all persons of record claiming a lien against the motor vehicle. If attempts to notify the owner, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ or lienholders are not successful, the requirement of notice by mail shall be considered met. Serving of the notice does not dispense with recording the claim of lien.

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3307 (7) (a) For the purpose of perfecting its lien under this
 3308 section, the airport shall record a claim of lien which states
 3309 ~~shall state~~:
 3310 1. The name and address of the airport.
 3311 2. The name of the owner of the motor vehicle, the
 3312 insurance company insuring the motor vehicle, ~~notwithstanding~~
 3313 ~~the provisions of s. 627.736,~~ and all persons of record claiming
 3314 a lien against the motor vehicle.
 3315 3. The costs incurred from reasonable towing, storage, and
 3316 parking fees, if any.
 3317 4. A description of the motor vehicle sufficient for
 3318 identification.
 3319 (b) The claim of lien must ~~shall~~ be signed and sworn to or
 3320 affirmed by the airport director or the director's designee.
 3321 (c) The claim of lien is ~~shall be~~ sufficient if it is in
 3322 substantially the following form:
 3323
 3324 CLAIM OF LIEN
 3325 State of
 3326 County of
 3327 Before me, the undersigned notary public, personally appeared
 3328, who was duly sworn and says that he/she is the
 3329 of, whose address is.....; and that the
 3330 following described motor vehicle:
 3331 ...(Description of motor vehicle)...
 3332 owned by, whose address is, has accrued
 3333 \$..... in fees for a reasonable tow, for storage, and for
 3334 parking, if applicable; that the lienor served its notice to the
 3335 owner, the insurance company insuring the motor vehicle

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3336 ~~notwithstanding the provisions of s. 627.736, Florida Statutes,~~
 3337 and all persons of record claiming a lien against the motor
 3338 vehicle on, ...(year)...., by.....
 3339 ...(Signature)...
 3340 Sworn to (or affirmed) and subscribed before me this day of
 3341, ...(year)...., by ...(name of person making statement)....
 3342 ...(Signature of Notary Public).....(Print, Type, or Stamp
 3343 Commissioned name of Notary Public)...
 3344 Personally Known....OR Produced....as identification.
 3345
 3346 However, the negligent inclusion or omission of any information
 3347 in this claim of lien which does not prejudice the owner does
 3348 not constitute a default that operates to defeat an otherwise
 3349 valid lien.
 3350 (d) The claim of lien must ~~shall~~ be served on the owner of
 3351 the motor vehicle, the insurance company insuring the motor
 3352 vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all
 3353 persons of record claiming a lien against the motor vehicle. If
 3354 attempts to notify the owner, the insurance company insuring the
 3355 motor vehicle ~~notwithstanding the provisions of s. 627.736,~~ or
 3356 lienholders are not successful, the requirement of notice by
 3357 mail shall be considered met. The claim of lien must ~~shall~~ be so
 3358 served before recordation.
 3359 (e) The claim of lien must ~~shall~~ be recorded with the clerk
 3360 of court in the county where the airport is located. The
 3361 recording of the claim of lien shall be constructive notice to
 3362 all persons of the contents and effect of such claim. The lien
 3363 attaches ~~shall attach~~ at the time of recordation and takes ~~shall~~
 3364 ~~take~~ priority as of that time.

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3365 Section 60. Subsection (4) of section 713.78, Florida
 3366 Statutes, is amended to read:
 3367 713.78 Liens for recovering, towing, or storing vehicles
 3368 and vessels.—
 3369 (4) (a) A person regularly engaged in the business of
 3370 recovering, towing, or storing vehicles or vessels who comes
 3371 into possession of a vehicle or vessel pursuant to subsection
 3372 (2), and who claims a lien for recovery, towing, or storage
 3373 services, shall give notice, by certified mail, to the
 3374 registered owner, the insurance company insuring the vehicle
 3375 ~~notwithstanding s. 627.736~~, and all persons claiming a lien
 3376 thereon, as disclosed by the records in the Department of
 3377 Highway Safety and Motor Vehicles or as disclosed by the records
 3378 of any corresponding agency in any other state in which the
 3379 vehicle is identified through a records check of the National
 3380 Motor Vehicle Title Information System or an equivalent
 3381 commercially available system as being titled or registered.
 3382 (b) Whenever a law enforcement agency authorizes the
 3383 removal of a vehicle or vessel or whenever a towing service,
 3384 garage, repair shop, or automotive service, storage, or parking
 3385 place notifies the law enforcement agency of possession of a
 3386 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
 3387 enforcement agency of the jurisdiction where the vehicle or
 3388 vessel is stored shall contact the Department of Highway Safety
 3389 and Motor Vehicles, or the appropriate agency of the state of
 3390 registration, if known, within 24 hours through the medium of
 3391 electronic communications, giving the full description of the
 3392 vehicle or vessel. Upon receipt of the full description of the
 3393 vehicle or vessel, the department shall search its files to

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3394 determine the owner's name, the insurance company insuring the
 3395 vehicle or vessel, and whether any person has filed a lien upon
 3396 the vehicle or vessel as provided in s. 319.27(2) and (3) and
 3397 notify the applicable law enforcement agency within 72 hours.
 3398 The person in charge of the towing service, garage, repair shop,
 3399 or automotive service, storage, or parking place shall obtain
 3400 such information from the applicable law enforcement agency
 3401 within 5 days after the date of storage and shall give notice
 3402 pursuant to paragraph (a). The department may release the
 3403 insurance company information to the requestor ~~notwithstanding~~
 3404 ~~s. 627.736~~.
 3405 (c) The notice of lien must be sent by certified mail to
 3406 the registered owner, the insurance company insuring the vehicle
 3407 ~~notwithstanding s. 627.736~~, and all other persons claiming a
 3408 lien thereon within 7 business days, excluding Saturday and
 3409 Sunday, after the date of storage of the vehicle or vessel.
 3410 However, in no event shall the notice of lien be sent less than
 3411 30 days before the sale of the vehicle or vessel. The notice
 3412 must state:
 3413 1. If the claim of lien is for a vehicle, the last 8 digits
 3414 of the vehicle identification number of the vehicle subject to
 3415 the lien, or, if the claim of lien is for a vessel, the hull
 3416 identification number of the vessel subject to the lien, clearly
 3417 printed in the delivery address box and on the outside of the
 3418 envelope sent to the registered owner and all other persons
 3419 claiming an interest therein or lien thereon.
 3420 2. The name, physical address, and telephone number of the
 3421 lienor, and the entity name, as registered with the Division of
 3422 Corporations, of the business where the towing and storage

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occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in subsection (2) is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(d) The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of the vehicle or vessel.

(e) If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 business days, excluding Saturday and Sunday, after the initial tow or storage, notify the public agency of

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jurisdiction where the vehicle or vessel is stored in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. For purposes of this paragraph and subsection (9), the term "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and for title:

1. A check of the department's database for the owner and any lienholder.

2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.

3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.

6. If there is no address of the owner on the impound

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report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.

7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

8. A check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

9. A check of the vehicle for a vehicle identification number.

10. A check of the vessel for a vessel registration number.

11. A check of the vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

Section 61. Paragraph (a) of subsection (1), paragraph (c) of subsection (7), paragraphs (a), (b), and (c) of subsection (8), and subsections (9) and (10) of section 817.234, Florida Statutes, are amended to read:

817.234 False and fraudulent insurance claims.—

(1)(a) A person commits insurance fraud punishable as provided in subsection (11) if that person, with the intent to injure, defraud, or deceive any insurer:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or a health

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maintenance organization subscriber or provider contract, knowing that such statement contains ~~any~~ false, incomplete, or misleading information concerning any fact or thing material to such claim;

2. Prepares or makes any written or oral statement that is intended to be presented to an ~~any~~ insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy or a health maintenance organization subscriber or provider contract, knowing that such statement contains ~~any~~ false, incomplete, or misleading information concerning any fact or thing material to such claim;

3.a. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to an ~~any~~ insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, ~~any~~ false, incomplete, or misleading information or a written or oral statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a health maintenance organization subscriber or provider contract; or

b. Knowingly conceals information concerning any fact material to such application; or

4. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer a claim for payment or other benefit under medical payments coverage in a motor vehicle ~~a personal injury protection~~ insurance policy if the person knows that the payee knowingly submitted a false, misleading, or fraudulent application or other document when applying for licensure as a

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health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400.

(7)

~~(c) An insurer, or any person acting at the direction of or on behalf of an insurer, may not change an opinion in a mental or physical report prepared under s. 627.736(7) or direct the physician preparing the report to change such opinion; however, this provision does not preclude the insurer from calling to the attention of the physician errors of fact in the report based upon information in the claim file. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(8) (a) It is unlawful for any person intending to defraud any other person to solicit or cause to be solicited any business from a person involved in a motor vehicle accident for the purpose of making, adjusting, or settling motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection benefits required by s. 627.736~~. Any person who violates the provisions of this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who is convicted of a violation of this subsection shall be sentenced to a minimum term of imprisonment of 2 years.

(b) A person may not solicit or cause to be solicited any business from a person involved in a motor vehicle accident by any means of communication other than advertising directed to the public for the purpose of making motor vehicle tort claims

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or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection benefits required by s. 627.736~~, within 60 days after the occurrence of the motor vehicle accident. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A lawyer, health care practitioner as defined in s. 456.001, or owner or medical director of a clinic required to be licensed pursuant to s. 400.9905 may not, at any time after 60 days have elapsed from the occurrence of a motor vehicle accident, solicit or cause to be solicited any business from a person involved in a motor vehicle accident by means of in person or telephone contact at the person's residence, for the purpose of making motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection benefits required by s. 627.736~~. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) A person may not organize, plan, or knowingly participate in an intentional motor vehicle crash or a scheme to create documentation of a motor vehicle crash that did not occur for the purpose of making motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection benefits as required by s. 627.736~~. Any person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who is convicted of a violation of this subsection shall be sentenced to a minimum

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term of imprisonment of 2 years.

(10) A licensed health care practitioner who is found guilty of insurance fraud under this section for an act relating to a ~~motor vehicle personal injury protection~~ insurance policy loses his or her license to practice for 5 years and may not receive reimbursement under medical payments coverage in a motor vehicle insurance policy ~~for personal injury protection benefits~~ for 10 years.

Section 62. For the 2021-2022 fiscal year, the sum of \$83,651 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for the purpose of implementing this act.

Section 63. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 20, 2021

I respectfully request that **Senate Bill #54**, relating to Motor Vehicle Insurance, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Danny", written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 20

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/202

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

969472

Amendment Barcode (if applicable)

Topic Motor Vehicle Insurance

Name Brandon Cathey

Job Title President

Address 1234 East 5th Avenue

Street

Tampa

City

FL

State

33605

Zip

Phone 813-273-0017

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Taxpayers Against Insurance Bad Faith (TAIBF)

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.

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

54

Bill Number (if applicable)

969472

Amendment Barcode (if applicable)

Topic Motor Vehicle Insurance

Name Rick Parker

Job Title _____

Address 3600 Maclay Blvd

Street

Phone (850) 894-4111

Tallahassee

FL

32312

Email jparker@butler.legal

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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.

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2022

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

969472

Amendment Barcode (if applicable)

Topic Motor Vehicle Insurance

Name Greg Yaffa

Job Title Attorney

Address 2401 PGA Boulevard, Suite 140

Phone 561-625-3598

Street

Palm Beach Gardens

FL

33410

Email gyaffa@dcwlaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Victims of motor vehicle negligence

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.

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

969472

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Eric Romano

Job Title President

Address 801 Spencer Drive

Phone 561-533-6700

Street

West Palm Beach

FL

33409

Email eric@romanolawgroup.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Association

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.

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

969472

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Curry Pajcic

Job Title Owner

Address One Independent Drive, Suite 1900

Phone 904-358-8881

Street

Jacksonville

FL

32202

Email curry@pajcic.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Insurance Consumers

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/21

S/CS/SB 54

Meeting Date

Bill Number (if applicable)

Topic

Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name

David Sendar

Job Title

Retired Citizen / Senator of Florida

Address

Street

66 Wintersgreen Dr

Phone

352 805 6597

City

State

Zip

Fruitland Park Fl. 34731

Email

gottheadave1955@gmail.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Self & my wife

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 11

Meeting Date

54

Bill Number (if applicable)

Topic BI / PIP Repeal

Amendment Barcode (if applicable)

Name Toni Large

Job Title _____

Address 1100 Brookwood Dr

Street

Phone (850) 556-1461

Tallahassee, FL 32308

City

State

Zip

Email toni@largestrategies.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida College of Emergency Physicians

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.

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/202

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Greg Yaffa

Job Title Attorney

Address 2401 PGA Boulevard, Suite 140

Phone 561-625-3598

Street

Palm Beach Gardens

FL

33410

Email gyaffa@dcwlaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Victims of motor vehicle negligence

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)

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

54

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Doug Bell

Job Title

Address 119 S. Monroe St.

Phone 850-205-9000

Street

Tallahassee

Email doug.bell@mhdfirm.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

54

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Rick Parker

Job Title _____

Address 3600 Maclay Blvd

Phone (850) 894-4111

Street

Tallahassee

FL

32312

Email jparker@butler.legal

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

03/11/2021

Meeting Date

54

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____
Street

Phone _____

City

State

Zip

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/202

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Brandon Cathey

Job Title President

Address 1234 East 5th Avenue

Phone 813-273-0017

Street

Tampa

FL

33605

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Taxpayers Against Insurance Bad Faith (TAIBF)

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/11/21

Meeting Date

54

Bill Number (if applicable)

Topic

Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name

MICHAEL CARLSON

Job Title

PRESIDENT

Address

215 S. Monroe St. Ste. 835

Phone

544-9516

Street

Tell. FL 32301

Email

Michael.carlson@Piff.com

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Personal Insurance Federation of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

CS/CS/SB 54

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Eric Romano

Job Title President

Address 801 Spencer Drive

Phone 561-533-6700

Street

West Palm Beach

FL

33409

Email eric@romanolawgroup.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Association

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 54

Bill Number (if applicable)

914868

Amendment Barcode (if applicable)

Topic Motor Vehicle Insurance

Name Timothy J. Meenan

Job Title Lobbyist

Address PO Box 11247

Street

Tallahassee

City

FL

State

32302

Zip

Phone 8504254000

Email tim@meenanolawfirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NAIFA-FL

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.

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

S-001 (10/14/14)

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 Rules

BILL: CS/CS/SB 56

INTRODUCER: Rules Committee; Community Affairs Committee; and Senator Rodriguez

SUBJECT: Community Association Assessment Notices

DATE: March 11, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	Imhof	RI	Favorable
2. Paglialonga	Ryon	CA	Fav/CS
3. Oxamendi	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 56 provides additional notice requirements for condominium, cooperative, and homeowners' associations when collecting assessments.

For community associations that send out invoices for assessments or statements of the account to unit or parcel owners, the bill revises how an association may deliver and change its method of delivery:

- Requires any invoice for assessments or statement of account to be sent by first-class mail or electronic transmission to the owner's email address maintained in the association's official records.
- Requires the association, before changing the method of delivery for any invoice for assessment or statement of account, to deliver the written notice of such change to the owner.
- Requires the notice to be sent by first-class mail and delivered to the owner's address maintained in the association's official records at least 30 days before the delivery method is changed.
- Requires the owner to affirmatively acknowledge his or her understanding that the association has changed its method of delivering the invoice for assessment or statement of account to delivery by electronic transmission.
- Requires the owner's affirmative acknowledgment to be maintained by the association as an official record, but such record is not accessible to other owners as an official record.

The bill provides that community associations may not require the payment of attorney fees related to past due assessments without first delivering a written notice of late assessment to the unit or parcel owners. The written notice must specify the amount owed and allow the owner to pay past due assessments without paying additional attorney fees. The bill provides the form of this written notice. The bill authorizes the use of a sworn affidavit as the method for associations to provide a rebuttable presumption that the association complied with these notice and delivery requirements for the notice of late assessment.

The bill also increases the period of time a condominium or cooperative unit owner has to pay a monetary obligation after receiving an association's Notice of Intent to Record a Claim of Lien. This period is increased from 30 days to 45 days. The bill revises the timeframe for condominium and cooperative unit owners to conform to current law's 45-day payment period to parcel owners in a homeowners' association.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., for associations that are still under developer control.¹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.² After control of the condominium is transferred from the developer to the unit owners, the division has jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to association records.³ For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.⁴

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers, associations, and association board members.⁵

If the division has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the division may institute enforcement proceedings in its name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and take affirmative action to carry out the applicable chapter's purposes. Also, Florida law authorizes the division to petition a

¹ Sections 718.501(1) and 719.501(1), F.S.

² *Id.*

³ Section 718.501(1), F.S.

⁴ Section 719.501(1), F.S.

⁵ Sections 718.501(1) and 719.501(1), F.S.

court to appoint a receiver or conservator to implement a court order or enforce an injunction or temporary restraining order. The division may also impose civil penalties.⁶

Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, F.S., the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 F.S., are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

For homeowners' associations, the division's authority is limited to the arbitration of recall election disputes.⁷

Chapters 718, 719, and 720, F.S.

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners' associations, provide for the governance of these community associations. The chapters delineate requirements for notices of meetings,⁸ recordkeeping requirements, including which records are accessible to the association members,⁹ and financial reporting.¹⁰ Timeshare condominiums are generally governed by ch. 721, F.S., the "Florida Vacation Plan and Timesharing Act."

Condominium

A condominium is a "form of ownership of real property created under ch. 718, F.S."¹¹ Condominium unit owners are in a unique legal position because they are exclusive owners of

⁶ *Id.*

⁷ See s. 720.306(9)(c), F.S.

⁸ See ss. 718.112(2), 719.106(2)(c), and 720.303(2), F.S., for condominium, cooperative, and homeowners' associations, respectively.

⁹ See ss. 718.111(12), 719.104(2), and 720.303(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.

¹⁰ See ss. 718.111(13), 719.104(4), and 720.303(7), F.S., for condominium, cooperative, and homeowners' associations, respectively.

¹¹ Section 718.103(11), F.S.

property within a community, joint owners of community common elements, and members of the condominium association.¹² For unit owners, membership in the association is an unalienable right and required condition of unit ownership.¹³ A condominium is created by recording a declaration of the condominium in the public records of the county where the condominium is located.¹⁴ A declaration is similar to a constitution in that it:

[S]trictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.¹⁵

Condominium associations are creatures of statute and private contracts. Under the Florida Condominium Act, associations must be incorporated as a Florida for-profit corporation or a Florida not-for-profit corporation.¹⁶ Although unit owners are considered shareholders of this corporate entity, like other corporations, a unit owner's role as a shareholder does not implicitly provide them any authority to act on behalf of the association.

A condominium association is administered by a board of directors referred to as a "board of administration."¹⁷ The board of administration comprises individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements, owned in undivided shares by unit owners.¹⁸ In litigation, an association's board of administration is in charge of directing attorney actions.¹⁹

Cooperative Associations

Section 719.103(12), F.S., defines a "cooperative" to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely because of

¹² See s. 718.103, F.S.

¹³ *Id.*

¹⁴ Section 718.104(2), F.S.

¹⁵ *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

¹⁶ Section 718.303(3), F.S.

¹⁷ Section 718.103(4), F.S.

¹⁸ Section 718.103(2), F.S.

¹⁹ Section 718.103(30), F.S.

ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.²⁰ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.²¹

Homeowners' Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida and procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing such associations' ability to perform their functions.²²

A "homeowners' association" is defined as a "Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel."²³ Unless expressly stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.²⁴

Homeowners' associations are administered by a board of directors whose members are elected.²⁵ The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the association's governing documents, which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.²⁶ The officers and members of a homeowners' association have a fiduciary relationship with the members who the association serves.²⁷

Homeowners associations mainly differ from condominiums in the type of property individually owned. Condominium unit owners essentially own airspace within a building, whereas homeowner association members own a parcel of real property or land.

Collection of Assessment Debts

Members of community associations may receive a document, i.e., a statement of the account, designating the due date and amount of each assessment, the amount paid on the account, and the owner's balance owed to the association. Current law does not specify how the statement of account must be transmitted to members of the association, e.g., by regular mail or electronic transmission (email). If an association alters its method of delivering the statement of account,

²⁰ See *Walters v. Agency for Health Care Administration*, 2019 WL 6691513, 44 Fla. L. Weekly D2898 (Fla. 3rd DCA 2019)

²¹ See ss. 719.106(1)(g) and 719.107, F.S.

²² See s. 720.302(1), F.S.

²³ Section 720.301(9), F.S.

²⁴ Section 720.302(5), F.S.

²⁵ See ss. 720.303 and 720.307, F.S.

²⁶ See ss. 720.301 and 720.303, F.S.

²⁷ Section 720.303(1), F.S.

current law does not provide a process to provide the unit or parcel owner notice that the method of delivering the statement of account has changed.

Community associations may file a lien on a unit or parcel for unpaid assessments, also known as maintenance amounts.²⁸ Before filing a claim of lien, the association must give the unit or parcel owner a Notice of Intent to Record a Claim of Lien that provides the unit or parcel owner with an opportunity to remit the past due amount before the association files a claim of a lien.²⁹ In a homeowners' association, the notice provides the parcel owner 45 days after receipt of the notice to pay the past due amount. Condominium and cooperative unit owners are provided 30 days after receipt of the notice to pay the past due amount. The past due amount includes the maintenance amount, any applicable late fee, interest, certified mail charges, and other costs, possibly including attorney fees.³⁰

Official Records – Condominium, Cooperative, and Homeowners' Associations

Florida law specifies the official records that condominium, cooperative, and homeowners' associations must maintain.³¹ Generally, the official records must be maintained in Florida for at least seven years.³² Certain records must be accessible to the members of an association.³³ Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.³⁴ Community associations must maintain a copy of each unit or parcel owner's statement of the account, designating each assessment's due date and amount, the amount paid on the account, and the balance due.³⁵

III. Effect of Proposed Changes:

The bill provides additional notice requirements for condominium, cooperative, and homeowners' associations relating to the collection of assessments.

For community associations that send out invoices for assessments or statements of the account to unit or parcel owners, the bill revises how an association may deliver and change its methods of delivery:

- Requires any invoice for assessments or statement of account to be sent by first-class mail, or electronic transmission to the owner's email address in the association's official records.

²⁸ See ss. 718.116(5)(a), 719.108(4), and 720.3085(1), F.S., for condominium, cooperative, and homeowners' associations, respectively.

²⁹ See ss. 718.121(4), 719.108(4), and 720.3085(4), F.S., for condominium, cooperative, and homeowners' associations, respectively.

³⁰ *Id.*

³¹ See ss. 718.111(12), 719.104(2), 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.

³² See ss. 718.111(12)(b), 719.104(2)(b), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.

³³ See ss. 718.111(12)(a), 719.104(2)(a), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.

³⁴ See ss. 718.111(12)(c), 719.104(2)(c), and 720.303(5), F.S., relating to condominium, cooperative, and homeowners' associations, respectively.

³⁵ See ss. 718.111(12)(a)11.b., 719.104(2)(a)9.b., and 720.303(4)(j)2., F.S., relating to condominium, cooperative, and homeowners' associations, respectively.

- Requires the association, before changing the method of delivery for any invoice for assessments or statement of account, to deliver the written notice of such change to the owner.
- Requires the notice to be sent by first-class mail and delivered to the owner's address maintained in the association's official records at least 30 days before the delivery method is changed.
- Requires the owner to affirmatively acknowledge his or her understanding that the association has changed its method of delivering the invoice for assessments or statement of account to delivery by electronic transmission.
- Requires the owner's affirmative acknowledgment to be maintained by the association as an official record, but such record is not accessible to other unit or parcel owners as an official record.

The bill provides that community associations may not require the payment of attorney fees related to past due assessments without first delivering a written notice of late assessment to the unit or parcel owners, which specifies the amount owed and provides an opportunity to pay past due assessments without payment of additional attorney fees. It provides the form of the notice. The bill authorizes the use of a sworn affidavit as the method for associations to provide a rebuttable presumption that the association complied with these notice and delivery requirements for the notice of late assessment.

The bill also increases the period of time a condominium or cooperative unit owner has to pay a monetary obligation from 30 days to 45 days after receiving an association's Notice of Intent to Record a Claim of Lien. If the obligation is paid within this timeframe, the unit or parcel owner will avoid the associations' filing of a claim of lien. The bill revises the timeframe for condominium and cooperative unit owners to conform to current law's 45-day payment period for parcel owners in a homeowners' association.³⁶

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁶ See s. 720.3085(4), F.S.

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 a nominal fiscal impact on community associations. The additional notice and delivery requirements, restrictions on attorney fees, and increased notice period for a claim of lien may provide a net positive fiscal impact for community residents and a net negative fiscal impact for community associations.

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: 718.111, 718.116, 718.121, 719.104, 719.108, 720.303, and 720.3085.

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 Rules on March 11, 2021:

The committee substitute amends ss. 719.108(3)(c) and 720.3085(3)(d), F.S., to replace the term “subsection” with the term “paragraph.”

CS by Community Affairs on March 3, 2021:

The committee substitute makes the following revisions for all three types of community associations addressed by the bill (i.e., condominium, cooperative, and homeowners’):

- Adds "invoice for assessments" to clarify and further capture the types of documents sent by associations to property owners notifying them of a monetary obligation.
- Makes the requirements related to an association's delivery of a property owner's statement of account or invoice for assessment applicable only to associations that send out statements of account or invoices for assessment.
- Authorizes the use of an affidavit as the method for associations to provide a rebuttable presumption that the association complied with the bill's notice and delivery requirements for the notice of late assessment.

B. Amendments:

None.

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



743690

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2021	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Delete line 629
and insert:
notice in accordance with this paragraph is established if a



610942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2021	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Delete line 947
and insert:
notice in accordance with this paragraph is established if a

By the Committee on Community Affairs; and Senator Rodriguez

578-02371-21

202156c1

1 A bill to be entitled
 2 An act relating to community association assessment
 3 notices; amending s. 718.111, F.S.; requiring
 4 condominium associations to maintain specified
 5 affirmative acknowledgments as official records of the
 6 association; specifying that such acknowledgments are
 7 not accessible to unit owners; amending s. 718.116,
 8 F.S.; revising timeframes for foreclosure judgments;
 9 conforming provisions to changes made by the act;
 10 amending s. 718.121, F.S.; requiring condominium
 11 associations to deliver certain invoices for
 12 assessments or statements of account to unit owners in
 13 a specified manner; requiring condominium associations
 14 to give notice to unit owners before changing the
 15 method of delivery for the invoices for assessments or
 16 statements of account; providing requirements for the
 17 notice; requiring unit owners to affirmatively
 18 acknowledge the changes in delivery methods;
 19 prohibiting condominium associations from requiring
 20 the payment of attorney fees relating to past due
 21 assessments without first providing a specified notice
 22 to unit owners; providing requirements for the notice;
 23 establishing a rebuttable presumption relating to
 24 mailing the notice if a certain requirement is met;
 25 revising the timeframe for condominium associations to
 26 file liens against condominium units; conforming
 27 provisions to changes made by the act; amending s.
 28 719.104, F.S.; requiring cooperative associations to
 29 maintain specified affirmative acknowledgments as

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30 official records of the association; specifying that
 31 such acknowledgments are not accessible to unit
 32 owners; amending s. 719.108, F.S.; requiring
 33 cooperative associations to deliver certain invoices
 34 for assessments or statements of account to unit
 35 owners in a specified manner; requiring cooperative
 36 associations to give notice to unit owners before
 37 changing the method of delivery for the invoices for
 38 assessments or statements of account; providing
 39 requirements for the notice; requiring unit owners to
 40 affirmatively acknowledge the changes in delivery
 41 methods; prohibiting cooperative associations from
 42 requiring the payment of attorney fees relating to
 43 past due assessments without first providing specified
 44 notice to unit owners; providing requirements for the
 45 notice; establishing a rebuttable presumption relating
 46 to mailing the notice if a certain requirement is met;
 47 revising the timeframe for cooperative associations to
 48 file liens against cooperative parcels; conforming
 49 provisions to changes made by the act; amending s.
 50 720.303, F.S.; requiring homeowners' associations to
 51 maintain specified affirmative acknowledgments as
 52 official records of the association; specifying that
 53 such acknowledgments are not accessible to parcel
 54 owners; amending s. 720.3085, F.S.; requiring
 55 homeowners' associations to deliver certain invoices
 56 for assessments or statements of account to parcel
 57 owners in a specified manner; requiring homeowners'
 58 associations to give notice to parcel owners before

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changing the method of delivery for the invoices for assessments or statements of account; providing requirements for the notice; requiring parcel owners to affirmatively acknowledge the changes in delivery methods; prohibiting homeowners' associations from requiring the payment of attorney fees relating to past due assessments without first providing specified notice to parcel owners; providing requirements for the notice; establishing a rebuttable presumption relating to mailing the notice if a certain requirement is met; providing an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (12) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the

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association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e.

However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails

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to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

~~15. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.~~

~~16.~~ A copy of the inspection report as described in s.

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718.301(4)(p).

~~16.17.~~ Bids for materials, equipment, or services.

17. All affirmative acknowledgments made pursuant to s.

718.121(4)(c).

18. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit has a right to inspect and copy the association's bylaws and rules. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

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2. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d).

3. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association

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attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to parcel owners a directory containing the name,

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parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

Section 2. Paragraph (b) of subsection (6) of section 718.116, Florida Statutes, is amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(6)

(b) No foreclosure judgment may be entered until at least 45 ~~30~~ days after the association gives written notice to the unit owner of its intention to foreclose its lien to collect the unpaid assessments. The notice must be in substantially the following form:

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DELINQUENT ASSESSMENT

This letter is to inform you a Claim of Lien has been filed against your property because you have not paid the ...(type of assessment)... assessment to ...(name of association).... The association intends to foreclose the lien and collect the unpaid amount within 45 ~~30~~ days of this letter being provided to you.

You owe the interest accruing from ...(month/year)... to the present. As of the date of this letter, the total amount due with interest is \$..... All costs of any action and interest from this day forward will also be charged to your account.

Any questions concerning this matter should be directed to ...(insert name, addresses, and telephone numbers of association representative)....

If this notice is not given at least 45 ~~30~~ days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney ~~attorney's~~ fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, addressed to the unit owner at his or her last known address; and, upon such mailing, the notice shall be

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deemed to have been given, and the court shall proceed with the foreclosure action and may award ~~attorney~~ ~~attorney's~~ fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a notice of contest of lien as provided in subsection (5). The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of the association would be affected by such foreclosure; and if actual, constructive, or substitute service of process has been made on the unit owner.

Section 3. Subsection (4) of section 718.121, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

718.121 Liens.—

(4)(a) If an association sends out an invoice for assessments or a unit's statement of the account described in s. 718.111(12), the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address maintained in the association's official records.

(b) Before changing the method of delivery for an invoice for assessments or the statement of the account, the association must deliver a written notice of such change to each unit owner. The written notice must be delivered to the unit owner at least 30 days before the association sends the invoice for assessments or the statement of the account by the new delivery method. The notice must be sent by first-class United States mail to the unit owner at his or her last address as reflected in the

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association's records and, if such address is not the unit address, must be sent by first-class United States mail to the unit address. Notice is deemed to have been delivered upon mailing as required by this paragraph.

(c) A unit owner must affirmatively acknowledge his or her understanding that the association will change its method of delivery of the invoice for assessments or the unit's statement of the account before the association may change the method of delivering the statement of the account. The unit owner may make the affirmative acknowledgment electronically or in writing.

(5) An association may not require payment of attorney fees related to a past due assessment without first delivering a written notice of late assessment to the unit owner which specifies the amount owed the association and provides the unit owner an opportunity to pay the amount owed without the assessment of attorney fees. The notice of late assessment must be sent by first-class United States mail to the unit owner at his or her last address as reflected in the association's records and, if such address is not the unit address, must also be sent by first-class United States mail to the unit address. Notice is deemed to have been delivered upon mailing as required by this subsection. A rebuttable presumption that an association mailed a notice in accordance with this subsection is established if a board member, officer, or agent of the association, or a manager licensed under part VIII of chapter 468, provides a sworn affidavit attesting to such mailing. The notice must be in substantially the following form:

NOTICE OF LATE ASSESSMENT

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RE: Unit of ...(name of association)...

The following amounts are currently due on your account to ...(name of association)..., and must be paid within 30 days of the date of this letter. This letter shall serve as the association's notice of its intent to proceed with further collection action against your property no sooner than 30 days of the date of this letter, unless you pay in full the amounts set forth below:

Maintenance due ...(dates)...	\$.....
Late fee, if applicable	\$.....
Interest through ...(dates)....*	\$.....
TOTAL OUTSTANDING	\$.....

*Interest accrues at the rate of percent per annum.

(6) Except as otherwise provided in this chapter, no lien may be filed by the association against a condominium unit until 45 ~~30~~ days after the date on which a notice of intent to file a lien has been delivered to the owner by registered or certified mail, return receipt requested, ~~and by first-class United States mail to the owner at his or her last address as reflected in the association's records and, if such address is not the unit address, by first-class United States mail to the unit address of the association, if the address is within the United States, and delivered to the owner at the address of the unit if the owner's address as reflected in the records of the association~~

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~~is not the unit address. If the address reflected in the records is outside the United States, sending the notice to that address and to the unit address by first-class United States mail is sufficient.~~ Delivery of the notice shall be deemed given upon mailing as required by this subsection. The notice must be in substantially the following form:

NOTICE OF INTENT
TO RECORD A CLAIM OF LIEN

RE: Unit of ...(name of association)...

The following amounts are currently due on your account to ...(name of association)..., and must be paid within 45 ~~30~~ days after your receipt of this letter. This letter shall serve as the association's notice of intent to record a Claim of Lien against your property no sooner than 45 ~~30~~ days after your receipt of this letter, unless you pay in full the amounts set forth below:

Maintenance due ...(dates)...	\$.....
Late fee, if applicable	\$.....
Interest through ...(dates)....*	\$.....
Certified mail charges	\$.....
Other costs	\$.....
TOTAL OUTSTANDING	\$.....

*Interest accrues at the rate of percent per

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407 annum.

408 Section 4. Paragraphs (a) and (c) of subsection (2) of
 409 section 719.104, Florida Statutes, are amended to read:

410 719.104 Cooperatives; access to units; records; financial
 411 reports; assessments; purchase of leases.—

412 (2) OFFICIAL RECORDS.—

413 (a) From the inception of the association, the association
 414 shall maintain a copy of each of the following, where
 415 applicable, which shall constitute the official records of the
 416 association:

417 1. The plans, permits, warranties, and other items provided
 418 by the developer pursuant to s. 719.301(4).

419 2. A photocopy of the cooperative documents.

420 3. A copy of the current rules of the association.

421 4. A book or books containing the minutes of all meetings
 422 of the association, of the board of directors, and of the unit
 423 owners.

424 5. A current roster of all unit owners and their mailing
 425 addresses, unit identifications, voting certifications, and, if
 426 known, telephone numbers. The association shall also maintain
 427 the e-mail addresses and the numbers designated by unit owners
 428 for receiving notice sent by electronic transmission of those
 429 unit owners consenting to receive notice by electronic
 430 transmission. The e-mail addresses and numbers provided by unit
 431 owners to receive notice by electronic transmission shall be
 432 removed from association records when consent to receive notice
 433 by electronic transmission is revoked. However, the association
 434 is not liable for an erroneous disclosure of the e-mail address
 435 or the number for receiving electronic transmission of notices.

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436 6. All current insurance policies of the association.

437 7. A current copy of any management agreement, lease, or
 438 other contract to which the association is a party or under
 439 which the association or the unit owners have an obligation or
 440 responsibility.

441 8. Bills of sale or transfer for all property owned by the
 442 association.

443 9. Accounting records for the association and separate
 444 accounting records for each unit it operates, according to good
 445 accounting practices. The accounting records shall include, but
 446 not be limited to:

447 a. Accurate, itemized, and detailed records of all receipts
 448 and expenditures.

449 b. A current account and a monthly, bimonthly, or quarterly
 450 statement of the account for each unit designating the name of
 451 the unit owner, the due date and amount of each assessment, the
 452 amount paid upon the account, and the balance due.

453 c. All audits, reviews, accounting statements, and
 454 financial reports of the association.

455 d. All contracts for work to be performed. Bids for work to
 456 be performed shall also be considered official records and shall
 457 be maintained for a period of 1 year.

458 10. Ballots, sign-in sheets, voting proxies, and all other
 459 papers and electronic records relating to voting by unit owners,
 460 which shall be maintained for a period of 1 year after the date
 461 of the election, vote, or meeting to which the document relates.

462 11. All rental records where the association is acting as
 463 agent for the rental of units.

464 12. A copy of the current question and answer sheet as

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described in s. 719.504.

13. All affirmative acknowledgments made pursuant to s. 719.108(3)(b)3.

14. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who

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knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 719.501(1)(d). The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 719.504 and year-end financial information required by the department, on the cooperative property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to unit owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including any record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the

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association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to unit parcel owners a directory containing the name, unit parcel address, and all telephone numbers of each unit parcel owner. However, an owner may exclude his or her

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telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

6. Electronic security measures that are used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

8. All affirmative acknowledgments made pursuant to s. 719.108(3)(b)3.

Section 5. Subsections (3) and (4) of section 719.108, Florida Statutes, are amended to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(3) (a) Rents and assessments, and installments on them, not paid when due bear interest at the rate provided in the cooperative documents from the date due until paid. This rate may not exceed the rate allowed by law and, if a rate is not provided in the cooperative documents, accrues at 18 percent per annum. If the cooperative documents or bylaws so provide, the association may charge an administrative late fee in addition to such interest, not to exceed the greater of \$25 or 5 percent of each installment of the assessment for each delinquent

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installment that the payment is late. Any payment received by an association must be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney fees incurred in collection, and then to the delinquent assessment. The foregoing applies notwithstanding s. 673.3111, any purported accord and satisfaction, or any restrictive endorsement, designation, or instruction placed on or accompanying a payment. The preceding sentence is intended to clarify existing law. A late fee is not subject to chapter 687 or s. 719.303(4).

(b)1. If an association sends out an invoice for assessments or a unit's statement of the account described in s. 719.104(2)(a)9.b., the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address maintained in the association's official records.

2. Before changing the method of delivery for an invoice for assessments or the statement of the account, the association must deliver a written notice of such change to each unit owner. The written notice must be delivered to the unit owner at least 30 days before the association sends the invoice for assessments or the statement of the account by the new delivery method. The notice must be sent by first-class United States mail to the unit owner at his or her last address as reflected in the association's records and, if such address is not the unit address, must be sent by first-class United States mail to the unit address. Notice is deemed to have been delivered upon mailing as required by this subparagraph.

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3. A unit owner must affirmatively acknowledge his or her understanding that the association will change its method of delivery of the invoice for assessments or the unit's statement of the account before the association may change the method of delivering the invoice for assessments or the statement of the account. The unit owner may make the affirmative acknowledgment electronically or in writing.

(c) An association may not require payment of attorney fees related to a past due assessment without first delivering a written notice of late assessment to the owner which specifies the amount owed the association and provides the unit owner an opportunity to pay the amount owed without the assessment of attorney fees. The notice of late assessment must be sent by first-class United States mail to the unit owner at his or her last address as reflected in the association's records and, if such address is not the unit address, must also be sent by first-class United States mail to the unit address. Notice is deemed to have been delivered upon mailing as required by this paragraph. A rebuttable presumption that an association mailed a notice in accordance with this subsection is established if a board member, officer, or agent of the association, or a manager licensed under part VIII of chapter 468, provides a sworn affidavit attesting to such mailing. The notice must be in substantially the following form:

NOTICE OF LATE ASSESSMENT

RE: Unit of ...(name of association)...

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639 The following amounts are currently due on your
640 account to ...(name of association)..., and must be
641 paid within 30 days of the date of this letter. This
642 letter shall serve as the association's notice to
643 proceed with further collection action against your
644 property no sooner than 30 days of the date of this
645 letter, unless you pay in full the amounts set forth
646 below:

647	Maintenance due ...(dates)...	\$.....
648	Late fee, if applicable	\$.....
649	Interest through ...(dates)...*	\$.....
650	TOTAL OUTSTANDING	\$.....

651

652 *Interest accrues at the rate of percent per annum.

653 (4) The association has a lien on each cooperative parcel

654 for any unpaid rents and assessments, plus interest, and any

655 administrative late fees. If authorized by the cooperative

656 documents, the lien also secures reasonable attorney fees

657 incurred by the association incident to the collection of the

658 rents and assessments or enforcement of such lien. The lien is

659 effective from and after recording a claim of lien in the public

660 records in the county in which the cooperative parcel is located

661 which states the description of the cooperative parcel, the name

662 of the unit owner, the amount due, and the due dates. Except as

663 otherwise provided in this chapter, a lien may not be filed by

664 the association against a cooperative parcel until 45 ~~30~~ days

665 after the date on which a notice of intent to file a lien has

666 been delivered to the owner.

667

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668 (a) The notice must be sent to the unit owner at the

669 address of the unit by first-class United States mail, and the

670 notice must be in substantially the following form:

671

672 NOTICE OF INTENT

673 TO RECORD A CLAIM OF LIEN

674

675 RE: Unit ...(unit number)... of ...(name of

676 cooperative)...

677

678 The following amounts are currently due on your

679 account to ...(name of association)..., and must be

680 paid within 45 ~~30~~ days after your receipt of this

681 letter. This letter shall serve as the association's

682 notice of intent to record a Claim of Lien against

683 your property no sooner than 45 ~~30~~ days after your

684 receipt of this letter, unless you pay in full the

685 amounts set forth below:

686

687	Maintenance due ...(dates)...	\$.....
688	Late fee, if applicable	\$.....
689	Interest through ...(dates)...*	\$.....
690	Certified mail charges	\$.....
691	Other costs	\$.....
692	TOTAL OUTSTANDING	\$.....

693

694 *Interest accrues at the rate of percent per

695 annum.

696

1. If the most recent address of the unit owner on the

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records of the association is the address of the unit, the notice must be sent by certified mail, return receipt requested, to the unit owner at the address of the unit.

2. If the most recent address of the unit owner on the records of the association is in the United States, but is not the address of the unit, the notice must be sent by certified mail, return receipt requested, to the unit owner at his or her most recent address.

3. If the most recent address of the unit owner on the records of the association is not in the United States, the notice must be sent by first-class United States mail to the unit owner at his or her most recent address.

(b) A notice that is sent pursuant to this subsection is deemed delivered upon mailing. A claim of lien must be executed and acknowledged by an officer or authorized agent of the association. The lien is not effective 1 year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. The 1-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. The claim of lien secures all unpaid rents and assessments that are due and that may accrue after the claim of lien is recorded and through the entry of a final judgment, as well as interest and all reasonable costs and attorney fees incurred by the association incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien.

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(c) By recording a notice in substantially the following form, a unit owner or the unit owner's agent or attorney may require the association to enforce a recorded claim of lien against his or her cooperative parcel:

NOTICE OF CONTEST OF LIEN

TO: ...(Name and address of association)...

You are notified that the undersigned contests the claim of lien filed by you on, ...(year)...., and recorded in Official Records Book at Page, of the public records of County, Florida, and that the time within which you may file suit to enforce your lien is limited to 90 days from the date of service of this notice. Executed this day of, ...(year)....

Signed: ...(Owner or Attorney)...

After notice of contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien. If the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time during which the association is prevented

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from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the unit owner or by any other person claiming an interest in the parcel.

(d) A release of lien must be in substantially the following form:

RELEASE OF LIEN

The undersigned lienor, in consideration of the final payment in the amount of \$...., hereby waives and releases its lien and right to claim a lien for unpaid assessments through, ...(year)..., recorded in the Official Records Book at Page, of the public records of County, Florida, for the following described real property:

THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. OF ...(NAME OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK, PAGE, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

...(Signature of Authorized Agent)... (Signature of Witness)...

...(Print Name)... (Print Name)...

...(Signature of Witness)...

...(Print Name)...

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Sworn to (or affirmed) and subscribed before me this day of, ...(year)..., by ...(name of person making statement).... (Signature of Notary Public)...

...(Print, type, or stamp commissioned name of Notary Public)... Personally Known OR Produced as identification.

Section 6. Present paragraph (1) of subsection (4) of section 720.303, Florida Statutes, is redesignated as paragraph (m), a new paragraph (1) is added to that subsection, and paragraph (c) of subsection (5) of that section is amended, to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(4) OFFICIAL RECORDS.—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(1) All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3.

(5) INSPECTION AND COPYING OF RECORDS.—The official records shall be maintained within the state for at least 7 years and shall be made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the association is located within 10 business days after receipt by the board or its designee of a written request. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community or, at the option of the association, by making the records available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic

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format on a computer screen and printed upon request. If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where

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the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding this paragraph, the following records are not accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.

3. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association or management company employee or budgetary or financial records that indicate

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871 the compensation paid to an association or management company
 872 employee.

873 4. Medical records of parcel owners or community residents.

874 5. Social security numbers, driver license numbers, credit
 875 card numbers, electronic mailing addresses, telephone numbers,
 876 facsimile numbers, emergency contact information, any addresses
 877 for a parcel owner other than as provided for association notice
 878 requirements, and other personal identifying information of any
 879 person, excluding the person's name, parcel designation, mailing
 880 address, and property address. Notwithstanding the restrictions
 881 in this subparagraph, an association may print and distribute to
 882 parcel owners a directory containing the name, parcel address,
 883 and all telephone numbers of each parcel owner. However, an
 884 owner may exclude his or her telephone numbers from the
 885 directory by so requesting in writing to the association. An
 886 owner may consent in writing to the disclosure of other contact
 887 information described in this subparagraph. The association is
 888 not liable for the disclosure of information that is protected
 889 under this subparagraph if the information is included in an
 890 official record of the association and is voluntarily provided
 891 by an owner and not requested by the association.

892 6. Any electronic security measure that is used by the
 893 association to safeguard data, including passwords.

894 7. The software and operating system used by the
 895 association which allows the manipulation of data, even if the
 896 owner owns a copy of the same software used by the association.
 897 The data is part of the official records of the association.

898 8. All affirmative acknowledgments made pursuant to s.
 899 720.3085(3)(c)3.

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900 Section 7. Paragraphs (c) and (d) are added to subsection
 901 (3) of section 720.3085, Florida Statutes, to read:
 902 720.3085 Payment for assessments; lien claims.—
 903 (3) Assessments and installments on assessments that are
 904 not paid when due bear interest from the due date until paid at
 905 the rate provided in the declaration of covenants or the bylaws
 906 of the association, which rate may not exceed the rate allowed
 907 by law. If no rate is provided in the declaration or bylaws,
 908 interest accrues at the rate of 18 percent per year.

909 (c)1. If an association sends out an invoice for
 910 assessments or a parcel's statement of the account described in
 911 s. 720.303(4)(j)2., the invoice for assessments or the parcel's
 912 statement of account must be delivered to the parcel owner by
 913 first-class United States mail or by electronic transmission to
 914 the parcel owner's e-mail address maintained in the
 915 association's official records.

916 2. Before changing the method of delivery for an invoice
 917 for assessments or the statement of the account, the association
 918 must deliver a written notice such change to each parcel owner.
 919 The written notice must be delivered to the parcel owner at
 920 least 30 days before the association sends the invoice for
 921 assessments or the statement of the account by the new delivery
 922 method. The notice must be sent by first-class United States
 923 mail to the owner at his or her last address as reflected in the
 924 association's records and, if such address is not the parcel
 925 address, must be sent by first-class United States mail to the
 926 parcel address. Notice is deemed to have been delivered upon
 927 mailing as required by this subparagraph.

928 3. A parcel owner must affirmatively acknowledge his or her

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understanding that the association will change its method of delivery of the invoice for assessments or the statement of the account before the association may change the method of delivering the statement of the account. The parcel owner may make the affirmative acknowledgment electronically or in writing.

(d) An association may not require payment of attorney fees related to a past due assessment without first delivering a written notice of late assessment to the parcel owner which specifies the amount owed the association and provides the parcel owner an opportunity to pay the amount owed without the assessment of attorney fees. The notice of late assessment must be sent by first-class United States mail to the owner at his or her last address as reflected in the association's records and, if such address is not the parcel address, must also be sent by first-class United States mail to the parcel address. Notice is deemed to have been delivered upon mailing as required by this paragraph. A rebuttable presumption that an association mailed a notice in accordance with this subsection is established if a board member, officer, or agent of the association, or a manager licensed under part VIII of chapter 468, provides a sworn affidavit attesting to such mailing. The notice must be in substantially the following form:

NOTICE OF LATE ASSESSMENT

RE: Parcel of ...(name of association)...

The following amounts are currently due on your

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account to ...(name of association)..., and must be paid within 30 days after the date of this letter. This letter shall serve as the association's notice to proceed with further collection action against your property no sooner than 30 days after the date of this letter, unless you pay in full the amounts set forth below:

Maintenance due ...(dates)...	\$.....
Late fee, if applicable	\$.....
Interest through ...(dates)...*	\$.....
TOTAL OUTSTANDING	\$.....

*Interest accrues at the rate of percent per annum.

Section 8. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 10, 2021

I respectfully request that **Senate Bill #56**, relating to Community Association Assessment Notices, be placed on the:

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

The intent of this bill is to require community associations to send owners a written notice of any change in the method of delivering the statement of account at least 30 days before the association sends the statement with the new delivery method.

Sincerely,

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

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 Rules

BILL: CS/SB 60

INTRODUCER: Community Affairs Committee and Senator Bradley

SUBJECT: County and Municipal Code Enforcement

DATE: March 9, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2. <u>Ponder</u>	<u>McVane</u>	<u>GO</u>	Favorable
3. <u>Hackett</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 60 prohibits county and municipal code inspectors from initiating an investigation into violations of city or county codes or ordinances based upon an anonymous complaint. It also requires that an individual making a complaint of a potential violation provide his or her name and address to the local government body before an investigation may occur.

The prohibition does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

The bill takes effect July 1, 2021.

II. Present Situation:

County and Municipal Code Enforcement

Code enforcement is a function of local government and affects people's daily lives. Its purpose is to enhance the quality of life and economy of local government by protecting the health, safety, and welfare of the community.¹ Local governments possess a constitutional right to self-

¹ Section 162.02, F.S.

government.² Local codes and ordinances allow local governments to enforce regulations on a variety of matters ranging from zoning, tree cutting, nuisances, and excessive noise.³

Chapters 125, 162, and 166 of the Florida Statutes⁴ provide counties and municipalities with a mechanism to enforce its codes and ordinances. These statutes are offered as permissible code enforcement mechanisms, but are not binding to local governments, which may use any enforcement mechanism they choose, or combination thereof.⁵

In each statutory mechanism, a local government designates code inspectors or code enforcement officers, tasked with investigating potential code violations, providing notice of violations, and issuing citations for noncompliance. Beyond these specified duties, the statutory scheme makes clear that code inspectors lack the authority to perform the functions or duties of a law enforcement officer.⁶

Code Enforcement Boards Act (Part I, Ch. 162, F.S.)

The Local Government Code Enforcement Boards Act (Act), located in Part I of ch. 162, F.S., allows each county and municipality to create by ordinance one or more local government code enforcement board. A code enforcement board is an administrative board made up of members appointed by the governing body of a county or municipality with the authority to hold hearings and impose administrative fines and other noncriminal penalties for violations of county or municipal codes or ordinances. Members of the enforcement boards⁷ must be residents of the respective municipality or county and, whenever possible, must include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.⁸

Code enforcement boards have the power to:

- Adopt rules for the conduct of its hearings;
- Subpoena alleged violators, witnesses, and evidence to its hearings;
- Take testimony under oath; and
- Issue orders that have the force of law to command steps necessary to bring a violation into compliance.⁹

Section 162.06, F.S., establishes the procedures for local governments to address violations of various codes using a code enforcement board. It begins with the county or municipal code inspector¹⁰ who initiates code enforcement procedures by notifying the violator and giving him

² Art. VIII, Fla. Const.

³ Violations of the Florida Building Code, however, are enforced pursuant to ss. 553.79 and 553.80, F.S., and not within the scope of this bill or the sections of law analyzed herein. See s. 125.69(g), F.S.

⁴ Chapter 125 Part II (county self-government), Chapter 162 Part 1 (the Code Enforcement Boards Act), Chapter 162 Part 2 (supplemental procedures), and s. 166.0415, F.S. (city ordinance enforcement).

⁵ Sections 125.69(4)(i), 162.13, 162.21(8), and 166.0415(7), F.S.

⁶ Section 125.69(4)(f), F.S.;

⁷ Code enforcement boards are either five-member or seven-member boards. If a local government has a population over 5,000 persons, the board must be a seven-member board.

⁸ Section 162.05(2), F.S.

⁹ Section 162.08, F.S.

¹⁰ Section 162.04(2), F.S., defines the term “code inspector” to mean “any authorized agent or employee of the county or municipality whose duty it is to assure code compliance.”

or her reasonable time to correct the violation. If the violation continues to exist after such time period as specified by the code inspector,¹¹ then the inspector will notify the code enforcement board and request a hearing.¹²

In each case heard before a code enforcement board, the case is presented, and testimony is taken from both the code inspector and alleged violator.¹³ At the conclusion of the hearing, the board issues findings of fact and provides an order stating the proper relief granted.¹⁴ If a violator fails to abide by an order of the code enforcement board, the board may order the violator to pay a fine for each day that the repeat violation occurs.¹⁵ All final administrative orders of the code enforcement board may be appealed to the circuit court 30 days after execution of the order.¹⁶

As an alternative to a code enforcement board, the Act allows counties and municipalities to adopt an alternate code enforcement system that gives code enforcement officials or special magistrates the authority to hold hearings and assess fines against violators of respective codes or ordinances.¹⁷ Each of these methods are offered by statute as devices to be used at the local governments' discretion, but a local government may use any method they choose to enforce codes and ordinances.¹⁸

Supplemental Code Enforcement Procedures (Part II, Ch. 162, F.S.)

Part II of ch. 162, F.S., presents local governments with supplemental methods for enforcing codes and ordinances without establishing a code enforcement board. The statutes allow counties and municipalities to designate some of its employees or agents as code enforcement officers¹⁹ authorized to enforce county or municipal codes or ordinances.

A code enforcement officer may issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.²⁰ However, prior to issuing a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a code or ordinance and provide a

¹¹ The code inspector does not need to provide the violator reasonable time to remedy the violation if it is a repeat violation; the violation presents a serious threat to the public health, safety, and welfare; or the violation is irreparable or irreversible in nature.

¹² A hearing may also be called by written notice signed by at least three members of a seven-member enforcement board or signed by at least two members of a five-member enforcement board.

¹³ Section 162.07(2)-(3), F.S.

¹⁴ Section 162.07(4), F.S.

¹⁵ Section 162.09(1), F.S. Such fines may not exceed \$250 per day for a first violation and may not exceed \$500 per day for a repeat violation. However, a county or municipality may pass an ordinance to increase the fine thresholds if approved by a majority plus one vote.

¹⁶ Section 162.11, F.S.

¹⁷ Section 162.03, F.S.

¹⁸ The Attorney General has opined that "once a municipality has adopted the procedures of ch. 162, F.S., to enforce its municipal codes and ordinances, it may not alter or amend those statutorily prescribed procedures but must utilize them as they are set forth in the statutes." Opp. Atty Gen. 2000-53. A local government may, however, maintain a chapter 162 code enforcement board and still decide to enforce a particular violation by bringing a charge in county court, or any other means provided by law. *Goodman v. County Court in Broward County, Fla.* 711 So.2d 587 (Fla 4th DCA 1998).

¹⁹ Section 162.21(1), F.S., defines the term "code enforcement officer" to mean "any designated employee or agent of a county or municipality whose duty it is to enforce codes and ordinances enacted by the county or municipality."

²⁰ Section 162.21(3)(a), F.S.

reasonable time period, no more than 30 days, within which the person must correct the violation. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the officer may issue a citation.²¹

Counties and municipalities that choose to enforce codes or ordinances under the provisions of Part II must enact an ordinance establishing the code enforcement procedures. The ordinance, among other requirements, must provide procedures for the issuance of a citation by a code enforcement officer. A violation of a code or an ordinance enforced under Part II is a civil infraction and carries a maximum civil penalty of \$500.²²

Part II further allows counties and municipalities to enforce code violations by filing a civil action in the county or circuit court, in the absence of a magistrate or code enforcement board.

Enforcement of County Ordinance Violations (s. 125.69, F.S.)

Section 125.69, F.S., sets forth a process counties may use to enforce county ordinances. Under this statute, violations of ordinances shall be prosecuted in the same manner as misdemeanors: in county court, punishable by a fine up to \$500, imprisonment up to 60 days, or both. The statute also allows counties to designate code enforcement officers, who may investigate violations and issue citations in a manner similar to s. 162.21, F.S., discussed above.

Enforcement of City Ordinance Violations (s. 166.0415, F.S.)

Section 166.0415, F.S. provides a mechanism specific to municipalities wishing to enforce their ordinances and codes using code inspectors. This statute is functionally identical to s. 162.21, F.S., discussed above. The statute allows municipalities to designate code enforcement officers authorized to enforce municipal codes or ordinances, following the investigation, notice, and citation scheme set out in s. 162.21, F.S.

Anonymous and Identified Complaints

Investigations usually begin with a complaint or tip from the public - typically by phone or online form - or a code enforcement officer personally observing an alleged violation while performing his or her duties. As code enforcement is inherently an exercise in home rule by local governments, procedures for collecting complaints vary throughout the state. In most areas, complaints may be made anonymously, while in some jurisdictions, a complainant must identify themselves.²³ Code inspectors accept any information given to them in the complaints and, generally using their own judgment, may investigate the allegations made.

²¹ Section 162.21(3)(b), F.S.

²² Section 162.21(5), F.S.

²³ For one such example, Collier County changed their code enforcement regulations to require that a name and phone number must be provided along with a complaint “unless the concern is an emergency that immediately threatens the public health and safety or could cause catastrophic consequences.” Collier County, Report a Code Violation <https://www.colliercountyfl.gov/your-government/divisions-a-e/code-enforcement/report-a-code-violation> (accessed December 28, 2020).

Florida has extensive public records laws, known as Sunshine Laws.²⁴ Any document held by an agency, including local governments, is public record and therefore must be produced for inspection upon request by anyone. Any information given by a complainant to the local government, including their name, address, and contact information, is public record barring an individual's exercise of an exemption that applies to them, such as those for state attorneys, judges, and guardians ad litem.²⁵

III. Effect of Proposed Changes:

The bill amends the county and municipal code enforcement statutes to address the transparency of complaints made to code inspectors working for local governments and local code enforcement boards alleging violations of city and county codes and ordinances. Specifically, the bill prohibits code inspectors and code enforcement officers from initiating a code enforcement investigation based upon an anonymous complaint. Additionally, an individual making a complaint of a potential violation must provide his or her name and address to the local government body before an investigation may occur.

The prohibition in the bill does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

The bill provides an effective date of July 1, 2021.

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.

²⁴ See, generally, s. 119.01(1), F.S., the Public Records Act. “[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.”

²⁵ See ss. 119.071(4) and (5), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may experience a minor cost in updating codes and ordinance enforcement mechanisms to comply with this bill, but this cost will in most cases be absorbed by current operations.

Local governments may experience a reduction in complaints filed due to individuals not wanting to provide personal identifying information. Thus, this may lead to less resources being utilized by local code enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Chapter 119 prohibits the public disclosure of certain personal identifying information relating to code enforcement officers including. Specifically, the following information related to current or former code enforcement officers is exempt:

- Home addresses;
- Telephone numbers;
- Social Security numbers; and
- Photographs.²⁶

In the statement of public necessity for this exemption the Legislature found that:

The responsibilities of these employees regularly take them into areas of neglect, abuse, and personal danger. Citations issued in response to

²⁶ Section 119.071(4)(d)1.i, F.S. The exemption also extends to the In addition, the exemption extends to the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel. Finally, the names and locations of schools and day care facilities attended by the children of such personnel are also included within the scope of the exemption exempts the home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers.

violations that they encounter often lead to retribution by the offenders. Their personal files are reviewed on numerous occasions by code violators seeking information relating to code enforcement officers and their families. The disclosure of this personal information has led to threats, acts of violence, and unwarranted risk to the officers and their families.

VIII. Statutes Affected:

This bill substantially amends sections 125.69, 162.06, 162.13, 162.21, and 166.0415 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 Community Affairs on February 2, 2021:

The amendment provides that the prohibition does not apply if the code inspector has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Bradley

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1 A bill to be entitled
 2 An act relating to county and municipal code
 3 enforcement; amending s. 125.69, F.S.; prohibiting
 4 code inspectors designated by boards of county
 5 commissioners from initiating investigations of
 6 potential violations of codes and ordinances by way of
 7 anonymous complaints; requiring persons who report
 8 potential violations of codes and ordinances to
 9 provide specified information to the board before an
 10 investigation occurs; providing applicability;
 11 providing construction; amending s. 162.06, F.S.;
 12 prohibiting code inspectors from initiating
 13 enforcement proceedings for potential violations of
 14 codes and ordinances by way of anonymous complaints;
 15 requiring persons who report potential violations of
 16 codes and ordinances to provide specified information
 17 to the respective local government before an
 18 investigation occurs; providing applicability;
 19 amending s. 162.13, F.S.; providing construction;
 20 amending s. 162.21, F.S.; prohibiting code enforcement
 21 officers from initiating investigations of potential
 22 violations of codes and ordinances by way of anonymous
 23 complaints; requiring persons who report potential
 24 violations of codes and ordinances to provide
 25 specified information to the respective local
 26 government before an investigation occurs; providing
 27 applicability; providing construction; amending s.
 28 166.0415, F.S.; prohibiting code inspectors designated
 29 by governing bodies of municipalities from initiating

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30 investigations of potential violations of codes and
 31 ordinances by way of anonymous complaints; requiring
 32 persons who report potential violations of codes and
 33 ordinances to provide specified information to the
 34 governing body before an investigation occurs;
 35 providing applicability; providing construction;
 36 providing an effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

39
 40 Section 1. Subsection (4) of section 125.69, Florida
 41 Statutes, is amended to read:

42 125.69 Penalties; enforcement by code inspectors.—

43 (4) (a) The board of county commissioners of each county may
 44 designate its agents or employees as code inspectors whose duty
 45 it is to assure code compliance. Any person designated as a code
 46 inspector may issue citations for violations of county codes and
 47 ordinances, respectively, or subsequent amendments thereto, when
 48 such code inspector has actual knowledge that a violation has
 49 been committed.

50 (b) A person designated as a code inspector may not
 51 initiate an investigation of a potential violation of a duly
 52 enacted code or ordinance by way of an anonymous complaint. A
 53 person who reports a potential violation of a code or an
 54 ordinance must provide his or her name and address to the
 55 governing body of the respective board of county commissioners
 56 before an investigation occurs. This paragraph does not apply if
 57 the person designated as a code inspector has reason to believe
 58 that the violation presents an imminent threat to public health,

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safety, or welfare or imminent destruction of habitat or sensitive resources.

~~(c)(a)~~ Prior to issuing a citation, a code inspector shall provide notice to the violator that the violator has committed a violation of a code or ordinance and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code inspector finds that the violator has not corrected the violation within the time period, a code inspector may issue a citation to the violator. A code inspector does not have to provide the violator with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

~~(d)(b)~~ A citation issued by a code inspector shall state the date and time of issuance, name and address of the person in violation, date of the violation, section of the codes or ordinances, or subsequent amendments thereto, violated, name of the code inspector, and date and time when the violator shall appear in county court.

~~(e)(c)~~ If a repeat violation is found subsequent to the issuance of a citation, the code inspector is not required to give the violator a reasonable time to correct the violation and may immediately issue a citation. For purposes of this subsection, the term "repeat violation" means a violation of a provision of a code or ordinance by a person who has previously been found to have violated the same provision within 5 years

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prior to the violation, notwithstanding the violations occurred at different locations.

~~(f)(d)~~ If the owner of property which is subject to an enforcement proceeding before county court transfers ownership of such property between the time the initial citation or citations are issued and the date the violator has been summoned to appear in county court, such owner shall:

1. Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

2. Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the county court proceeding received by the transferor.

3. Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the county court proceeding.

4. File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosure described in subparagraphs 1., 2., and 3. before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the date the violator has been summoned to appear in county court, the proceeding shall not be dismissed but the new owner will be substituted as the party of record and thereafter provided a reasonable period of time to correct the violation before the continuation of proceedings in county court.

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(g)~~(e)~~ If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code or ordinance prove unsuccessful, the local governing body may make all reasonable repairs which are required to bring the property into compliance and charge the owner with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith.

(h)~~(f)~~ Nothing in this subsection shall be construed to authorize any person designated as a code inspector to perform any function or duties of a law enforcement officer other than as specified in this subsection. A code inspector shall not make physical arrests or take any person into custody and shall be exempt from requirements relating to the Special Risk Class of the Florida Retirement System, bonding, and the Criminal Justice Standards and Training Commission, as defined and provided by general law.

(i)~~(g)~~ The provisions of this subsection shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county.

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(j)~~(h)~~ The provisions of this subsection may be used by a county in lieu of the provisions of part II of chapter 162.

(k)~~(i)~~ The provisions of this subsection are additional or supplemental means of enforcing county codes and ordinances. Except as provided in paragraphs (b) and (j) ~~paragraph (h)~~, nothing in this subsection shall prohibit a county from enforcing its codes or ordinances by any other means.

Section 2. Subsection (1) of section 162.06, Florida Statutes, is amended to read:

162.06 Enforcement procedure.—

(1) (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

(b) A code inspector may not initiate enforcement proceedings for a potential violation of a duly enacted code or ordinance by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the respective local government before an enforcement proceeding may occur. This paragraph does not apply if the code inspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

Section 3. Section 162.13, Florida Statutes, is amended to read:

162.13 Provisions of act supplemental.—It is the legislative intent of ss. 162.01-162.12 to provide an additional or supplemental means of obtaining compliance with local codes.

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175 Except as provided in s. 162.06(1)(b), nothing contained in ss.
 176 162.01-162.12 shall prohibit a local governing body from
 177 enforcing its codes by any other means.

178 Section 4. Present paragraphs (b) and (c) of subsection (3)
 179 of section 162.21, Florida Statutes, are redesignated as
 180 paragraphs (c) and (d), respectively, a new paragraph (b) is
 181 added to that subsection, and subsection (8) of that section is
 182 amended, to read:

183 162.21 Enforcement of county or municipal codes or
 184 ordinances; penalties.—

185 (3)

186 (b) A code enforcement officer may not initiate an
 187 investigation of a potential violation of a duly enacted code or
 188 ordinance by way of an anonymous complaint. A person who reports
 189 a potential violation of a code or an ordinance must provide his
 190 or her name and address to the respective local government
 191 before an investigation may occur. This paragraph does not apply
 192 if the code enforcement officer has reason to believe that the
 193 violation presents an imminent threat to public health, safety,
 194 or welfare or imminent destruction of habitat or sensitive
 195 resources.

196 (8) The provisions of this section are additional and
 197 supplemental means of enforcing county or municipal codes or
 198 ordinances and may be used for the enforcement of any code or
 199 ordinance, or for the enforcement of all codes and ordinances.
 200 Except as provided in paragraph (3)(b), nothing contained in
 201 this section shall prohibit a county or municipality from
 202 enforcing its codes or ordinances by any other means.

203 Section 5. Subsections (1) and (7) of section 166.0415,

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204 Florida Statutes, are amended to read:

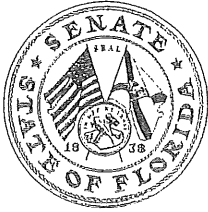
205 166.0415 Enforcement by code inspectors; citations.—

206 (1)(a) The governing body of each municipality may
 207 designate its agents or employees as code inspectors whose duty
 208 it is to assure code compliance. Any person designated as a code
 209 inspector may issue citations for violations of municipal codes
 210 and ordinances, respectively, or subsequent amendments thereto,
 211 when such code inspector has actual knowledge that a violation
 212 has been committed.

213 (b) A person designated as a code inspector may not
 214 initiate an investigation of a potential violation of a duly
 215 enacted code or ordinance by way of an anonymous complaint. A
 216 person who reports a potential violation of a code or an
 217 ordinance must provide his or her name and address to the
 218 governing body of the municipality before an investigation
 219 occurs. This paragraph does not apply if the person designated
 220 as a code inspector has reason to believe that the violation
 221 presents an imminent threat to public health, safety, or welfare
 222 or imminent destruction of habitat or sensitive resources.

223 (7) The provisions of this section are additional or
 224 supplemental means of enforcing municipal codes and ordinances.
 225 Except as provided in paragraph (1)(b) and subsection (6),
 226 nothing in this section shall prohibit a municipality from
 227 enforcing its codes or ordinances by any other means.

228 Section 6. This act shall take effect July 1, 2021.



SENATOR JENNIFER BRADLEY
5th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Education
Ethics and Elections
Judiciary

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

JOINT COMMITTEES:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

March 3, 2021

Senator Kathleen Passidomo, Chair
Senate Committee on Rules
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Passidomo:

I respectfully request that CS/SB 60 be placed on the agenda of the Committee on Rules at your earliest convenience. The bill prohibits the initiation of code enforcement investigations in cases of an anonymous complaint unless the possible violation presents an imminent threat. The bill aims to eliminate frivolous code violation reporting.

Thank you for your consideration and please let me know if I can be of any assistance.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Bradley". The signature is fluid and cursive, with the first name "Jennifer" and last name "Bradley" clearly distinguishable.

Jennifer Bradley

cc: John Phelps, Staff Director
Cynthia Futch, Adm Assistant

REPLY TO:

- ☐ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- ☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

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

SE/SB60

Bill Number (if applicable)

Topic

County & Municipal Code

Amendment Barcode (if applicable)

Name

Dan Serrano

Job Title

Concerned Senior Citizen

Address

111 Wintergreen Dr

Phone

352 805 659

Street

Frutland Park Fl 34731

Email

gottardare,
1955esma

City

State

Zip

Speaking:

☒

For

☐

Against

☒

Information

Waive Speaking:

☐

In Support

☐

Against

ca

(The Chair will read this information into the record.)

Representing

Self

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.

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

S-001 (10/14/14)

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 Rules

BILL: CS/SB 72

INTRODUCER: Rules Committee; Senator Brandes and others

SUBJECT: Civil Liability for Damages Relating to COVID-19

DATE: March 15, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2. <u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
3. <u>Davis</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 72 is a combination of SB 72 and SB 74, with some additional changes. SB 72 creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims. SB 74 provides lesser liability protections to health care providers, who are defined in the bill, and provides procedures for civil actions against them.

Liability Protections for COVID-19-Related Claims

The bill defines a COVID-19-related claim, against a person, business, or other entity, but generally not a health care provider, as a claim that arises from or is related to COVID-19. For claims against a person other than a health care provider, the bill establishes preliminary requirements that a plaintiff must complete before the case is allowed to proceed. A court must determine whether:

- The complaint was pled with particularity.
- A physician's affidavit was simultaneously submitted stating that, within a reasonable degree of medical certainty, the physician believed that the defendant caused, through acts or omissions, the plaintiff's damages, injury, or death. If the plaintiff did not meet these requirements, the court must dismiss the action, but the plaintiff is not barred from correcting the deficiencies and refile the claim.
- The defendant made a good faith effort to substantially comply with authoritative or controlling health standards when the action accrued. If the court determines that the defendant made the requisite good faith effort, the defendant is immune from civil liability.

If, in contrast, the court determines that the defendant did not make the requisite good faith effort, the action may proceed.

If a plaintiff meets these preliminary requirements, then he or she bears the burden of proving that the defendant did not make the good faith effort. Additionally, the plaintiff must meet the heightened standard of proving that the defendant's acts or omissions were grossly negligent by the clear and convincing evidence standard.

Liability Protections for Health Care Providers

The liability protections for COVID-19-related claims against a health care provider mainly relate to claims:

- Arising from the diagnosis or treatment of a person for COVID-19;
- The provision of a novel or experimental COVID-19 treatment;
- The transmission of COVID-19; and
- The delay or cancellation of a surgery or medical procedure.

However, a claim by a person other than a patient or resident alleging that the health care provider caused the person to contract COVID-19 may be pursued under the provisions of the bill that primarily relate to claims against persons other than a health care provider.

A COVID-19-related lawsuit against any defendant must be brought within 1 year after a cause of action accrues unless the cause of action occurred before the effective date of the bill. However, if a cause accrues before the effective date of the bill, the plaintiff has 1 year from the effective date of the act to bring the claim.

The bill takes effect upon becoming a law and applies retroactively. However, the bill does not apply in a civil action against a particular defendant if the suit is filed before the bill's effective date.

II. Present Situation:

Background

The COVID-19 pandemic has affected the state of Florida in ways that were unimaginable one year ago. The toll on individuals, businesses, and the economy has been catastrophic. According to the Department of Health, 1,940,380 residents have tested positive for COVID-19 in the state, 82,256 residents have been hospitalized, and 32,255 residents have died of the virus.¹

As the pandemic forced businesses to close, millions of Americans lost their jobs. The U.S. economy contracted at the greatest rate since World War II. In Florida, general revenue collections for Fiscal Year 2019-20 were down nearly \$1.9 billion from the forecast projections made in January 2020. The vast majority of the loss, 84.7 percent, came from a loss of sales tax revenues, the largest component and category most affected by the pandemic. The Revenue Estimating Conference adopted a forecast for sales tax revenues in December 2020, as compared

¹ Florida Department of Health, Division of Disease Control and Health Protection, *Florida's COVID-19 Data and Surveillance Dashboard*, <https://experience.arcgis.com/experience/96dd742462124fa0b38ddedb9b25e429> (last visited March 14, 2021).

to the January 2020 forecast, that anticipates a loss to General Revenue of approximately \$2 billion in Fiscal Year 2020-21 and \$1 billion in Fiscal Year 2021-22. The sales tax losses are attributable to a substantial loss in the tourism and recreation areas, often driven by out-of-state tourism, and also by reduced sales to local residents at restaurants and venues, including leisure activities impacted by the pandemic.²

Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak. The order has been extended 7 times,³ most recently by Executive Order No. 21-45, issued on February 26, 2021.

During the pandemic, government-issued health standards and guidance detailing how to best combat the virus have sometimes been in conflict. They sometimes changed rapidly, making appropriate responses difficult. Businesses and individuals often scurried to provide appropriate responses based upon the information they received at any given time.

As businesses and entities struggle to re-open or keep their doors open, a growing concern has been expressed that unfounded or opportunistic lawsuits for COVID-19-related claims could threaten their financial survival. The concern is that time, attention, and financial resources diverted to respond to the lawsuits could be the difference between individuals and entities succeeding or failing as they attempt to emerge from the pandemic. One protection that has been offered is the provision of heightened legal immunity from COVID-19 claims to fend off meritless lawsuits and preserve scant resources.

COVID-Related Lawsuits

According to the Congressional Research Service,⁴ a growing number of plaintiffs have filed tort lawsuits in hopes of being compensated for personal injuries that resulted from alleged exposure to COVID-19 or from the failure of a defendant to properly treat the virus. Some examples of the lawsuits include:

- The relatives of deceased family members, who allegedly contracted the virus in the workplace, have filed cases stating that the employers caused the decedents' deaths because they failed to implement workplace safety measures.
- Many cruise ship passengers have filed lawsuits against cruise lines alleging that the cruise line exposed them to the virus or caused them to contract the virus while on a cruise.

² *Executive Summary, Revenue Estimating Conference for the General Revenue Fund & Financial Outlook Statement*, August 14, 2020, and subsequently updated. <http://edr.state.fl.us/Content/conferences/generalrevenue/archives/200814gr.pdf> (last visited Mar. 1, 2021).

³ A state of emergency declared under the State Emergency Management Act may not last for more than 60 days unless it is renewed by the Governor. Section 252.36(2), F.S.

⁴ The Congressional Research Service works solely for the U.S. Congress and provides policy and legal analysis to both members and committees of the House and Senate. It is a legislative branch agency housed within the Library of Congress. <https://www.loc.gov/crsinfo/>.

- Plaintiffs have sued assisted living facilities and nursing homes. They allege that their relatives died because these entities negligently exposed their relatives to the virus or failed to diagnose them in a timely or appropriate manner, and then treat the symptoms.
- Businesses that folded have sued their insurance companies challenging the denial of their coverage for claims of business interruptions.
- Consumers have filed suits seeking financial reimbursement for travel, events, and season passes at recreational venues which were cancelled or closed because of the pandemic.
- Employees have sued their employers alleging that the employer unlawfully terminated them because they contracted the virus.
- Stockholders have sued public companies alleging that the companies violated federal securities laws when they did not accurately state the pandemic's toll on the companies' finances as required in mandatory disclosure statements.⁵

The Congressional Research Service states that proponents of COVID-19 liability protections assert that litigation and the cost of legal fees will cripple businesses, individuals, schools, and non-profit organizations and deter the organizations from reopening. Proponents are concerned that these entities will shape their business decision-making to avoid liability. This unwillingness to continue or reopen businesses will delay the national economic recovery. Others believe that many COVID-19-related claims “are generally meritless, and therefore serve primarily to benefit plaintiffs’ lawyers rather than vindicate injured person’s legal rights.”⁶

In contrast, opponents of liability protections disagree. They maintain that organizations would encounter only minimal legal exposure for COVID-19 liability. The opponents also contend that providing a shield for defendants would harm the public by permitting defendants to commit negligent acts with legal protections. It would also remove any incentives for businesses to take precautions against the spread of the virus.⁷

Florida Lawsuits

It is difficult to determine how many COVID-19-related lawsuits have been filed in the state. Staff contacted the Office of the State Courts Administrator to ask if it could determine how many claims have been filed in the state courts. The office did not have that data available. One database estimates that 582 complaints relating to COVID-19 have been filed in Florida, but this data does not delineate between those which are filed in state courts versus federal courts.⁸

Many of the claims that have been filed in the federal district courts of the state are suits against cruise ship lines where passengers allege that they contracted the virus while on the cruise.

⁵ Congressional Research Service, *COVID-19 Liability: Tort, Workplace Safety, and Securities Law* (Sept. 24, 2020), <https://crsreports.congress.gov/product/pdf/R/R46540> (last visited Mar. 1, 2021).

⁶ *Id.* at 2.

⁷ *Id.* at 3.

⁸ Hunton Andrews Kurth LLP, *COVID-19 Complaint Tracker*, <https://www.huntonak.com/en/covid-19-tracker.html> (last visited Mar. 1, 2021).

Legislative and Executive Responses of Other States

At least 17 states have enacted legislation to provide civil liability immunity to individuals and entities from COVID-19-related claims.⁹ At least two additional states have issued executive orders to provide liability limitations.¹⁰ These laws do not reflect separate healthcare liability protections. To date, no similar federal legislation has been enacted, although S. 4317 was introduced in the Senate on July 27, 2020, and referred to committee.¹¹

In general terms, the legislation enacted by other states provides protections if a defendant acts in good faith to substantially comply with the applicable COVID-19 standards. The immunity does not apply if the defendant's acts or omissions constitute gross negligence or willful or wanton misconduct.

Torts: Negligence, Elements, and Standards

A tort is a civil legal action to recover damages for a loss, injury, or death due to the conduct of another. Some have characterized a tort as a civil wrong, other than a claim for breach of contract, in which a remedy is provided through damages.¹² When a plaintiff files a tort claim, he or she alleges that the defendant's "negligence" caused the injury. Negligence is defined as the failure to use reasonable care. It means the care that a reasonably careful person would use under similar circumstances. According to the Florida Standard Jury Instructions, negligence means "doing something that a reasonably careful person would not do" in a similar situation or "failing to do something that a reasonably careful person would do" in a similar situation.¹³

When a plaintiff seeks to recover damages for a personal injury and alleges that the injury was caused by the defendant's negligence, the plaintiff bears the legal burden of proving that the defendant's alleged action was a breach of the duty that the defendant owed to the plaintiff.¹⁴

Negligence Pleadings

To establish a claim for relief and initiate a negligence lawsuit, a plaintiff must file a "complaint." The complaint must state a cause of action and contain: a short and plain statement establishing the court's jurisdiction, a short and plain statement of the facts showing why the plaintiff is entitled to relief, and a demand for judgment for relief that the plaintiff deems himself

⁹ The states are: Alabama, Georgia, Idaho, Iowa, Kansas, Louisiana, Michigan, Mississippi, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Utah, and Wyoming. Additional, and sometimes separate, legislation has been enacted by 17 states that provides medical liability limitations for health care facilities and workers. The database was current as of December 14, 2020. National Conference of State Legislatures, *State Action on Coronavirus (COVID-19)*, <https://www.ncsl.org/research/health/state-action-on-coronavirus-covid-19.aspx#db> (last visited Mar. 1, 2021).

¹⁰ Alabama Executive Order signed by Governor Kay Ivey on May 8, 2020, and Arkansas Executive Order 20-33 signed by Governor Asa Hutchinson on June 5, 2020.

¹¹ Safe to Work Act, s. 4317 –116th Cong. (2020) <https://www.congress.gov/bill/116th-congress/senate-bill/4317/actions> (last visited Mar. 1, 2021).

¹² BLACK'S LAW DICTIONARY (11th ed. 2019).

¹³ Fla. Std. Jury Instr. Civil 401.3, *Negligence*.

¹⁴ Florida is a comparative negligence jurisdiction as provided in s. 768.81(2), F.S. In lay terms, if a plaintiff and defendant are both at fault, a plaintiff may still recover damages, but those damages are reduced proportionately by the degree that the plaintiff's negligence caused the injury.

or herself entitled. The defendant responds with an “answer,” and provides in short and plain terms the defenses to each claim asserted, admitting or denying the averments in response.¹⁵

Under the Florida Rules of Civil Procedure, there is a limited group of allegations that must be pled with “particularity.” These allegations include allegations of fraud, mistake, and a denial of performance or occurrence.¹⁶

Four Elements of a Negligence Claim

To establish liability, the plaintiff must prove four elements:

Duty – That the defendant owed a duty, or obligation, of care to the plaintiff;

Breach – That the defendant breached that duty by not conforming to the standard required;

Causation – That the breach of the duty was the legal cause of the plaintiff’s injury; and

Damages – That the plaintiff suffered actual harm or loss.

Burden or Standard of Proof

A “burden of proof” is the obligation a party bears to prove a material fact. The “standard of proof” is the level or degree to which an issue must be proved.¹⁷ The plaintiff carries the burden of proving, by a specific legal standard, that the defendant breached the duty that was owed to the plaintiff that resulted in the injury. In civil cases, two standards of proof generally apply:

- The “greater weight of the evidence” standard, which applies most often in civil cases, or
- The “clear and convincing evidence” standard, which applies less often, and is a higher standard of proof.¹⁸

However, both of these standards are lower than the “reasonable doubt” standard which is used in criminal prosecutions.”¹⁹ Whether the greater weight standard or clear and convincing standard applies is determined by case law or the statutes that govern the underlying substantive issues.²⁰

Greater Weight of the Evidence

The greater weight of the evidence standard of proof means “the more persuasive and convincing force and effect of the entire evidence in the case.”²¹ Some people explain the “greater weight of the evidence” concept to mean that, if each party’s evidence is placed on a balance scale, the side that dips down, even by the smallest amount, has met the burden of proof by the greater weight of the evidence.

Clear and Convincing

The clear and convincing standard, a higher standard of proof than a preponderance of the evidence, requires that the evidence be credible and the facts which the witness testifies to must be remembered distinctly. The witness’s testimony “must be precise and explicit and the

¹⁵ Fla. R. Civ. P. 1.110.

¹⁶ Fla. R. Civ. P. 1.120(b) and (c).

¹⁷ 5 Fla. Prac. Civil Practice s. 16.1, (2020 ed.)

¹⁸ *Id.*

¹⁹ Thomas D. Sawaya, *Florida Personal Injury Law and Practice with Wrongful Death Actions*, s. 24:4 (2020).

²⁰ 5 Fla. Prac. Civil Practice s. 16.1 (2020 ed.).

²¹ Fla. Std. Jury Instr. 401.3, *Greater Weight of the Evidence*.

witnesses must be lacking in confusion as to the facts in issue.” The evidence must be so strong that it guides the trier of fact to a firm conviction, to which there is no hesitation, that the allegations are true.²²

Standards of Care and Degrees of Negligence

Courts have developed general definitions for the degrees of negligence.

Slight Negligence

Slight negligence is generally defined to mean the failure to exercise a great amount of care.²³

Ordinary Negligence

Ordinary negligence, which is also referred to as simple negligence, is the standard of care applied to the vast majority of negligence cases. It is characterized as the conduct that a reasonable and prudent person would know could possibly cause injury to a person or property.²⁴

Gross Negligence

Gross negligence means the failure of a person to exercise slight care. Florida courts have defined gross negligence as the type of conduct that a “reasonably prudent person knows will probably and most likely result in injury to another” person.²⁵

In order for a plaintiff to succeed on a claim involving gross negligence, he or she must prove:

- Circumstances, which, when taken together, create a clear and present danger;
- Awareness that the danger exists; and
- A conscious, voluntary act or omission to act, that will likely result in an injury.^{26, 27}

Tort Laws Applicable to COVID-19 Lawsuits against Health Care Providers and Professionals

There is no established tort law specific to claims related to the COVID-19 pandemic. Absent legislative action, it will take years before the appellate courts hear and resolve the outstanding cases related to COVID-19 in order to develop common law principals applicable to COVID-19. In a case involving tuberculosis, an airborne disease, one federal trial court has found that “negligent transmission of a contagious disease is not actionable under Florida common law.”²⁸ Absent current clear directions from the courts, there are two likely theories of common law negligence that may be used by plaintiffs seeking damages from health care providers: premises liability and medical malpractice. It is also possible that a claim could be made on contract theory.

²² *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983) as discussed in the Sawaya treatise, *supra* at note 19.

²³ Sawaya, *supra* at s. 2:12.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Culpable negligence is a fourth degree of negligence but is not discussed in this analysis.

²⁸ *Quezada v. Circle K Stores, Inc.*, No. 204CV190FTM33DNF, 2005 WL 1633717, at 2 (M.D. Fla. July 7, 2005) (convenience store patron contracted tuberculosis because store employee known to have tuberculosis was allowed to work).

Premises Liability

Premises liability refers to the duty of an individual or entity that owns or controls real property to reasonably operate and maintain such property for the safety of those who enter or remain on the property. There are different standards of negligence for premises liability based on the legal status of the injured party. However, in most cases related to health care providers, the patient or client or supplier is a legal invitee, so that standard is appropriate for consideration. As to an invitee, a landowner or possessor is liable if he/she/it:

- Negligently failed to maintain the premises in a reasonably safe condition; or
- Negligently failed to correct a dangerous condition about which the defendant either knew or should have known, by the use of reasonable care; or
- Negligently failed to warn the claimant of a dangerous condition about which the defendant had, or should have had, knowledge greater than that of claimant, and, if so, such negligence was a legal cause of loss, injury, or damage.²⁹

Medical Negligence

Negligence of a medical provider is the failure to use reasonable care. Reasonable care on the part of a physician, hospital, or health care provider is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by similar and reasonably careful physicians, hospitals, or health care providers. Negligence on the part of a physician, hospital, or health care provider is doing something that a reasonably careful physician, hospital, or health care provider would not do under like circumstances or failing to do something that a reasonably careful physician, hospital, or health care provider would do under like circumstances.³⁰

Procedures for the filing and prosecution of a medical negligence claim are found in ch. 766, F.S. One such requirement is that the plaintiff's attorney certify that he or she has investigated the claim and found a good faith belief that grounds exist for an action against each named defendant. A lawyer may support the good faith finding by way of a reviewing physician's affidavit. The affidavit is not attached to the complaint or available in discovery.³¹

Breach of Contract

Breach of contract is not a tort claim. The cause of action is similar, in that the injured party must show duty, breach, and damages. In contract law, the parties have a relationship defined by a contract. The contract spells out the duties owed to one another and the potential damages recoverable. However, duties beyond those specifically listed in the contract may be implied based on industry custom, regulation, or mutual understanding of the parties. So, for instance, it is unlikely that a nursing home contract would say how the nursing home would deal with the unique challenges of COVID-19. Still, courts would likely find that a nursing home has the implied contractual duty to undertake commercially reasonable measures for infection control consistent with applicable laws and regulations, and a nursing home may be found to be in breach of contract for failing to do so.

²⁹ Fla. Std. Jury Instr. 401.20 *Issues On Plaintiff's Claim — Premises Liability*.

³⁰ Fla. Std. Jury Instr. 402.4 *Medical Negligence*.

³¹ Section 766.104, F.S.

Access to Courts – *Kluger v. White*

The State Constitution provides in Article 1, s. 21, the “Access to courts” section,

The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Case law has demonstrated, however, that this provision is not absolute. In 1973, the Florida Supreme Court issued an opinion, *Kluger v. White*,³² a case which construed the access to courts provision. In broad terms, the case before the Court involved the abolition of a statute governing a tort action for property damage in an automobile accident case. When the Legislature abolished the remedy, it did not provide an alternative protection to the injured party.

The Court was confronted with the issue of whether the Legislature could abolish a right of access to the courts. The Court determined that the Legislature may not abolish a pre-1968 common law right or a statutory cause of action unless the Legislature provides a reasonable alternative to that action or unless an overpowering public necessity exists for abolishing the right of action. The Court applies a three-part test to determine whether a statute violates the access to courts provision:

- Does the change abolish a preexisting right of access?
- If so, whether a reasonable alternative exists to protect that preexisting right of access.
- If no reasonable alternative exists, whether an overwhelming public necessity exists.³³

Restrictions on the ability to bring a lawsuit have been upheld as constitutional, but the point at which a restriction becomes an unconstitutional bar is not well defined.

Statute of Limitations

A statute of limitations establishes a time limit for a plaintiff to file an action, or the case will be barred. An action for a negligence claim must be brought within 4 years after the cause of action accrues.³⁴

Statutes of limitations are created to encourage a plaintiff to initiate an action while witnesses and evidence can be found. They also serve as a shield to protect a defendant from having to defend against a claim that occurred so long ago that precise memories have grown hazy.³⁵ A statute of limitations begins to run when the cause of action accrues. A cause of action accrues when the last element constituting the cause of action occurs.³⁶ In a personal injury action based on the negligent act of another, the last element occurs when the plaintiff is injured.³⁷

³² *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

³³ *Eller v. Shova*, 630 So. 2d 537 (Fla. 1993).

³⁴ Section 95.11(3), F.S.

³⁵ 35 Fla. Jur 2d *Limitations and Laches* s. 1 (2020).

³⁶ Section 95.031(1), F.S.

³⁷ 35 Fla. Jur 2d *Limitations and Laches* s. 65 (2020).

Retroactive Application of a Statute

Under Florida law, statutes are presumed to operate prospectively, not retroactively. In other words, statutes generally apply only to actions that occur on or after the effective date of the legislation, not before the legislation becomes effective.

The Florida Supreme Court has noted that, under the rules of statutory construction, if statutes are to operate retroactively, the Legislature must clearly express that intent for the statute to be valid.³⁸ When statutes that are expressly retroactive have been litigated and appealed, the courts have been asked to determine whether the statute applies to cases that were pending at the time the statute went into effect. The conclusion often turns on whether the statute is procedural or substantive.

In a recent Florida Supreme Court case, the Court acknowledged that “[t]he distinction between substantive and procedural law is neither simple nor certain.”³⁹ The Court further acknowledged that their previous pronouncements regarding the retroactivity of procedural laws have been less than precise and have been unclear.⁴⁰

Courts, however, have invalidated the retroactive application of a statute if the statute impairs vested rights, creates new obligations, or imposes new penalties.⁴¹ Still, in other cases, the courts have permitted statutes to be applied retroactively if they do not create new, or take away, vested rights, but only operate to further a remedy or confirm rights that already exist.⁴²

In a case challenging the application of an increase in the standard of proof from a preponderance of the evidence to the clear and convincing evidence standard after the plaintiff had filed a complaint, the court concluded that the statute could apply retroactively.⁴³ The Florida Supreme Court has noted that burden of proof requirements are procedural and may be abrogated retroactively because litigants do not have a vested right in a method of procedure.⁴⁴ The Court also permitted retroactive application of a statute that altered the plaintiff’s burden of proof.⁴⁵

III. Effect of Proposed Changes:

CS/SB 72 provides heightened liability protections against COVID-19-related claims due to the threat of unknown and potentially unbounded liability claims that may arise from the pandemic. The protections are extended widely to all persons, businesses, or other entities, including healthcare providers.

³⁸ *Walker & LaBerge, Inc., v. Halligan*, 344 So. 2d 239 (Fla. 1977).

³⁹ *Love v. State*, 286 So. 3d 177, 183 (Fla. 2019) quoting *Caple v. Tuttle’s Design-Build, Inc.*, 753 So. 2d 49, 53 (Fa. 2000).

⁴⁰ *Love* at 184.

⁴¹ *R.A.M. of South Florida, Inc. v. WCI Communities, Inc.*, 869 So. 2d 1210 (Fla 2004).

⁴² *Ziccardi v. Strother*, 570 So. 2d 1319 (Fla. 1990).

⁴³ *Stein v. Miller Industries, Inc.*, 564 So. 2d 539 (Fla. 4th DCA 1990).

⁴⁴ *Walker & LaBerge, Inc. v. Halligan*, 344 So. 2d 239, 243 (Fla. 1977).

⁴⁵ *Love*, supra.

WHEREAS Clauses

According to the “Whereas Clauses” the State continues to operate under a declared state of emergency, but one in which Floridians must be allowed to earn a living and support their families, and one in which businesses are encouraged to operate safely and contribute to the state’s success, well-being, and economic recovery. Because the Legislature recognizes the significant risks that businesses, entities, institutions, and health care providers accept to provide services to the public during the pandemic, the Legislature is willing to extend protections to alleviate liability concerns, while continuing to provide for the public health. The final clause notes that the Legislature finds that the unprecedented nature of the COVID-19 pandemic, and the indefinite legal environment that has followed, require swift and decisive action.

Legislative Findings

According to the legislative findings, the creation of heightened legal protections is necessary to reduce the threat of unlimited liability and legal exposure for businesses, educational institutions, governmental entities, and religious institutions as they seek to recover and contribute to the well-being of the state. The legislative findings conclude that there are no alternative means to meet this public necessity of providing legal protections caused by the sudden and unprecedented nature of the COVID-19 pandemic. Therefore, the public interest, as a whole, is best served by providing relief to these entities so that they may remain viable and contribute to the economic recovery of the state.

Legislative findings have a unique place in case law. The Florida Supreme Court has determined that they are to be given great weight. In the case of *University of Miami v. Echarte*, the Court stated that “legislative determinations of public purpose and facts are presumed correct and entitled to deference, unless clearly erroneous.”⁴⁶ The Court reflected on the *Kluger* decision and referred to its test. The Court also examined whether the Legislature expressly found that no alternative or less onerous method existed, thereby establishing a necessary requirement.

Section 1 - Pursuing a COVID-19-Related Claim

A COVID-19-related Claim Defined and Who is Protected Under the Bill

A COVID-19-related claim is defined as a civil liability claim for damages, injury, or death that arises from, or is related to, COVID-19.⁴⁷ The bill provides protections for any civil liability claim against a person,⁴⁸ a natural person, business entity, including certain charitable organizations and non-profits, a public or non-public educational institution, a governmental entity, or a religious institution. The bill extensively defines what or who a health care provider

⁴⁶ *University of Miami v. Echarte*, 618 So. 2d 189, 196 (Fla. 1993).

⁴⁷ A “COVID-19-related claim” is defined as “a civil liability claim against a person, including a natural person, a business entity, an educational institution, a governmental entity, or a religious institution which arises from or is related to COVID-19, otherwise known as the novel coronavirus. The term includes any such claim for damages, injury, or death. Any such claim, no matter how denominated, is a COVID-19 related claim for purposes of this section. The term does not include a claim against a healthcare provider, regardless of whether the healthcare provider meets one or more of the definitions in this subsection.”

⁴⁸ A “person” is broadly defined in the statutes to include individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations. Section 1.01(3), F.S.

is and includes healthcare providers in the liability protections established by the bill. The bill also provides definitions for an educational institution, governmental entity, and a religious institution.

Preliminary Procedures for a Plaintiff

The bill requires two preliminary steps from a plaintiff. In each civil action for a COVID-19-related claim, a plaintiff must:

- Set forth the pleadings with particularity; and
- Provide, at the same time that the complaint is filed, an affidavit signed by a physician, stating that the plaintiff's COVID-19-related claim for damages, injury, or death was caused by the defendant's acts or omissions. The physician who submits an affidavit must be actively licensed in the state. Additionally, the physician must state that it is his or her belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-related damages, injury, or death occurred as a result of the defendant's acts or omissions.

These preliminary procedures are similar to the pre-suit investigation requirements for a claimant filing a medical malpractice claim. According to s. 766.104(1), F.S., the attorney filing the action must make a reasonable investigation to determine that there are grounds for a good-faith belief that negligence has occurred in the care or treatment of the claimant. The complaint or initial pleading must contain a certificate of counsel stating that a reasonable investigation supported the belief that there are grounds for an action against the defendant. Good faith may be demonstrated if the claimant or counsel has received a written opinion from an expert that there appears to be evidence of medical negligence. If the court determines that the certificate was not made in good faith and that there is no justiciable issue presented against the health care provider, the court must award attorney fees and taxable costs against the claimant's counsel and must submit the matter to The Florida Bar for disciplinary review against the attorney.

The Court's Responsibilities

Before a trial may proceed, a court must determine whether:

- The plaintiff submitted a complaint that was pled with particularity; and
- The physician's affidavit complied with the necessary requirements.

If the plaintiff did not meet these two requirements, the court must dismiss the case *without* prejudice, meaning that the plaintiff is not prohibited from correcting deficiencies and refile the claim.

The court must also determine whether a defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time that the cause of action accrued. At this stage of the proceeding, the only admissible evidence is limited to evidence pertinent to whether the defendant made a good faith effort to comply with the health standards of guidance. If more than one source or set of standards or guidance was authoritative or controlling when the cause of action accrued, a defendant's good faith effort to substantially comply with any one of those sources or sets of standards or guidance confers immunity from civil liability.

If the court decides that the defendant met the good faith compliance burden, the defendant is immune from civil liability and the proceeding ends. However, if the court determines that the defendant did not make a good faith effort, the plaintiff may proceed. In order to prevail, the plaintiff must demonstrate that the defendant acted with at least gross negligence which is proven by clear and convincing evidence. If these two burdens are not met, the defendant will not be held liable for an act or omission pertaining to a COVID-19-related claim. The plaintiff bears the burden of proving that the defendant did not make a good faith effort to substantially comply with the authoritative or controlling government-issued health standards or guidance that were in place at the time the action accrued.

The Plaintiff's Burden to Prove Gross Negligence by the Clear and Convincing Standard

As discussed above in the “Present Situation,” gross negligence is defined as the type of conduct that a reasonably prudent person knows will probably and most likely result in an injury to another person. Under this standard, a plaintiff will need to prove that the defendant's conduct was grossly negligent, meaning that the likelihood of injury to another person was known by the defendant to be imminent.

The plaintiff will need to demonstrate gross negligence by the “clear and convincing” standard of evidence. This is applied less often in civil cases and is a higher standard of proof than the greater weight of the evidence standard. To meet this standard, the plaintiff must provide evidence that is credible, that is remembered distinctly by the witness, and must be so strong that the trier of fact has a firm conviction, without hesitation, that the allegations are true.

Taken together, a plaintiff has high burdens to prevail in a COVID-19-related claim.

Statute of Limitations

The bill requires a plaintiff to bring a civil action within 1 year after the cause of action accrues. Generally, a negligence action must be brought within 4 years after a cause of action accrues. Therefore, this bill reduces the amount of time that a plaintiff has to bring an action. If, however, the cause of action accrues before the effective date of the bill, which is the date it becomes law, the plaintiff has one year from the effective date of the bill to bring a claim. While this could be a reduction in the amount of time that a plaintiff has to bring a COVID-19-related claim, there is precedent for this. Court opinions have held that a reduction in the statute of limitations is not unconstitutional if the claimant is given a reasonable amount of time to file the action.⁴⁹

Section 2 – COVID-19-Related Claims Against Health Care Providers

The liability protections for health care providers in the bill are significant, but the protections are not as strong as those for other persons, businesses, and individuals.

As provided in the bill, a plaintiff generally must prove a COVID-19-related claim against a health care provider by showing by the greater weight of the evidence that the health care provider engaged in gross negligence or intentional misconduct. As defined, a COVID-19 related

⁴⁹ *Foley v. Morris*, 339 So. 2d 215 (Fla. 1976).

claim against a health care provider, to which the liability protections apply, mainly relate to claims:

- Arising from the diagnosis or treatment of a person for COVID-19,
- The provision of a novel or experimental COVID-19 treatment,
- The transmission of COVID-19, and
- The delay or cancellation of a surgery or medical procedure.

The procedures for claims against a health care provider differ from claims against other types of defendants in several ways. Claims against a health care provider need not be supported by an affidavit by a physician indicating that the defendant's actions **caused** the plaintiff's damages. There is no presuit immunity hearing. Additionally, claims need not be proven by clear and convincing evidence.

The bill also species several affirmative defenses that apply to a COVID-19-related claim against a health care provider. An affirmative defense is a defendant's assertion of facts and arguments that, if true, will defeat the plaintiff's claim. The defendant bears the burden of proving an affirmative defense. The affirmative defenses included in the bill mainly relate to a health care provider's substantial compliance with or reliance upon government issued-health standards. The affirmative defenses also relate to the impossibility of compliance with government-issued standards due to shortages of supplies, materials, equipment, and personnel and the defenses also relate to the impossibility of compliance due to the time necessary to implement new standards.

Although section 2 of the bill generally does not provide the same level of liability protections to a health care provider as those provided to others under section 1, some claims against a health care provider are subject to the heightened protections. Claims subject to the heightened protections include claims by a person who is not a patient or resident of a health care provider alleging that the health care provider caused the person to contract COVID-19.

Retroactive Application

This act takes effect upon becoming a law and applies retroactively. The bill applies retroactively to actions filed after the effective date of the bill even if the action accrued before the effective date. The bill, however, does not apply to a claim that is filed against a particularly named defendant before the effective date of the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Florida Bar submitted a brief response on the Agency Bill Analysis Request form and stated that it had not identified any fiscal impact with the proposed legislation. The response also stated that The Florida Bar would not be providing an analysis for the bill and does not have an official legislative position for the proposed legislation.⁵⁰

C. Government Sector Impact:

The Office of the State Courts Administrator states that the bill's impact on the judicial workload cannot be quantified with data that is currently available. The analysis stated, however, that the bill is not anticipated to create a significant increase to the judicial workload. The analysis did note that the Rules of Civil Procedure and jury instructions might need to be reviewed and revised to make certain that they accommodate the new procedures created in the bill. The analysis also stated that the additional requirements for plaintiffs could result in fewer COVID-19-related cases being filed, possibly reducing revenues from civil filing fees, but there is not enough information to accurately determine this.⁵¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁰ The Florida Bar, *SB 72 Analysis*, (Jan. 12, 2021) (on file with the Senate Committee on Commerce and Tourism).

⁵¹ Office of the State Courts Administrator, *2021 Judicial Impact Statement, SB 72* (Jan. 21, 2021) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=31076> (last visited Mar. 1, 2021).

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: s. 768.38 and s. 768.381.

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 Rules on March 11, 2021:

The committee substitute differs from the underlying bill by adding provisions based on SB 74 to establish liability protections and procedures for COVID-19 related claims against health care providers.

With respect to claims against a person other than a health care provider, the committee substitute provides that the defendant is immune from liability if he or she substantially complied with any source or set of standards or guidance that was authoritative or controlling at the time the cause of action accrued.

- B. **Amendments:**

None.



274920

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.38, Florida Statutes, is created to
read:

768.38 Immunity for educational institutions for actions
related to the COVID-19 pandemic.—

(1) For the purposes of this section, the term "educational
institution" means a school, including a preschool, an
elementary school, a middle school, a junior high school, a



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secondary school, a career center, or a postsecondary school, whether public or nonpublic.

(2) Any educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions include, but are not limited to, any of the following:

(a) Shifting in-person instruction to online or remote instruction for any period of time while a state of emergency was declared for this state for the COVID-19 pandemic;

(b) Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution; or

(c) Pausing or modifying ancillary student activities and services available through the educational institution while a state of emergency was declared for this state for the COVID-19 pandemic.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need of educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.



274920

(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 3. This act shall apply retroactively to causes of actions accruing on or before March 9, 2020.

Section 4. 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 civil liability for damages
relating to COVID-19; creating s. 768.38, F.S.;
defining the term "educational institution"; providing
that educational institutions that have taken certain
actions may not be held liable for and are immune from
civil damages, equitable relief, or other remedies;
specifying that the provision of in-person or on-
campus education and related services is deemed



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impossible during a specified timeframe; specifying
that certain actions are deemed to have been
justified; providing construction; providing
severability; providing retroactive applicability;
providing an effective date.

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued
Executive Order Number 20-52 declaring a state of emergency for
the State of Florida due to the COVID-19 pandemic, and

WHEREAS, in light of the ongoing nature of the COVID-19
pandemic, the Governor has repeatedly extended the state of
emergency, including most recently on February 26, 2021, in
Executive Order Number 21-45, and

WHEREAS, the State of Florida continues under a declared
state of emergency, and

WHEREAS, educational institutions have been required to
take actions to protect students, educators, and staff on their
campuses beginning in March 2020, and

WHEREAS, those actions included closing campuses to in-
person instruction, closing residential and student activity
facilities, and closing or modifying other on-campus facilities
and services, NOW, THEREFORE,



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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Substitute for Amendment (274920) (with title amendment)

Delete lines 65 - 174

and insert:

entities, governmental entities, and religious institutions that contribute to the overall well-being of the state. The threat of unknown and potentially unbounded liability to such businesses, entities, and institutions, in the wake of a pandemic that has already left many of these businesses, entities, and institutions vulnerable, has created an overpowering public



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necessity to provide an immediate and remedial legislative solution. Therefore, the Legislature intends for certain business entities, governmental entities, and religious institutions to enjoy heightened legal protections against liability as a result of the COVID-19 pandemic. The Legislature also finds that there are no alternative means to meet this public necessity, especially in light of the sudden, unprecedented nature of the COVID-19 pandemic. The Legislature finds the public interest as a whole is best served by providing relief to these businesses, entities, and institutions so that they may remain viable and continue to contribute to the state.

(2) As used in this section, the term:

(a) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

(b) "COVID-19-related claim" means a civil liability claim against a person, including a natural person, a business entity, a governmental entity, or a religious institution which arises from or is related to COVID-19, otherwise known as the novel coronavirus. The term includes any such claim for damages, injury, or death. Any such claim, no matter how denominated, is a COVID-19-related claim for purposes of this section. The term does not include a claim against an educational institution or a healthcare provider, regardless of whether the healthcare provider meets one or more of the definitions in this subsection.

(c) "Educational institution" means a school, including a preschool, elementary school, middle school, junior high school,



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secondary school, career center, or postsecondary school,
whether public or nonpublic.

(d) "Governmental entity" means the state or any political
subdivision thereof, including the executive, legislative, and
judicial branches of government; the independent establishments
of the state, counties, municipalities, districts, authorities,
boards, or commissions; or any agencies that are subject to
chapter 286.

(e) "Healthcare provider" means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in the state or
services to health care providers in the state, if the clinical
laboratory is certified by the Centers for Medicare and Medicaid
Services under the federal Clinical Laboratory Improvement
Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42
U.S.C. s. 1396d(1)(2)(B), as that definition exists on the
effective date of this act.

4. Any site providing health care services which was
established for the purpose of responding to the COVID-19
pandemic pursuant to any federal or state order, declaration, or
waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of
chapter 468.

7. A home health aide as defined in s. 400.462(15).

(f) "Religious institution" has the same meaning as
provided in s. 496.404.

(3) In a civil action based on a COVID-19-related claim:



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(a) The complaint must be pled with particularity.

(b) At the same time the complaint is filed, the plaintiff must submit an affidavit signed by a physician actively licensed in the state which attests to the physician's belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions.

(c) The court must determine, as a matter of law, whether:

1. The plaintiff complied with paragraphs (a) and (b). If the plaintiff did not comply with paragraphs (a) and (b), the court must dismiss the action without prejudice.

2. The defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.

a. During this stage of the proceeding, admissible evidence is limited to evidence tending to demonstrate whether the defendant made such a good faith effort.

b. If the court determines that the defendant made such a good faith effort, the defendant is immune from civil liability.

c. If the court determines that the defendant did not make such a good faith effort, the plaintiff may proceed with the action. However, absent at least gross negligence proven by clear and convincing evidence, the defendant is not liable for any act or omission relating to a COVID-19-related claim.

(d) The burden of proof is upon the plaintiff to demonstrate that the defendant did not make a good faith effort under subparagraph (c)2.

(4) A civil action for a COVID-19-related claim must be



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commenced within 1 year after the cause of action accrues.
However, a plaintiff whose cause of action for a COVID-19-
related claim accrued before the effective date of this act must
commence such action within 1 year of the effective date of this
act.

(5) This section shall apply retroactively. However, this
section shall not apply in a civil action against a particularly
named defendant which is commenced before the effective date of
this act.

Section 2. Section 768.39, Florida Statutes, is created to
read:

768.39 Immunity for educational institutions for actions
related to the COVID-19 pandemic.—

(1) For the purposes of this section, the term “educational
institution” has the same meaning as in s. 768.38(2).

(2) Any educational institution that has taken reasonably
necessary actions in compliance with federal, state, or local
guidance to diminish the impact or the spread of COVID-19 may
not be held liable for, and shall be immune from, any civil
damages, equitable relief, or other remedies relating to such
actions. Reasonably necessary actions include, but are not
limited to, any of the following:

(a) Shifting in-person instruction to online or remote
instruction for any period of time while a state of emergency
was declared for this state for the COVID-19 pandemic;

(b) Closing or modifying the provision of residential
housing, dining, or other facilities on the campus of the
educational institution; or

(c) Pausing or modifying ancillary student activities and



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services available through the educational institution while a state of emergency was declared for this state for the COVID-19 pandemic.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need of educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.

(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent authorized by law to any other types of claims or causes of action.

(5) This section shall apply retroactively to causes of actions accruing on or before March 9, 2020.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 4. This act shall take effect upon becoming a law.



820166

===== 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:

providing a statute of limitations; providing
retroactive applicability; creating s. 768.39, F.S.;
defining the term "educational institution"; providing
that educational institutions that have taken certain
actions may not be held liable for and are immune from
civil damages, equitable relief, or other remedies;
specifying that the provision of in-person or on-
campus education and related services is deemed
impossible during a specified timeframe; specifying
that certain actions are deemed to have been
justified; providing construction; providing
retroactive applicability; providing severability;



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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Substitute for Amendment (274920) (with title amendment)

Between lines 163 and 164
insert:

Section 3. Section 768.39, Florida Statutes, is created to
read:

768.39 Immunity for educational institutions for actions
related to the COVID-19 pandemic.—

(1) For the purposes of this section, the term "educational
institution" has the same meaning as in s. 768.38(2).



300664

(2) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

(a) Shifting in-person instruction to online or remote instruction for any period of time;

(b) Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution; or

(c) Pausing or modifying ancillary student activities and services available through the educational institution.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.

(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent



300664

41 authorized by law to any other types of claims or causes of
42 action.

43 (5) This section shall apply retroactively to causes of
44 actions accruing on or before March 9, 2020.

45
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete line 8

49 and insert:

50 providing a statute of limitations; creating s.
51 768.39, F.S.; defining the term "educational
52 institution"; providing educational institutions with
53 immunity from civil liability under certain
54 circumstances; specifying that the provision of in-
55 person or on-campus education and related services is
56 deemed impossible during a specified timeframe;
57 specifying that certain actions taken by educational
58 institutions are deemed to have been justified;
59 providing construction; providing for retroactive
60 application; providing



258738

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Delete lines 131 - 136
and insert:

(b) The plaintiff must present affidavit testimony from a medical expert, as defined in s. 766.202, which attests to the expert's belief, within a reasonable degree of medical probability, that the person whose injury or death gave rise to the action was infected with COVID-19 at the time that the cause of action accrued and that the plaintiff's infection by COVID-19 resulted in injury, damages, or death.



296990

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Delete lines 141 - 151
and insert:

2. The defendant is immune from civil liability if the defendant pleads immunity. A defendant may plead immunity at any stage of the proceeding. A defendant is immune from civil liability for ordinary negligence if the court determines that the defendant complied with all applicable executive orders issued by the Governor in association with the declared state of emergency relating to COVID-19 and any guidelines from the



296990

Centers for Disease Control and Prevention applicable at the
time the cause of action accrued.

a. At a summary judgment hearing on the issue of immunity,
evidence is limited to evidence that demonstrates whether the
defendant complied with all applicable executive orders issued
by the Governor in association with the declared state of
emergency relating to COVID-19 and any guidelines from the
Centers for Disease Control and Prevention applicable at the
time the cause of action accrued.

b. If the court determines at a summary judgment hearing
that the defendant complied with such orders and guidelines, the
defendant is immune from liability for ordinary negligence.

c. If the court determines at a summary judgment hearing
that the defendant did not comply with such guidelines and
orders, the plaintiff may proceed with the



113534

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Delete lines 152 - 154
and insert:
action. The defendant is not liable for any act or omission
relating to a COVID-19-related claim unless the plaintiff can
demonstrate by the greater weight of the evidence that the
injury was caused by the negligent acts or omissions of the
defendant.



300896

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Between lines 163 and 164
insert:

(5) Any business that is insured under an insurance policy providing coverage for premises liability shall receive a rebate of any insurance premiums paid or accrued from an insurance carrier or insurance provider for any period where the business was unable to use the business premises due to authoritative or controlling government-issued health standards or guidance.



300896

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 8

and insert:

providing a statute of limitations; requiring that
certain businesses receive rebates from insurance
carriers or providers for any period where the
business was unable to use the business premises due
to certain government-issued standards or guidance;
providing



936160

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Between lines 163 and 164
insert:

(5) To be eligible for liability protections under this section, the defendant must prove by clear and convincing evidence that, before the cause of action accrued, it posted a notice at each business entrance in a clear and conspicuous manner which stated the following in a font that was at least 20-point type:



936160

ENTER AT YOUR OWN RISK.—This establishment is not
liable for transmission of or exposure to COVID-19
pursuant to section 768.38, Florida Statutes, even if
such transmission or exposure was caused by our own
negligent conduct.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 8

and insert:

providing a statute of limitations; requiring a
defendant in such action to prove that, before the
cause of action accrued, it posted a specified notice
at each business entrance as a condition of
eligibility for liability protection under the act;
providing



149800

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2021	.	
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The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.38, Florida Statutes, is created to
read:

768.38 Liability protections for COVID-19-related claims.—
(1) The Legislature finds that the COVID-19 outbreak in
this state threatens the continued viability of certain business
entities, educational institutions, governmental entities, and
religious institutions that contribute to the overall well-being



149800

of this state. The threat of unknown and potentially unbounded liability to such businesses, entities, and institutions, in the wake of a pandemic that has already left many of these businesses, entities, and institutions vulnerable, has created an overpowering public necessity to provide an immediate and remedial legislative solution. Therefore, the Legislature intends for certain business entities, educational institutions, governmental entities, and religious institutions to enjoy heightened legal protections against liability as a result of the COVID-19 pandemic. The Legislature also finds that there are no alternative means to meet this public necessity, especially in light of the sudden, unprecedented nature of the COVID-19 pandemic. The Legislature finds the public interest as a whole is best served by providing relief to these businesses, entities, and institutions so that they may remain viable and continue to contribute to this state.

(2) As used in this section, the term:

(a) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

(b) "COVID-19-related claim" means a civil liability claim against a person, including a natural person, a business entity, an educational institution, a governmental entity, or a religious institution, which arises from or is related to COVID-19, otherwise known as the novel coronavirus. The term includes any such claim for damages, injury, or death. Any such claim, no matter how denominated, is a COVID-19-related claim for purposes of this section. The term includes a claim against a health care



149800

provider only if the claim is excluded from the definition of COVID-19-related claim under s. 768.381, regardless of whether the health care provider also meets one or more of the definitions in this subsection.

(c) "Educational institution" means a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(d) "Governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to chapter 286.

(e) "Health care provider" means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(1)(2)(B), as that definition exists on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.



149800

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462(15).

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.

9. A continuing care facility licensed under chapter 651.

10. A pharmacy permitted under chapter 465.

(f) "Religious institution" has the same meaning as provided in s. 496.404.

(3) In a civil action based on a COVID-19-related claim:

(a) The complaint must be pled with particularity.

(b) At the same time the complaint is filed, the plaintiff must submit an affidavit signed by a physician actively licensed in this state which attests to the physician's belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions.

(c) The court must determine, as a matter of law, whether:

1. The plaintiff complied with paragraphs (a) and (b). If the plaintiff did not comply with paragraphs (a) and (b), the court must dismiss the action without prejudice.

2. The defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.

a. During this stage of the proceeding, admissible evidence is limited to evidence tending to demonstrate whether the defendant made such a good faith effort.



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b. If the court determines that the defendant made such a good faith effort, the defendant is immune from civil liability. If more than one source or set of standards or guidance was authoritative or controlling at the time the cause of action accrued, the defendant's good faith effort to substantially comply with any one of those sources or sets of standards or guidance confers such immunity from civil liability.

c. If the court determines that the defendant did not make such a good faith effort, the plaintiff may proceed with the action. However, absent at least gross negligence proven by clear and convincing evidence, the defendant is not liable for any act or omission relating to a COVID-19-related claim.

(d) The burden of proof is upon the plaintiff to demonstrate that the defendant did not make a good faith effort under subparagraph (c)2.

(4) A plaintiff must commence a civil action for a COVID-19-related claim within 1 year after the cause of action accrues or within 1 year after the effective date of this act if the cause of action accrued before the effective date of this act.

Section 2. Section 768.381, Florida Statutes, is created to read:

768.381 COVID-19-related claims against health care providers.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Authoritative guidance" means nonbinding instructions or recommendations from a federal, state, or local governmental entity, a clinical professional organization, or another authoritative source of clinical guidance.

(b) "COVID-19" means the novel coronavirus identified as



149800

SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

(c) "COVID-19 emergency" means a public health emergency relating to COVID-19 which is declared by an emergency declaration of the Federal Government or an emergency order of the State Surgeon General or a state of emergency due to COVID-19 declared by executive order of the Governor.

(d) "COVID-19-related claim" means a civil liability claim against a health care provider which arises from the:

1. Diagnosis or treatment of, or failure to diagnose or treat, a person for COVID-19;

2. Provision of a novel or experimental COVID-19 treatment;

3. Transmission of COVID-19;

4. Delay or cancellation of a surgery or a delay or cancellation of a medical procedure, a test, or an appointment based on a health care provider's interpretation or application of government-issued health standards or authoritative guidance specifically relating to the COVID-19 emergency;

5. An act or omission with respect to an emergency medical condition as defined in s. 395.002, and which act or omission was the result of a lack of resources directly caused by the COVID-19 pandemic; or

6. The provision of treatment to a patient diagnosed with COVID-19 whose injuries were directly related to an exacerbation of the patient's preexisting conditions by COVID-19.

The term does not include a claim alleging that an act or



149800

omission by a health care provider caused a person to contract COVID-19 or a derivative claim to such claim unless the person was a resident or patient of the health care provider or a person seeking care or treatment from the health care provider.

(e) "Government-issued health standards" means federal, state, or local laws, rules, regulations, or orders that describe the manner in which a health care provider must operate.

(f) "Health care provider" means any of the following:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462(15).

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.



149800

186 9. A continuing care facility licensed under chapter 651.

187 10. A pharmacy permitted under chapter 465.

188 (2) PRELIMINARY PROCEDURES.—

189 (a) In any civil action against a health care provider
190 based on a COVID-19-related claim, the complaint must be pled
191 with particularity by alleging facts in sufficient detail to
192 support each element of the claim. An affidavit of a physician
193 is not required as part of the pleading.

194 (b) If the complaint is not pled with particularity, the
195 court must dismiss the action.

196 (3) STANDARD OF PROOF.—A plaintiff who brings an action for
197 a COVID-19-related claim against a health care provider must
198 prove by the greater weight of the evidence that the health care
199 provider was grossly negligent or engaged in intentional
200 misconduct.

201 (4) AFFIRMATIVE DEFENSES.—If a health care provider proves
202 by the greater weight of the evidence the existence of an
203 affirmative defense that applies to a specific COVID-19-related
204 claim, the health care provider has no liability for that claim.
205 The affirmative defenses that may apply to a COVID-19-related
206 claim against a health care provider include, in addition to any
207 other affirmative defenses recognized by law, the health care
208 provider's:

209 (a) Substantial compliance with government-issued health
210 standards specifically relating to COVID-19 or other relevant
211 standards, including standards relating to the preservation or
212 prioritization of supplies, materials, or equipment;

213 (b) Substantial reliance upon government-issued health
214 standards specific to infectious diseases in the absence of



149800

standards specifically applicable to COVID-19;

(c) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible due to the widespread shortages of necessary supplies, materials, equipment, or personnel;

(d) Substantial compliance with any applicable government-issued health standards relating to COVID-19 or other relevant standards if the applicable standards were in conflict; or

(e) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible because there was insufficient time to implement the standards.

(5) LIMITATIONS PERIOD.—

(a) An action for a COVID-19-related claim against a health care provider which arises out of the transmission, diagnosis, or treatment of COVID-19 must commence within 1 year after the later of the date of death due to COVID-19, hospitalization related to COVID-19, or the first diagnosis of COVID-19 which forms the basis of the action.

(b) An action for a COVID-19-related claim against a health care provider which does not arise out of the transmission, diagnosis, or treatment of COVID-19, such as a claim arising out of a delayed or canceled procedure, must commence within 1 year after the cause of action accrues.

(c) Notwithstanding paragraph (a) or paragraph (b), an action for a COVID-19-related claim that accrued before the effective date of this act must commence within 1 year after the effective date of this act.

(6) INTERACTION WITH OTHER LAWS.—



149800

(a) This section is in addition to other provisions of law, including, but not limited to, chapters 400, 429, 766, and 768, and supersedes any conflicting provision of law but only to the extent of the conflict.

(b) This section provides the exclusive cause of action for a COVID-19-related claim against a health care provider.

(c) This section does not apply to claims governed by chapter 440.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 4. This act applies to causes of action that accrue within 1 year after the effective date of this act and applies retroactively. However, this act does not apply in a civil action against a particular named defendant which is commenced before the effective date of this act.

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 civil liability for damages
relating to COVID-19; creating s. 768.38, F.S.;
providing legislative findings and intent; defining



149800

terms; specifying requirements for civil actions based on COVID-19-related claims; requiring the court to make certain determinations in such actions; providing that plaintiffs have the burden of proof in such actions; requiring plaintiffs to commence COVID-19-related claims within specified timeframes; creating s. 768.381, F.S.; defining terms; providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing affirmative defenses; requiring COVID-19-related claims to commence within specified timeframes; providing construction; providing that the act provides the exclusive cause of action for COVID-19-related claims against health care providers; providing applicability; providing severability; providing applicability and for retroactive application; providing an effective date.

WHEREAS, an outbreak of the disease known as COVID-19, which is caused by a novel coronavirus that was not previously found in humans, occurred in Hubei province, China, in late 2019, and has currently been detected in more than 89 countries, including the United States, and

WHEREAS, COVID-19 is a severe respiratory disease that can result in illness or death and is caused by the person-to-person spread of the novel coronavirus, and

WHEREAS, COVID-19, as a viral agent capable of causing extensive loss of life or serious disability, is deadly, and



149800

WHEREAS, the transmission of COVID-19 is a threat to human health in this state, and

WHEREAS, the Secretary of the United States Department of Health and Human Services declared on January 31, 2020, that a public health emergency exists in the United States due to confirmed cases of COVID-19 in this country, and

WHEREAS, on March 1, 2020, the State of Florida Department of Health, in coordination with Governor Ron DeSantis, first declared a public health emergency based on the spread of COVID-19, and

WHEREAS, throughout the declared state of emergency, the Governor's executive orders included industry-specific restrictions to prevent the spread of COVID-19 based on the best information available at the time, allowing and encouraging certain businesses to continue to safely operate, and

WHEREAS, a strong and vibrant economy is essential to ensure that Floridians may continue in their meaningful work and ultimately return to the quality of life they enjoyed before the COVID-19 outbreak, and

WHEREAS, Floridians must be allowed to earn a living and support their families without unreasonable government intrusion, and

WHEREAS, the United States Centers for Disease Control and Prevention has issued health guidance to all state and local governments and all citizens, and

WHEREAS, in March 2020, the Centers for Medicare and Medicaid Services recommended the deferral of nonessential surgeries and other procedures, and

WHEREAS, the guidance from the Centers for Medicare and



149800

Medicaid Services to defer medical procedures was based in part on its recognition that the conservation of critical health care resources is essential, and

WHEREAS, on March 20, 2020, the Governor issued Executive Order 20-72, which prohibited health care providers "from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery which, if delayed, does not place a patient's immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious or life-threatening medical condition," and

WHEREAS, on April 29, 2020, the Governor issued Executive Order 20-112, which allowed health care providers to perform procedures prohibited by the earlier order if the health care provider had adequate supplies of personal protective equipment and satisfied other conditions, and

WHEREAS, medical experts have been racing to develop vaccines and to learn how COVID-19 is transmitted and how best to treat those infected with the disease, and

WHEREAS, the Federal Government, along with state and local governments, has sought to slow the spread of COVID-19 through travel bans and restrictions, quarantines, lockdowns, social distancing, and the closure of businesses or limitations on business activities, including limitations on the provision of medical services, and

WHEREAS, health care providers, including hospitals, doctors, nurses, and other health care facilities and workers, have struggled to acquire personal protective equipment and other supplies to protect against the risk of COVID-19 transmission and medications used in the treatment of the



149800

disease, and

WHEREAS, the circumstances of the COVID-19 pandemic have made it difficult or impossible for health care providers to maintain ideal levels of staffing, and

WHEREAS, health care providers are essential to the residents of this state's survival of the pandemic, and health care providers have continued to treat patients despite the potential, and still not fully known, risks of exposure to COVID-19, and

WHEREAS, while many actions may seem reasonable during the pandemic, some may attempt to construe these actions differently in hindsight when calm is restored, and

WHEREAS, as the pandemic continues and recovery begins, health care providers must be able to remain focused on serving the health care needs of their respective communities and not on the potential for unfounded lawsuits, and

WHEREAS, the Legislature finds that it is an overpowering public necessity to enact legislation that will deter unfounded lawsuits against individuals, businesses, health care providers, and other entities based on COVID-19-related claims, while allowing meritorious claims to proceed, and

WHEREAS, the Legislature finds that the unprecedented and rare nature of the COVID-19 pandemic, together with the indefinite legal environment that has followed, requires the Legislature to act swiftly and decisively, NOW, THEREFORE,



197850

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Powell) recommended the following:

Senate Amendment to Amendment (149800)

Delete line 219
and insert:
supplies, materials, equipment, or personnel, unless the claim
arises from an emergency medical condition occurring in the
course of or as a result of the defendant's provision of
nonessential elective medical or surgical care;



752206

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (149800)

Delete line 249
and insert:
a COVID-19-related claim against a health care provider.
However, this act does not apply to claims brought against a
facility that was cited for a deficiency pursuant to s.
400.23(8)(a), (b), or (c) during the 3 years preceding the date
of the State Surgeon General's declaration of the state public
health emergency relating to COVID-19.



777268

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800) (with title amendment)

Delete line 262
and insert:
before the effective date of this act. This act is repealed 1
year and 1 day after becoming a law, unless reenacted by the
Legislature.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



777268

12 Delete line 290
13 and insert:
14 application; providing for future repeal; providing an
15 effective date.



233752

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800)

Between lines 137 and 138
insert:
except for claims for intentional conduct,



600008

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800)

Delete lines 108 - 110
and insert:
action. The defendant is not liable for any act or omission
relating to a COVID-19-related claim unless the plaintiff can
demonstrate by the greater weight of the evidence that the
injury was caused by the negligent acts or omissions of the
defendant.



495044

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800)

Delete line 154
and insert:
of the patient's preexisting conditions by COVID-19. However, a
claim arising from the care or treatment of a person not
diagnosed with COVID-19 which alleges that a nursing home
facility's acts or omissions exacerbated the person's
preexisting condition or injury is not a COVID-19-related claim.



734552

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800) (with title amendment)

Delete lines 250 - 251
and insert:

(c) For COVID-19-related claims governed by chapter 112 or chapter 440 and any other claims for benefits provided by law to individuals suffering injury or illness in the course and scope of employment, the following individuals are presumed to have contracted COVID-19 in the course and scope of their employment:

1. A person licensed under chapter 458, chapter 459,



734552

chapter 461, chapter 463, chapter 464, chapter 465, chapter 466,
or chapter 483;

2. An employee of a:

a. Facility licensed, certified, or approved by any state
agency and for which chapter 395, chapter 400, chapter 429, or
chapter 766 applies;

b. Federally qualified health center as defined in 42
U.S.C. s. 1396d(1)(2)(B); or

c. Sole proprietorship, group practice, partnership, or
corporation that provides health care services by physicians
covered by s. 627.419, that is directly supervised by one or
more of such physicians, and that is wholly owned by one or more
of those physicians or by a physician and the spouse, parent,
child, or sibling of that physician;

3. An emergency medical technician as defined in s.
401.23(11); or

4. A paramedic as defined in 401.23(17).

(d) The presumption in paragraph (c) may be rebutted if the
defendant proves by clear and convincing evidence that the
individual's infection did not arise out of the course and scope
of his or her employment.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 288

and insert:

creating a certain presumption for COVID-19-related
claims of certain employees which are governed by
certain other provisions; providing that such



734552

41 presumption may be rebutted under certain
42 circumstances; providing severability;



594458

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
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The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800) (with title amendment)

Between lines 117 and 118
insert:

(5) To receive the liability protections under this section, the defendant must prove by clear and convincing evidence that it had prominently posted at each public entrance a notice with the following statement in at least 20-point font:

ENTER AT YOUR OWN RISK - Pursuant to Section 768.38,



594458

Florida Statutes, this establishment is not liable for
transmission of or exposure to COVID-19, even if such
transmission or exposure was caused by our own
negligent conduct.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 278

and insert:

related claims within specified timeframes; requiring
defendants to prove by clear and convincing evidence
that they posted a specified statement at their public
entrances in order to receive certain liability
protections; creating



399394

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Amendment to Amendment (149800) (with title amendment)

Between lines 251 and 252
insert:

Section 3. Section 768.39, Florida Statutes, is created to
read:

768.39 Immunity for educational institutions for actions
related to the COVID-19 pandemic.—

(1) For the purposes of this section, the term "educational
institution" has the same meaning as in s. 768.38(2).



399394

(2) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

(a) Shifting in-person instruction to online or remote instruction for any period of time;

(b) Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution; or

(c) Pausing or modifying ancillary student activities and services available through the educational institution.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.

(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent



399394

41 authorized by law to any other types of claims or causes of
42 action.

43 (5) This section shall apply retroactively to causes of
44 actions accruing on or before March 9, 2020.

45
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete line 288

49 and insert:

50 providing applicability; creating s. 768.39, F.S.;
51 defining the term "educational institution"; providing
52 educational institutions with immunity from civil
53 liability under certain circumstances; specifying that
54 the provision of in-person or on-campus education and
55 related services is deemed impossible during a
56 specified timeframe; specifying that certain actions
57 taken by educational institutions are deemed to have
58 been justified; providing construction; providing for
59 retroactive application; providing severability;



399590

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800) (with title amendment)

Between lines 117 and 118
insert:

(5) Any business that is insured under an insurance policy providing coverage for premises liability shall receive a rebate of any insurance premiums paid or accrued from an insurance carrier or insurance provider for the period of any loss of use of the business premises due to authoritative or controlling government-issued health standards or guidance.



399590

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 278

and insert:

related claims within specified timeframes; requiring
certain businesses impacted by specified government-
issued measures to receive a rebate of insurance
premiums if certain conditions are met; creating



509644

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/11/2021	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (149800)

Delete lines 83 - 87
and insert:
must present affidavit testimony from a medical expert as
defined in s. 766.202 which attests to the expert's belief,
within a reasonable degree of medical probability, that the
person whose injury or death gave rise to the action was
infected with COVID-19 at the time that the cause of action
accrued and that the plaintiff's infection by COVID-19 resulted
in the injury, damages, or death.



281950

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
	.	
	.	
	.	

The Committee on Rules (Powell) recommended the following:

Senate Amendment (with title amendment)

Between lines 154 and 155
insert:

For the purposes of this paragraph, the term "government-issued health standards or guidance" means a federal, state, or local law, regulation, or ordinance; a written order or other document published by a federal, state, or local government or regulatory body; or standards or guidance issued by the Agency for Health Care Administration or the United States Centers for Disease



281950

Control and Prevention, the National Institutes of Health, the
United States Food and Drug Administration, or the Centers for
Medicare and Medicaid Services, if such law, regulation,
ordinance, document, standard, or guidance is related to COVID-
19 or another infectious disease, applies to the defendant's
operations, and provided standards or guidance on operating at
the time of the alleged act or omission.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 6

and insert:

on a COVID-19-related claim; defining the term
"government-issued health standards or guidance";
providing that the

By Senator Brandes

24-00824B-21

202172__

1 A bill to be entitled
 2 An act relating to civil liability for damages
 3 relating to COVID-19; creating s. 768.38, F.S.;
 4 providing legislative findings and intent; defining
 5 terms; providing requirements for a civil action based
 6 on a COVID-19-related claim; providing that the
 7 plaintiff has the burden of proof in such action;
 8 providing a statute of limitations; providing
 9 severability; providing retroactive applicability;
 10 providing an effective date.
 11
 12 WHEREAS, on March 9, 2020, Governor Ron DeSantis issued
 13 Executive Order Number 20-52 declaring a state of emergency for
 14 the State of Florida due to the COVID-19 pandemic, and
 15 WHEREAS, in light of the ongoing nature of the COVID-19
 16 pandemic, the Governor has repeatedly extended the state of
 17 emergency, including most recently on December 29, 2020, in
 18 Executive Order Number 20-316, and
 19 WHEREAS, the State of Florida continues under a declared
 20 state of emergency, and
 21 WHEREAS, throughout the declared state of emergency, the
 22 Governor's executive orders included industry-specific
 23 restrictions to prevent the spread of COVID-19 based on the best
 24 information available at the time, allowing and encouraging
 25 certain businesses to continue to safely operate, and
 26 WHEREAS, a strong and vibrant economy is essential to
 27 ensure that Floridians may continue in their meaningful work and
 28 ultimately return to the quality of life they enjoyed before the
 29 COVID-19 outbreak, and

Page 1 of 6

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

24-00824B-21

202172__

30 WHEREAS, Floridians must be allowed to earn a living and
 31 support their families without unreasonable government
 32 intrusion, and
 33 WHEREAS, the Governor's responsible reopening strategy
 34 allowed businesses to continue to safely operate, bolstering
 35 consumer confidence, while also enforcing reasonable
 36 restrictions, and
 37 WHEREAS, the Legislature recognizes that certain
 38 businesses, entities, and institutions operating within the
 39 state are essential to the state's continuing success and well-
 40 being, and
 41 WHEREAS, the Legislature recognizes that many businesses,
 42 entities, and institutions accept significant risk in order to
 43 provide their services to the public, and
 44 WHEREAS, the Legislature further recognizes that the threat
 45 of frivolous and potentially limitless civil liability,
 46 especially in the wake of a pandemic, causes businesses,
 47 entities, and institutions to react in a manner detrimental to
 48 the state's economy and residents, and
 49 WHEREAS, the Legislature recognizes that practical, bright-
 50 line guidance protecting prudent businesses, entities, and
 51 institutions significantly alleviates such liability concerns,
 52 while also continuing to provide for the public health, and
 53 WHEREAS, the Legislature finds that the unprecedented and
 54 rare nature of the COVID-19 pandemic, together with the
 55 indefinite legal environment that has followed, requires the
 56 Legislature to act swiftly and decisively, NOW, THEREFORE,
 57
 58 Be It Enacted by the Legislature of the State of Florida:

Page 2 of 6

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

24-00824B-21

202172__

Section 1. Section 768.38, Florida Statutes, is created to read:

768.38 Liability protections for COVID-19-related claims.—

(1) The Legislature finds that the COVID-19 outbreak in the state threatens the continued viability of certain business entities, educational institutions, governmental entities, and religious institutions that contribute to the overall well-being of the state. The threat of unknown and potentially unbounded liability to such businesses, entities, and institutions, in the wake of a pandemic that has already left many of these businesses, entities, and institutions vulnerable, has created an overpowering public necessity to provide an immediate and remedial legislative solution. Therefore, the Legislature intends for certain business entities, educational institutions, governmental entities, and religious institutions to enjoy heightened legal protections against liability as a result of the COVID-19 pandemic. The Legislature also finds that there are no alternative means to meet this public necessity, especially in light of the sudden, unprecedented nature of the COVID-19 pandemic. The Legislature finds the public interest as a whole is best served by providing relief to these businesses, entities, and institutions so that they may remain viable and continue to contribute to the state.

(2) As used in this section, the term:

(a) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

24-00824B-21

202172__

(b) "COVID-19-related claim" means a civil liability claim against a person, including a natural person, a business entity, an educational institution, a governmental entity, or a religious institution which arises from or is related to COVID-19, otherwise known as the novel coronavirus. The term includes any such claim for damages, injury, or death. Any such claim, no matter how denominated, is a COVID-19-related claim for purposes of this section. The term does not include a claim against a healthcare provider, regardless of whether the healthcare provider meets one or more of the definitions in this subsection.

(c) "Educational institution" means a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(d) "Governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to chapter 286.

(e) "Healthcare provider" means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in the state or services to health care providers in the state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42

24-00824B-21

202172__

U.S.C. s. 1396d(1)(2)(B), as that definition exists on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462(15).

(f) "Religious institution" has the same meaning as provided in s. 496.404.

(3) In a civil action based on a COVID-19-related claim:

(a) The complaint must be pled with particularity.

(b) At the same time the complaint is filed, the plaintiff must submit an affidavit signed by a physician actively licensed in the state which attests to the physician's belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions.

(c) The court must determine, as a matter of law, whether:

1. The plaintiff complied with paragraphs (a) and (b). If the plaintiff did not comply with paragraphs (a) and (b), the court must dismiss the action without prejudice.

2. The defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.

a. During this stage of the proceeding, admissible evidence

24-00824B-21

202172__

is limited to evidence tending to demonstrate whether the defendant made such a good faith effort.

b. If the court determines that the defendant made such a good faith effort, the defendant is immune from civil liability.

c. If the court determines that the defendant did not make such a good faith effort, the plaintiff may proceed with the action. However, absent at least gross negligence proven by clear and convincing evidence, the defendant is not liable for any act or omission relating to a COVID-19-related claim.

(d) The burden of proof is upon the plaintiff to demonstrate that the defendant did not make a good faith effort under subparagraph (c)2.

(4) A civil action for a COVID-19-related claim must be commenced within 1 year after the cause of action accrues. However, a plaintiff whose cause of action for a COVID-19-related claim accrued before the effective date of this act must commence such action within 1 year of the effective date of this act.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 3. This act shall take effect upon becoming a law and shall apply retroactively. However, the provisions of this act shall not apply in a civil action against a particularly named defendant which is commenced before the effective date of this act.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 10, 2021

I respectfully request that **Senate Bill # 72**, relating to Civil Liability for Damages Relating to COVID-19, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

03/11/21

Meeting Date

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

72

Bill Number (if applicable)

197850

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive VP of Public Affairs

Address _____ Phone _____
Street

City

State

Zip

Email DavidM@Phg.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

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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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

197850

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-359-6644

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33131

Email scain@stfbllaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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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Reset Form

THE FLORIDA SENATE
APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

752206

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name Robin Khanal

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Phone 407-872-6011

Email rkhanal@qpwbllaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

752206

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03/11/21

Meeting Date

72

Bill Number (if applicable)

752206

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive VP of Public Affairs

Address _____

Street

Phone _____

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Zip

Email Davidm@Phg.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

752206

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

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32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

777268

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

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Email scain@stfblaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

777268

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

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Tallahassee

FL

32301

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Zip

Phone (850) 222-0170

Email William@fljustice.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

777268

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

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Tallahassee

City

FL

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32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/11/21

Meeting Date

72

Bill Number (if applicable)

772268

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive VP of Public Affairs

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

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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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

233752

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

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Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

233752

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

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Email scain@stfblaw.com

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Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

600008

Topic Civil Liability for Damages Relating to COVID-19

Amendment Barcode (if applicable)

Name William Large

Job Title President

Address 210 South Monroe Street

Phone (850) 222-0170

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Email William@fljustice.org

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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)

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

600008

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

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Phone 305-359-6644

Email scain@stfblaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

495044

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

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Email scain@stfblaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE
APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

495044

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name Robin Khanal

Job Title _____

Address 255 South Orange Ave - Suite 900

Phone 407-872-6011

Street

Orlando

FL

32801

Email rkhanal@qpwbllaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

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.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

495044

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Phone 352-318-2008

Street

Tallahassee

FL

32301

Email tphilpot@fhca.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

734552

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

734552

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 222-0170

Email William@fljustice.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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

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

03/11/21

Meeting Date

72

Bill Number (if applicable)

734552

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive VP of Public Affairs

Address _____ Phone _____
Street

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

594458

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

Phone (850) 222-0170

Street

Tallahassee

FL

32301

Email William@fljustice.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

594458

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

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)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

594458

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Street

Phone 305-359-6644

Miami

FL

33131

City

State

Zip

Email scain@stfblaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

399590

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 222-0170

Email William@fljustice.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

399590

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-359-6644

Street

Miami

FL

33131

Email scain@stfblaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

~~28-752~~ 509644

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

Phone (850) 222-0170

Street

Tallahassee

FL

32301

Email William@fljustice.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Reform Institute

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

3/11/2021

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

SB 72

Bill Number (if applicable)

509644

Amendment Barcode (if applicable)

Topic Covid Liability

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Street

Miami

City

FL

State

33131

Zip

Phone 305-358-6644

Email scain@stfblaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida consumers

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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YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

03.11.21

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Name William Large

Job Title President

Address 210 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 222-0170

Email William@fljustice.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

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

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

03/11/21
Meeting Date

72
Bill Number (if applicable)
149800
Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive VP of Public Affairs

Address _____
Street

Phone _____

City

State

Zip

Email Davidm@fha.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 14, 2021
Meeting Date

72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic SB 72

Name Brewsen Brown

Job Title Lobbyist for ICUF

Address 317 E. Park Ave
Street

Phone 850.570.5644

Tallahassee FL 32301
City State Zip

Email brewsen@brewsenbrown.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Independent Colleges and Universities of Florida

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

3/11/21

Meeting Date

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

72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic _____

Name Jared Willis

Job Title Gr Manager, Strategos

Address 200 W College Ave Ste 201

Street

Tallahassee

City

FL

State

32301

Zip

Phone 284-1996

Email jwillis@strategosgroup.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Nemours Children's Hospital

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

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

3/11/21
Meeting Date

72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic Covid Related Claims

Name Brewster Bevis

Job Title Senior VP

Address 516 N Adams

Street

IL

City

State

Zip

Phone 224-7173

Email bbevis

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-359-6644

Street

Miami

FL

33131

Email scain@stfblaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida consumers

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

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

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

3/11/2021
Meeting Date

72
Bill Number (if applicable)
149800
Amendment Barcode (if applicable)

Topic Civil Liability for Damages Related to COVID-19

Name Tim Parson

Job Title Director of Gov. Relations

Address 113 E. College Ave
Street

Phone 850-910-2678

Tallahassee FL 32301
City State Zip

Email tim@11betypothest.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSISTED LIVING ASSOCIATION

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-11-21

Meeting Date

72

Bill Number (if applicable)

Topic

Covid Immunity for Business

Amendment Barcode (if applicable)

Name

Barbara DeVane

Job Title

Address

625 E Brevard ST

Street

Phone

257-4280

City

Tallahassee

State

FL

Zip

32308

Email

barbadevane10

Speaking:

☐

For

☐

Against

☐

Information

☒

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

Representing

FL NOW & FL Alliance for Retired Americans

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.

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Joanne Watson

Job Title Administrator - Miracle Hill Nursing and Rehab

Address 1329 Abraham Street

Phone 850-224-8486

Street

Tallahassee

FL

32304

Email N/A

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Miracle Hill Nursing and Rehab

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11 March 2021
Meeting Date

SB 72
Bill Number (if applicable)

Topic Civil Liability

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI "Dee-yay-GOH Eth-uh-very"

Job Title Legislative Liaison

Address 200 W College Ave Phone _____
Street

TLH Email _____
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans For Prosperity

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 n

This form is part of the public record for this meeting

This information was not read

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-11-21

Meeting Date

72

Bill Number (if applicable)

Topic COVID LIABILITY PROTECTION

Amendment Barcode (if applicable)

Name BILL HEARLE

Job Title Exec Director

Address 110 E Jefferson St.

Phone 850 728 7356

Street

Tallahassee FL 32301

City

State

Zip

Email bill.hearle@nfib.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NATIONAL FEDERATION OF INDEPENDENT BUSINESS

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.

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

This information was not read

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11 March 2021
Meeting Date

72
Bill Number (if applicable)

Topic Civil Liability Damages rel. COVID-19

Amendment Barcode (if applicable)

Name Matthew Holliday

Job Title Dir. Government Relations

Address 350 7th Street North
Street

Phone 239-826-7864

Naples FL 34102
City State Zip

Email matthew.holliday@nchmd.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NCH Healthcare System

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.

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

This information was not read

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE
APPEARANCE RECORD

3/11/21

Meeting Date

72

Bill Number (if applicable)

Topic COVID-19 Liability Protections

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough St

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

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.

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

This information was not read
by the Chair

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.11.21

Meeting Date

72

Bill Number (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Amendment Barcode (if applicable)

Name William Large

Job Title President

Address 210 South Monroe Street

Phone 850-222-0170

Street

Tallahassee

FL

32301

Email William@fljustice.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

Topic COVID LIABILITY IMMUNITY

Amendment Barcode (if applicable)

Name LAKEY LOVE

Job Title _____

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Street

Phone 850-345-0018

TALLAHASSEE FL 32301
City State Zip

Email lakey@lovejustworks.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Tallahassee Community Action Committee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

03/11/21

Meeting Date

72

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Mican, Sr.

Job Title Executive VP of Public Affairs

Address _____

Street

Phone _____

City

State

Zip

Email Davidmican@fla.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

11 Mar 21

Meeting Date

72

Bill Number (if applicable)

Topic COVID Liability Prevention

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Advocacy Associate

Address 215 S. Monroe Street, Ste. 420

Phone 8507273712

Street

Tallahassee

FL

32301

City

State

Zip

Email James@afloridapromise.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

March 11, 2021
Meeting Date

72
Bill Number (if applicable)

Topic Civil Liability / Covid-19

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 230 S Adams St.
Street

Phone 224-2250

Tallahassee FL
City State

32301 Email spadgett@fla.org
Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

SB 72

Bill Number (if applicable)

Topic COVID-19 Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Phone 352-318-2008

Street

Tallahassee

FL

32301

Email tphilpot@fhca.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/21
Meeting Date

SB 72
Bill Number (if applicable)

Civil Liability for Damages Relating to
Topic

DAVID SUNDAR
Name

Senior Retired Citizen of Florida
Job Title

66 Wintergreen Dr -
Address

Fruitland Park FL 34731
City State Zip

352 856 597
Phone

gotferdave1955@gmail.com
Email

Speaking: ☒ For ☐ Against ☐ Information

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

Self & Also Senior Wife/Son Male
Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

Meeting Date

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

72

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Jared Willis

Job Title GR Manager, Strategos

Address 200 W College Ave Ste 201

Street

Tallahassee

City

FL

State

32301

Zip

Phone 284-1996

Email jwillis@strategosgroup.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Nemours Children's Hospital

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

3/11/21

Meeting Date

72

Bill Number (if applicable)

Topic Civil Liability for Damages Relating to COVID-19

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 513 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

City

State

Zip

Email bbevis@aif.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 72

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-359-6644

Street

Miami

FL

33131

Email scain@stfblaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida consumers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-11

Meeting Date

5672

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic COVID Liability

Name Ken Kneepman (Ke-nee-p-man)

Job Title Associate

Address 201 W Park

Street

Tallahassee

City

State

Zip

Phone ~~904~~-850-510-0552

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Conference Catholic Bishops

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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3-11-21

Meeting Date

72

Bill Number (if applicable)

149800

Amendment Barcode (if applicable)

Topic Assisted Living Facilities

Name Jason Hand

Job Title Vice President of Public Policy

Address 2292 Wedgeway St

Street

Tallahassee

City

State

Zip

32309

Phone 943-0024

Email jhand@floridaseniorliving.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Senior Living Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/11/2021
Meeting Date

SB 72
Bill Number (if applicable)

Topic Civil Liability for Damages Relating to COVID

Amendment Barcode (if applicable)

Name Steve Bahmer

Job Title President / CEO

Address 1812 Riggins Rd

Phone 850/371-6700

Street

Tallahassee

FL

32308

City

State

Zip

Email sbahmer@leadingageflorida.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Leading Age Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-11

Meeting Date

SB 72

Bill Number (if applicable)

Topic COVID Liability

Amendment Barcode (if applicable)

Name Ken Kneppmann (Ka-neeep-mann)

Job Title Associate

Address 201 W Park

Phone _____

Street

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA Conference Catholic Bishops

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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 Rules

BILL: SB 74

INTRODUCER: Senator Brandes

SUBJECT: COVID-19-related Claims Against Health Care Providers

DATE: March 9, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bond	Cibula	JU	Favorable
2. Smith	Brown	HP	Favorable
3. Bond	Phelps	RC	Pre-meeting

I. Summary:

SB 74 limits civil claims against health care providers related to the COVID-19 pandemic. The bill requires that the initial complaint in a COVID-19-related lawsuit be pled with particularity. The trial court must dismiss a case if not pled with particularity. The bill requires the claimant to prove that the health care provider was grossly negligent or engaged in intentional misconduct in failing to substantially comply with government health standards or guidance, in interpreting or applying the standards or guidance, or in the provision of a novel or experimental treatment. Additionally, a health care provider is immune from civil liability under the bill if supplies or personnel were not readily available to comply with the standards or guidance. The bill requires that a COVID-19-related claim against a health care provider must be commenced within one year.

The bill is effective upon becoming law and applies retroactively.

II. Present Situation:

In general, the purpose of the tort law is to compensate a person injured by the fault of another. It reflects society's general and common moral belief that we all should take reasonable steps not to harm our fellow humans and their property. The tort law is mostly common law, found by the judiciary and slowly developed and changed over centuries of practice to reflect the changing mores of the times. In modern times, tort law has been tweaked, modified, defined, and changed by statutory law but remains based, in large part, on the common law.

COVID-19

The COVID-19 pandemic has drastically affected the state of Florida since the outbreak began affecting the United States in early 2020. The toll on individuals, businesses, and the economy has been catastrophic. According to the Department of Health, 1,744,619 positive COVID-19

cases have been diagnosed in the state, 73,266 residents have been hospitalized, and 27,019 Florida residents have died of the virus.¹

As the pandemic forced businesses to close, millions of Americans lost their jobs. The U.S. economy contracted at the greatest rate since World War II. In Florida, general revenue collections for Fiscal Year 2019-2020 were down nearly \$1.9 billion from the forecast projections made in January 2020. The vast majority of the loss, 84.7 percent, came from a loss of sales tax revenues, the largest component and category most affected by the pandemic.

Florida's Revenue Estimating Conference adopted a forecast for sales tax revenues in December 2020, as compared to the January 2020 forecast, that anticipates a loss to general revenue of approximately \$2.0 billion in Fiscal Year 2020-2021 and \$1 billion in Fiscal Year 2021-2022. The sales tax losses are attributable to a substantial loss in the tourism and recreation areas, often driven by out-of-state tourism, and also by reduced sales to local residents at restaurants and venues, including leisure activities impacted by the pandemic.²

Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak. The order has been extended six times,³ most recently by Executive Order No. 21-45, issued on February 26, 2021.

During the pandemic, government-issued health standards and guidance, detailing how to best combat the virus, have been issued at the federal, state, and local levels. As scientists have learned more about COVID-19, government-issued health standards and guidance have changed accordingly. Health care providers may have struggled to provide appropriate responses to those standards and guidance as they continue to change.

Due to the costs of litigation, including the attention that litigation would divert from other matters, it is possible that an unfounded or opportunistic lawsuit for a COVID-19-related claim could threaten the financial survival of a health care provider. One course of action that has been suggested is the provision of some degree of legal immunity from COVID-19 claims to fend off such lawsuits, preserve scant resources, and encourage health care providers to continue to provide vital health care services.

COVID-19-Related Lawsuits

According to the Congressional Research Service,⁴ a growing number of plaintiffs have filed tort lawsuits in hopes of being compensated for personal injuries that resulted from alleged exposure

¹ Florida Department of Health, Division of Disease Control and Health Protection, available at [Florida's COVID-19 Data and Surveillance Dashboard \(arcgis.com\)](https://www.floridahealth.gov/disease-control-and-health-protection/COVID-19/Florida's_COVID-19_Data_and_Surveillance_Dashboard_(arcgis.com).html) (last visited Feb. 3, 2021).

² *Executive Summary, Revenue Estimating Conference for the General Revenue Fund & Financial Outlook Statement*, (August 14, 2020) and subsequently updated, available at <http://edr.state.fl.us/Content/conferences/generalrevenue/archives/200814gr.pdf> (last visited March 1, 2021).

³ A state of emergency declared under the State Emergency Management Act may not last for more than 60 days unless it is renewed by the Governor. Section 252.36(2), F.S.

⁴ The Congressional Research Service works solely for the U.S. Congress and provides policy and legal analysis to both members and committees of the House and Senate. It is a legislative branch agency housed within the Library of Congress and available at <https://www.loc.gov/crsinfo/> (last visited March 1, 2021).

to COVID-19 or from the failure of a defendant to properly treat the virus. Some examples of the lawsuits include:

- The relatives of deceased family members, who allegedly contracted the virus in their workplaces, have filed cases stating that the employers caused the decedents' deaths because they failed to implement workplace safety measures.
- Many cruise ship passengers have filed lawsuits against cruise lines alleging that the cruise line exposed them to the virus or caused them to contract the virus while on a cruise.
- Plaintiffs have sued assisted living facilities and nursing homes. They allege that their relatives died because these entities negligently exposed their relatives to the virus or failed to diagnose them in a timely or appropriate manner and then treat the symptoms.
- Businesses that have dissolved have sued their insurance companies challenging the denial of their coverage for claims of business interruptions.
- Consumers have filed suits seeking financial reimbursement for travel, events, and season passes at recreational venues which were cancelled or closed because of the pandemic.
- Employees have sued their employers alleging that the employer unlawfully terminated them because they contracted the virus.
- Stockholders have sued public companies alleging that the companies violated federal securities laws when they did not accurately state the pandemic's toll on the companies' finances as required in mandatory disclosure statements.⁵

The Congressional Research Service states that proponents of COVID-19 liability protections assert that litigation and the cost of legal fees will cripple businesses, individuals, schools, and non-profit organizations and will deter the organizations from reopening. Proponents are concerned that these entities will shape their business decision-making to avoid liability and that this unwillingness to continue or reopen businesses will delay the national economic recovery. Others believe that many COVID-19-related claims "are generally meritless, and therefore serve primarily to benefit plaintiffs' lawyers rather than vindicate injured person's legal rights."⁶

In contrast, opponents of liability protections maintain that organizations would encounter only minimal legal exposure for COVID-19 liability. The opponents also contend that providing a shield for defendants would harm the public by permitting defendants to commit negligent acts with legal protections. It would also remove any incentives for businesses to take precautions against the spread of the virus.⁷

Lawsuits Filed

It is difficult to determine how many COVID-19-related lawsuits have been filed in Florida. Staff of the Senate Judiciary Committee contacted the Office of the State Courts Administrator (OSCA) to ask if the OSCA could determine how many claims have been filed in the state courts. The OSCA did not have such data available. Some number of claims have been filed in the federal district courts located in Florida. Many of those federal claims are suits against cruise ship lines where passengers allege that they contracted the virus while on a cruise.

⁵ Congressional Research Service, *COVID-19 Liability: Tort, Workplace Safety, and Securities Law* (Sept. 24, 2020) available at <https://crsreports.congress.gov/product/pdf/R/R46540> (last visited March 1, 2021).

⁶ *Id.* at 2.

⁷ *Id.* at 3.

Legislative and Executive Responses of Other States

Currently, 34 states are known to have in place or have recently enacted some form of liability protection for health care entities and/or professionals related to the pandemic, through legislation, executive order, or application of existing law.⁸

Tort Law - In General

A tort is a civil legal action to recover damages for a loss, injury, or death due to the conduct of another. Some have characterized a tort as a civil wrong, other than a claim for breach of contract, in which a remedy is provided through damages.⁹

When a plaintiff files a tort claim, he or she alleges that the defendant's "negligence" caused the injury. Negligence is defined as the failure to use reasonable care, i.e. the care that a reasonably careful person would use under similar circumstances. According to the Florida Standard Jury Instructions, negligence means "doing something that a reasonably careful person would not do" in a similar situation or "failing to do something that a reasonably careful person would do" in a similar situation.¹⁰

When a plaintiff seeks to recover damages for a personal injury and alleges that the injury was caused by the defendant's negligence, the plaintiff bears the legal burden of proving that the defendant's alleged action was a breach of the duty that the defendant owed to the plaintiff.¹¹

Negligence Pleadings

To establish a claim for relief and initiate a negligence lawsuit, a plaintiff must file a "complaint." The complaint must state a cause of action and contain: a short and plain statement establishing the court's jurisdiction, a short and plain statement of the facts showing why the plaintiff is entitled to relief, and a demand for judgment for relief that the plaintiff deems himself or herself entitled. The defendant responds with an "answer" and provides in short and plain terms the defenses to each claim asserted, admitting or denying the averments in response.¹²

Particularity

Under the Florida Rules of Civil Procedure, there is a limited group of allegations that must be pled with "particularity." These allegations include allegations of fraud, mistake, and a denial of performance or occurrence.¹³ Pleading with particularity means that the complaint must clearly and concisely set out the essential facts of the claim, and not just legal conclusions. The elements of the claim are required to be alleged with sufficient particularity so that the trial judge, in

⁸ American Tort Reform Assn., *Summary of COVID-19 Executive Orders and Enacted Legislation*, available at <https://www.atra.org/wp-content/uploads/2020/10/Summary-of-COVID-19-Executive-Orders-and-Enacted-Legislation-2.pdf> (last visited March 1, 2021). Data through December 17, 2020.

⁹ BLACK'S LAW DICTIONARY (11th ed. 2019).

¹⁰ Fla. Std. Jury Instr. Civil 401.3, *Negligence*.

¹¹ Florida is a comparative negligence jurisdiction as provided in s. 768.81(2), F.S. In lay terms, if a plaintiff and defendant are both at fault, a plaintiff may still recover damages, but those damages are reduced proportionately by the degree that the plaintiff's negligence caused the injury.

¹² Fla. R. Civ. P. 1.110.

¹³ Fla. R. Civ. P. 1.120(b) and (c).

reviewing the ultimate facts alleged, may rule as a matter of law whether or not the facts alleged are sufficient as the factual basis for the inferences the pleader seeks to draw and are sufficient to state a cause of action.¹⁴

Amended Complaints

Errors in the initial complaint are common. A defendant discovering such error will file a motion to dismiss in lieu of an answer. Where the trial court agrees with the defendant's motion to dismiss based on a defective complaint, the court must typically give the plaintiff the opportunity to file an amended complaint.¹⁵ An amended complaint does not require personal service and relates back in time to the filing of the original complaint for purposes of calculating a limitations period.¹⁶ A court-ordered dismissal of a lawsuit does not bar refiling of the case unless the court specifies that the dismissal is "with prejudice."

Four Elements of a Negligence Claim

To establish liability, the plaintiff must prove four elements:

- Duty – That the defendant owed a duty, or obligation, of care to the plaintiff;
- Breach – That the defendant breached that duty by not conforming to the standard required;
- Causation – That the breach of the duty was the legal cause of the plaintiff's injury; and
- Damages – That the plaintiff suffered actual harm or loss.

Burden or Standard of Proof

A "burden of proof" is the obligation a party bears to prove a material fact. The "standard of proof" is the level or degree to which an issue must be proved.¹⁷ As mentioned above, the plaintiff carries the burden of proving, by a specific legal standard, that the defendant breached the duty that was owed to the plaintiff that resulted in the injury. In civil cases, two standards of proof generally apply:

- The "greater weight of the evidence" standard, which applies most often in civil cases, or
- The "clear and convincing evidence" standard, which applies less often and is a higher standard of proof.¹⁸

However, both of these standards are lower than the "reasonable doubt" standard which is used in criminal prosecutions.¹⁹ Whether the greater weight standard or clear and convincing standard applies is determined by case law or the statutes that govern the underlying substantive issues.²⁰

The greater weight of the evidence standard of proof means "the more persuasive and convincing force and effect of the entire evidence in the case."²¹ Some people explain the "greater weight of the evidence" concept to mean that, if each party's evidence is placed on a balance scale, the side that dips down, even by the smallest amount, has met the burden of proof by the greater weight

¹⁴ *Cedars Healthcare Grp., Ltd. v. Mehta*, 16 So. 3d 914, 917 (Fla. 3rd DCA 2009).

¹⁵ "Leave of court [to amend a pleading] shall be given freely when justice so requires." Fla. R. Civ. P. 1.190(a).

¹⁶ Fla. R. Civ. P. 1.190(c).

¹⁷ 5 Fla. Prac. Civil Practice s. 16.1, (2020 ed.)

¹⁸ *Id.*

¹⁹ Thomas D. Sawaya, *Florida Personal Injury Law and Practice with Wrongful Death Actions*, s. 24.4 (2020).

²⁰ 5 Fla. Prac. Civil Practice s. 16.1 (2020 ed.).

²¹ Fla. Std. Jury Instr. 401.3, *Greater Weight of the Evidence*.

of the evidence. The greater weight of the evidence standard was formerly known as the preponderance of the evidence standard.

The clear and convincing standard, a higher standard of proof than the greater weight of the evidence standard, requires that the evidence be credible and the facts to which the witness testifies must be remembered distinctly. The witness's testimony "must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue." The evidence must be so strong that it guides the trier of fact to a firm conviction, to which there is no hesitation, that the allegations are true.²²

Standards of Care and Degrees of Negligence

Courts have developed general definitions for the degrees of negligence, as follows.

Slight negligence is generally defined to mean the failure to exercise a great amount of care.²³

Ordinary negligence, which is also referred to as simple negligence, is the standard of care applied to the vast majority of negligence cases. It is characterized as the conduct that a reasonable and prudent person would know could possibly cause injury to a person or property.²⁴

Gross negligence means the failure of a person to exercise slight care. Florida courts have defined gross negligence as the type of conduct that a "reasonably prudent person knows will probably and most likely result in injury to another" person.²⁵ In order for a plaintiff to succeed on a claim involving gross negligence, he or she must prove:

- Circumstances that, when taken together, create a clear and present danger;
- Awareness that the danger exists; and
- A conscious, voluntary act or omission to act that will likely result in an injury.^{26,27}

Intentional misconduct means that the defendant had actual knowledge of the wrongfulness of the conduct, that there was a high probability of injury or damage to the claimant, and, despite that knowledge, the defendant intentionally pursued that course of conduct, resulting in injury or damage.²⁸

Tort Laws Applicable to COVID-19 Lawsuits against Health Care Providers and Professionals

There is no established tort law specific to claims related to the COVID-19 pandemic. Absent legislative action, it will take years before the appellate courts hear and resolve the outstanding cases related to COVID-19 in order to develop common law principals applicable to COVID-19. In a case involving tuberculosis, an airborne disease, one federal trial court has found that

²² *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983); Sawaya, *supra* note 19.

²³ Sawaya, *supra* note 19, at s. 2:12.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Culpable negligence is a fourth degree of negligence but is not discussed in this analysis.

²⁸ Fla. Std. Jury Instr. 503.1, *Punitive Damages - Bifurcated Procedure*.

“negligent transmission of a contagious disease is not actionable under Florida common law.”²⁹ Absent current clear directions from the courts, there are two likely theories of common law negligence that are likely to be used by plaintiffs seeking damages from health care providers: premises liability and medical malpractice. It is also possible that a claim could be made on contract theory.

Premises Liability

Premises liability refers to the duty of an individual or entity that owns or controls real property to reasonably operate and maintain such property for the safety of those who enter or remain on the property. There are different standards of negligence for premises liability based on the legal status of the injured party. However, in most cases related to health care providers, the patient or client or supplier is a legal invitee, so that standard is appropriate for consideration. As to an invitee, a landowner or possessor is liable if he/she/it:

- Negligently failed to maintain the premises in a reasonably safe condition, or
- Negligently failed to correct a dangerous condition about which the defendant either knew or should have known, by the use of reasonable care, or
- Negligently failed to warn the claimant of a dangerous condition about which the defendant had, or should have had, knowledge greater than that of claimant, and, if so, such negligence was a legal cause of loss, injury, or damage.³⁰

Medical Negligence

Negligence of a medical provider is the failure to use reasonable care. Reasonable care on the part of a physician, hospital, or health care provider is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by similar and reasonably careful physicians, hospitals, or health care providers. Negligence on the part of a physician, hospital, or health care provider is doing something that a reasonably careful physician, hospital, or health care provider would not do under like circumstances or failing to do something that a reasonably careful physician, hospital, or health care provider would do under like circumstances.³¹

Procedures for the filing and prosecution of a medical negligence claim are found in ch. 766, F.S. One such requirement is that the plaintiff’s attorney certify that he or she has investigated the claim and found a good faith belief that grounds exist for an action against each named defendant. A lawyer may support the good faith finding by way of a reviewing physician affidavit. The affidavit is not attached to the complaint or available in discovery.³²

Breach of Contract

Breach of contract is not a tort claim. The cause of action is similar, in that the injured party must show duty, breach, and damages. In contract law, the parties have a relationship defined by a contract. The contract spells out the duties owed to one another and the potential damages

²⁹ *Quezada v. Circle K Stores, Inc.*, No. 204CV190FTM33DNF, 2005 WL 1633717, at 2 (M.D. Fla. July 7, 2005) (convenience store patron contracted tuberculosis because store employee known to have tuberculosis was allowed to work).

³⁰ Fla. Std. Jury Instr. 401.20 *Issues On Plaintiff’s Claim — Premises Liability*.

³¹ Fla. Std. Jury Instr. 402.4 *Medical Negligence*.

³² Section 766.104, F.S.

recoverable. However, duties beyond those specifically listed in the contract may be implied based on industry custom, regulation, or mutual understanding of the parties. So, for instance, it is unlikely that a nursing home contract would say how the nursing home would deal with the unique challenges of COVID-19. Still, courts would likely find that a nursing home has the implied contractual duty to undertake commercially reasonable measures for infection control consistent with applicable laws and regulations, and a nursing home may be found to be in breach of contract for failing to do so.

Employee Tort Claims Against Employers

When an employee suffers a personal injury or death at work, it is sometimes due to the negligence of his or her employer or co-worker, or most commonly, the employee's own negligence. Worker's compensation laws give no weight to who is at fault. Under worker's compensation law, an injured employee's medical bills and (a portion of) lost wages are covered, regardless of fault but with a caveat: the employee may not file a traditional tort lawsuit against the employer or fellow employee except under very limited circumstances.

An employee may sue his or her employer in a traditional tort action only if one of these situations apply:

- The employer failed to have required worker's compensation coverage.³³
- The employer commits an intentional tort that causes the injury or death of the employee. An intentional tort is where:
 - The employer deliberately intended to injure the employee; or
 - The employer engaged in conduct that the employer knew, based on prior similar accidents or on explicit warnings specifically identifying a known danger, was virtually certain to result in injury or death to the employee, and the employee was not aware of the risk because the danger was not apparent and the employer deliberately concealed or misrepresented the danger so as to prevent the employee from exercising informed judgment about whether to perform the work.³⁴

An employee may sue a fellow employee only if one of these situations apply:

- The fellow employee acted with willful and wanton disregard, unprovoked physical aggression, or with gross negligence, and such act or acts resulted in injury or death; or
- The fellow employee is an employee of the same employer but each was assigned primarily to unrelated works within private or public employment.³⁵

Limitations Periods

A limitations period is a limit upon the time that a plaintiff or petitioner has to file a complaint. Expiration of a limitations period is an absolute defense to the action. There are two forms of limitation periods, known as a statute of limitations and a statute of repose.

³³ Section 440.11(1)(a), F.S.

³⁴ Section 440.11(1)(b), F.S.

³⁵ *Id.*

A statute of limitations is a “law that bars claims after a specified period; . . . a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered).”³⁶ A statute of limitations may be tolled, such tolling being commonly available to minors and incompetents.

By contrast, a statute of repose is a “statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury.”³⁷

The expiration of either form of limitations is a bar to the case. The purpose of limitations periods is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh.

The statute of limitations for a general tort claim is four years from when the cause of action accrued.³⁸ There is no statute of repose applicable to general tort claims. The statute of limitations for a medical negligence action is two years from the time the incident giving rise to the action occurred or within two years from the time the incident is discovered, or should have been discovered with the exercise of due diligence. The statute of repose for medical negligence is four years from the date of the incident or occurrence out of which the cause of action accrued, except that this four-year period does not bar an action brought on behalf of a minor on or before the child’s 18th birthday. However, where fraud, concealment, or intentional misrepresentation of a medical provider can be shown, the statute of limitations is two years from discovery, and the statute of repose is seven years from the date of the incident.³⁹

III. Effect of Proposed Changes:

SB 74 creates s. 768.381, F.S., to govern COVID-19-related tort claims against health care providers.

WHEREAS Clauses

According to the “Whereas Clauses,” the state is suffering from the outbreak of the novel coronavirus identified as COVID-19, a potentially deadly virus. A national emergency was declared on January 3, 2020, and a corresponding state emergency declared March 1, 2020. In that same month, federal guidelines first recommended the deferral of nonessential medical procedures to, in part, conserve critical health care resources. On March 20, 2020, the Governor in turn issued an executive order prohibiting certain non-urgent or non-emergency medical procedures. This order was modified on April 29, 2020, to allow such procedures but only if the medical provider had adequate supplies of personal protective equipment. While still learning how to slow the spread of the virus and how to treat the afflicted, various measures have been taken by governments to regulate individuals, businesses, and health care providers. Health care providers have struggled to acquire adequate personal protective equipment and sufficient

³⁶ BLACK’S LAW DICTIONARY (11th ed. 2019).

³⁷ *Id.*

³⁸ Section 95.11(3)(a), F.S.

³⁹ Section 95.11(4)(b), F.S.

staffing levels. Health care providers are essential to the state's survival. Health care providers have continued to provide services despite the risks. Actions that seem reasonable during an emergency may be construed differently in hindsight. Health care providers facing the continuation of this pandemic should focus on patient care and not on the fear of unfounded lawsuits. The Legislature finds that there is an overpowering public necessity to enact legislation to deter unfounded lawsuits against health care providers, considering the extraordinary circumstances of this public health emergency.

Legislative findings are given great weight by the courts in determining the constitutionality of a law. The Florida Supreme Court ruled that "legislative determinations of public purpose and facts are presumed correct and entitled to deference, unless clearly erroneous."⁴⁰

Definitions

The term "COVID-19" is defined to mean the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

The term "COVID-19-related claim" is defined to mean a civil liability claim, whether pled as negligence, breach of contract, or otherwise, against a health care provider which directly, indirectly, or in effect alleges that:

- The health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to COVID-19;
- The health care provider failed to properly interpret or apply the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the allocation of scarce resources, or assistance with daily living;
- The health care provider was negligent in the provision of a novel or experimental COVID-19 treatment; or
- In the absence of applicable standards and guidance specific to COVID-19, the health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to infectious diseases in preventing the transmission of COVID-19 or in diagnosing or treating a person for COVID-19.

The term "government-issued health standards or guidance" means any of the following that are related to COVID-19 or other infectious diseases and that describe the manner in which a health care provider must operate at the time of the alleged act or omission:

- A federal, state, or local law, regulation, or ordinance;
- A written order or other document published by a federal, state, or local government or regulatory body;
- Standards or guidance issued by the Agency for Health Care Administration or the United States Centers for Disease Control and Prevention, the National Institutes of Health, the United States Food and Drug Administration, or the federal Centers for Medicare and Medicaid Services; or

⁴⁰ *University of Miami v. Echarte*, 618 So. 2d 189, 196 (Fla. 1993) (finding a medical malpractice tort reform constitutional).

- Guidance issued by a clinical professional organization which was used by the government in developing a response to COVID-19.

The term “health care provider” includes the following entities and individuals:

- The following regulated entities:
 - Laboratories authorized to perform testing under the Drug-Free Workplace Act
 - Birth centers
 - Abortion clinics
 - Crisis stabilization units
 - Short-term residential treatment facilities
 - Residential treatment facilities
 - Residential treatment centers for children and adolescents
 - Hospitals
 - Ambulatory surgical centers
 - Nursing homes
 - Assisted living facilities
 - Home health agencies
 - Nurse registries
 - Companion services or homemaker services providers
 - Adult day care centers
 - Hospices
 - Adult family-care homes
 - Homes for special services
 - Transitional living facilities
 - Prescribed pediatric extended care centers
 - Home medical equipment providers
 - Intermediate care facilities for persons with developmental disabilities
 - Health care services pools
 - Health care clinics
 - Organ, tissue, and eye procurement organizations
- A federally-certified clinical laboratory providing services in this state or services to health care providers in this state
- A federally qualified health center
- Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver
- A health care practitioner, which means individuals practicing in the following professions:
 - Acupuncture
 - Medicine
 - Osteopathy
 - Chiropractic
 - Podiatry
 - Naturopathy
 - Optometry
 - Nursing
 - Pharmacy
 - Dentistry, including dental hygienists and dental labs
 - Midwifery

- Speech-language pathology and audiology
- Nursing home administration
- Occupational therapy
- Respiratory therapy
- Dietetics and nutrition practice
- Athletic training
- Orthotics, prosthetics and pedorthics
- Electrolysis
- Massage
- Clinical laboratory personnel
- Medical physics
- Dispensing of optical devices
- Dispensing of hearing aids
- Physical therapy
- Psychological services
- Clinical, counseling and psychotherapy services
- Radiology
- A home health aide

Procedural Requirements

The bill requires that a complaint in a civil action against a health care provider based on a COVID-19-related claim be pled with particularity. The complaint must allege facts supporting the claim in sufficient detail to support each element of the claim. Where the complaint does not meet this standard, the case must be dismissed.

The bill does not specify how the courts should treat this dismissal. If the courts treat this like a dismissal for failure to state a cause of action upon which relief may be granted, the dismissal would ordinarily be with leave to amend.⁴¹ However, while there is no magic number of attempts at crafting an amended complaint, a trial court may find that dismissal with prejudice is warranted where the plaintiff has made repeated failing attempts at properly crafting a complaint and the complaint clearly cannot be fixed.⁴²

The bill specifies that a physician's affidavit (a provision in the mandatory pre-suit investigation in a medical negligence action) is not required for a claim under this section.

Standard of Proof Required for Claim

The bill requires a plaintiff to prove negligence "by the greater weight of the evidence." This is the standard of proof required in most civil actions.

⁴¹ Fla. R. Civ. P. 1.190(a) (Leave of court to amend shall be given freely when justice so requires).

⁴² *Kohn v. City of Miami Beach*, 611 So. 2d 538, 539 (Fla. Dist. Ct. App. 1992) ("as an action progresses, the privilege of amendment progressively decreases to the point that the trial judge does not abuse his [or her] discretion in dismissing with prejudice.")

Liability Standard and Limited Absolute Defense

The bill requires a plaintiff to prove that the health care provider was grossly negligent or engaged in intentional misconduct:

- By failing to substantially follow authoritative or applicable government-issued health standards or guidance relating to COVID-19;
- In interpreting or applying the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the allocation of scarce resources or assistance with daily living; or
- In the provision of a novel or experimental COVID-19 treatment.

This liability standard is more stringent than that applicable to an ordinary negligence case.

Additionally, a health care provider is fully immune from liability for a COVID-19-related claim if supplies, materials, equipment, or personnel necessary to comply with the applicable government-issued health standards or guidance at issue were not readily available or were not available at a reasonable cost. The bill does not define the standards for readily available or reasonable cost.

Limitations Period

The bill creates a statute of repose requiring that a case be filed the later of one year after:

- The death of the injured individual due to COVID-19;
- Hospitalization due to COVID-19;
- First diagnosis of COVID-19; or
- The effective date of this bill.

Relationship to Other Laws

The bill provides that s. 768.381, F.S., created by this bill, prevails over any conflicting provision of law but only to the extent of such conflict. This provision does not apply to conflicts related to claims under the worker's compensation law, thus preserving worker's compensation benefits together with the worker's compensation liability shield protecting employers and fellow employees from tort claims.

Applicability

The bill applies to COVID-19-related causes of action that accrue before the later of one year after the termination or expiration of:

- The state public health emergency relating to COVID-19 which was declared by the State Surgeon General; or
- Any nationwide emergency declaration by the federal government.

The bill provides for severability.

The bill is retroactive except that it does not apply in a civil action against a particular named health care provider filed before the effective date of the bill.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

As to tort law in general: In 1973, the Florida Supreme Court found that:

where a right of access to the courts for redress for a particular injury has been provided by statutory law predating the adoption of the Declaration of Rights of the 1968 Constitution of the State of Florida, or where such right has become a part of the common law of the State pursuant to Fla. Stat. s 2.01, F.S.A., the Legislature is without power to abolish such a right without providing a reasonable alternative to protect the rights of the people of the State to redress for injuries, unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown.⁴³

A law that merely alters the standards of care in a tort action does not abolish the right and thus does not impair access to courts.⁴⁴ The bill contains findings of fact that may be evidence of an overwhelming public necessity for the passage of this bill.

As to a shortened limitations period: This bill reduces the amount of time that a plaintiff has to bring an action. If, however, the cause of action accrues before the effective date of the bill, which is the date it becomes law, the plaintiff has one year from the effective date of the bill to bring a claim. While this could be a reduction in the amount of time that a plaintiff has to bring a COVID-19-related claim, there is precedent for this. Court

⁴³ *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).

⁴⁴ *Abdin v. Fischer*, 374 So. 2d 1379, 1381 (Fla. 1979). See also, *Eller v. Shova*, 630 So. 2d 537 (Fla. 1994) (increasing fellow worker exception in worker's compensation law from gross negligence to culpable negligence is constitutional).

opinions have held that a reduction in the statute of limitations is not unconstitutional if the claimant is given a reasonable amount of time to file the action.⁴⁵

As to retroactivity: Most bills apply prospectively to actions occurring after their effective date; however, the Legislature may pass a retroactive law unless prohibited. Section 3 of the bill states:

This act applies retroactively. However, this act does not apply in a civil action against a particular named health care provider which is commenced before the effective date of this act.

Legislation may not be applied retroactively if it “impairs vested rights, creates new obligations, or imposes new penalties.”⁴⁶ Therefore, if a court found that the bill did any of these prohibited things, the court would have to reject any retroactive application of the bill. However, a mere change to procedure such as requiring certain pleadings or changing the burden of proof may be applied retroactively to existing causes of action.⁴⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector fiscal impacts of this bill are indeterminate. If the effect of the bill is to codify what the courts would have found to be the common law of the state, then the bill will have a significant positive impact on the private sector in general through the avoidance of needless litigation and its attendant costs. If the effect of the bill is to limit lawsuits that otherwise would have yielded recoveries for injured parties, the bill will have a positive fiscal impact on the healthcare industry and a corresponding negative fiscal impact on injured individuals.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁵ *Foley v. Morris*, 339 So. 2d 215 (Fla. 1976).

⁴⁶ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1955).

⁴⁷ *Litvin v. St. Lucie County Sheriff's Department*, 599 So. 2d 1353 (Fla. 1st DCA 1992) (changing the burden of proof).

VIII. Statutes Affected:

This bill creates section 768.381 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.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.38, Florida Statutes, is created to
read:

768.38 Liability protections for COVID-19-related claims.—
(1) The Legislature finds that the COVID-19 outbreak in
this state threatens the continued viability of certain business
entities, educational institutions, governmental entities, and
religious institutions that contribute to the overall well-being



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of this state. The threat of unknown and potentially unbounded liability to such businesses, entities, and institutions, in the wake of a pandemic that has already left many of these businesses, entities, and institutions vulnerable, has created an overpowering public necessity to provide an immediate and remedial legislative solution. Therefore, the Legislature intends for certain business entities, educational institutions, governmental entities, and religious institutions to enjoy heightened legal protections against liability as a result of the COVID-19 pandemic. The Legislature also finds that there are no alternative means to meet this public necessity, especially in light of the sudden, unprecedented nature of the COVID-19 pandemic. The Legislature finds the public interest as a whole is best served by providing relief to these businesses, entities, and institutions so that they may remain viable and continue to contribute to this state.

(2) As used in this section, the term:

(a) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

(b) "COVID-19-related claim" means a civil liability claim against a person, including a natural person, a business entity, an educational institution, a governmental entity, or a religious institution, which arises from or is related to COVID-19, otherwise known as the novel coronavirus. The term includes any such claim for damages, injury, or death. Any such claim, no matter how denominated, is a COVID-19-related claim for purposes of this section. The term includes a claim against a health care



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provider only if the claim is excluded from the definition of COVID-19-related claim under s. 768.381, regardless of whether the health care provider also meets one or more of the definitions in this subsection.

(c) "Educational institution" means a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(d) "Governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to chapter 286.

(e) "Health care provider" means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(1)(2)(B), as that definition exists on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.



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6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462(15).

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.

9. A continuing care facility licensed under chapter 651.

10. A pharmacy permitted under chapter 465.

(f) "Religious institution" has the same meaning as provided in s. 496.404.

(3) In a civil action based on a COVID-19-related claim:

(a) The complaint must be pled with particularity.

(b) At the same time the complaint is filed, the plaintiff must submit an affidavit signed by a physician actively licensed in this state which attests to the physician's belief, within a reasonable degree of medical certainty, that the plaintiff's COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions.

(c) The court must determine, as a matter of law, whether:

1. The plaintiff complied with paragraphs (a) and (b). If the plaintiff did not comply with paragraphs (a) and (b), the court must dismiss the action without prejudice.

2. The defendant made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued.

a. During this stage of the proceeding, admissible evidence is limited to evidence tending to demonstrate whether the defendant made such a good faith effort.



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b. If the court determines that the defendant made such a good faith effort, the defendant is immune from civil liability. If more than one source or set of standards or guidance was authoritative or controlling at the time the cause of action accrued, the defendant's good faith effort to substantially comply with any one of those sources or sets of standards or guidance confers such immunity from civil liability.

c. If the court determines that the defendant did not make such a good faith effort, the plaintiff may proceed with the action. However, absent at least gross negligence proven by clear and convincing evidence, the defendant is not liable for any act or omission relating to a COVID-19-related claim.

(d) The burden of proof is upon the plaintiff to demonstrate that the defendant did not make a good faith effort under subparagraph (c)2.

(4) A plaintiff must commence a civil action for a COVID-19-related claim within 1 year after the cause of action accrues or within 1 year after the effective date of this act if the cause of action accrued before the effective date of this act.

Section 2. Section 768.381, Florida Statutes, is created to read:

768.381 COVID-19-related claims against health care providers.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Authoritative guidance" means nonbinding instructions or recommendations from a federal, state, or local governmental entity, a clinical professional organization, or another authoritative source of clinical guidance.

(b) "COVID-19" means the novel coronavirus identified as



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SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

(c) "COVID-19 emergency" means a public health emergency relating to COVID-19 which is declared by an emergency declaration of the Federal Government or an emergency order of the State Surgeon General or a state of emergency due to COVID-19 declared by executive order of the Governor.

(d) "COVID-19-related claim" means a civil liability claim against a health care provider which arises from the:

1. Diagnosis or treatment of, or failure to diagnose or treat, a person for COVID-19;

2. Provision of a novel or experimental COVID-19 treatment;

3. Transmission of COVID-19;

4. Delay or cancellation of a surgery or a delay or cancellation of a medical procedure, a test, or an appointment based on a health care provider's interpretation or application of government-issued health standards or authoritative guidance specifically relating to the COVID-19 emergency;

5. An act or omission with respect to an emergency medical condition as defined in s. 395.002, and which act or omission was the result of a lack of resources directly caused by the COVID-19 pandemic; or

6. The provision of treatment to a patient diagnosed with COVID-19 whose injuries were directly related to an exacerbation of the patient's preexisting conditions by COVID-19.

The term does not include a claim alleging that an act or



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omission by a health care provider caused a person to contract COVID-19 or a derivative claim to such claim unless the person was a resident or patient of the health care provider or a person seeking care or treatment from the health care provider.

(e) "Government-issued health standards" means federal, state, or local laws, rules, regulations, or orders that describe the manner in which a health care provider must operate.

(f) "Health care provider" means any of the following:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462(15).

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.



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186 9. A continuing care facility licensed under chapter 651.

187 10. A pharmacy permitted under chapter 465.

188 (2) PRELIMINARY PROCEDURES.—

189 (a) In any civil action against a health care provider
190 based on a COVID-19-related claim, the complaint must be pled
191 with particularity by alleging facts in sufficient detail to
192 support each element of the claim. An affidavit of a physician
193 is not required as part of the pleading.

194 (b) If the complaint is not pled with particularity, the
195 court must dismiss the action.

196 (3) STANDARD OF PROOF.—A plaintiff who brings an action for
197 a COVID-19-related claim against a health care provider must
198 prove by the greater weight of the evidence that the health care
199 provider was grossly negligent or engaged in intentional
200 misconduct.

201 (4) AFFIRMATIVE DEFENSES.—If a health care provider proves
202 by the greater weight of the evidence the existence of an
203 affirmative defense that applies to a specific COVID-19-related
204 claim, the health care provider has no liability for that claim.
205 The affirmative defenses that may apply to a COVID-19-related
206 claim against a health care provider include, in addition to any
207 other affirmative defenses recognized by law, the health care
208 provider's:

209 (a) Substantial compliance with government-issued health
210 standards specifically relating to COVID-19 or other relevant
211 standards, including standards relating to the preservation or
212 prioritization of supplies, materials, or equipment;

213 (b) Substantial reliance upon government-issued health
214 standards specific to infectious diseases in the absence of



395520

standards specifically applicable to COVID-19;

(c) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible due to the widespread shortages of necessary supplies, materials, equipment, or personnel;

(d) Substantial compliance with any applicable government-issued health standards relating to COVID-19 or other relevant standards if the applicable standards were in conflict; or

(e) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible because there was insufficient time to implement the standards.

(5) LIMITATIONS PERIOD.—

(a) An action for a COVID-19-related claim against a health care provider which arises out of the transmission, diagnosis, or treatment of COVID-19 must commence within 1 year after the later of the date of death due to COVID-19, hospitalization related to COVID-19, or the first diagnosis of COVID-19 which forms the basis of the action.

(b) An action for a COVID-19-related claim against a health care provider which does not arise out of the transmission, diagnosis, or treatment of COVID-19, such as a claim arising out of a delayed or canceled procedure, must commence within 1 year after the cause of action accrues.

(c) Notwithstanding paragraph (a) or paragraph (b), an action for a COVID-19-related claim that accrued before the effective date of this act must commence within 1 year after the effective date of this act.

(6) INTERACTION WITH OTHER LAWS.—



395520

(a) This section is in addition to other provisions of law, including, but not limited to, chapters 400, 429, 766, and 768, and supersedes any conflicting provision of law but only to the extent of the conflict.

(b) This section provides the exclusive cause of action for a COVID-19-related claim against a health care provider.

(c) This section does not apply to claims governed by chapter 440.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 4. This act applies to causes of action that accrue within 1 year after the effective date of this act and applies retroactively. However, this act does not apply in a civil action against a particular named defendant which is commenced before the effective date of this act.

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 civil liability for damages
relating to COVID-19; creating s. 768.38, F.S.;
providing legislative findings and intent; defining



395520

terms; specifying requirements for civil actions based on COVID-19-related claims; requiring the court to make certain determinations in such actions; providing that plaintiffs have the burden of proof in such actions; requiring plaintiffs to commence COVID-19-related claims within specified timeframes; creating s. 768.381, F.S.; defining terms; providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing affirmative defenses; requiring COVID-19-related claims to commence within specified timeframes; providing construction; providing that the act provides the exclusive cause of action for COVID-19-related claims against health care providers; providing applicability; providing severability; providing applicability and for retroactive application; providing an effective date.

WHEREAS, an outbreak of the disease known as COVID-19, which is caused by a novel coronavirus that was not previously found in humans, occurred in Hubei province, China, in late 2019, and has currently been detected in more than 89 countries, including the United States, and

WHEREAS, COVID-19 is a severe respiratory disease that can result in illness or death and is caused by the person-to-person spread of the novel coronavirus, and

WHEREAS, COVID-19, as a viral agent capable of causing extensive loss of life or serious disability, is deadly, and



395520

WHEREAS, the transmission of COVID-19 is a threat to human health in this state, and

WHEREAS, the Secretary of the United States Department of Health and Human Services declared on January 31, 2020, that a public health emergency exists in the United States due to confirmed cases of COVID-19 in this country, and

WHEREAS, on March 1, 2020, the State of Florida Department of Health, in coordination with Governor Ron DeSantis, first declared a public health emergency based on the spread of COVID-19, and

WHEREAS, throughout the declared state of emergency, the Governor's executive orders included industry-specific restrictions to prevent the spread of COVID-19 based on the best information available at the time, allowing and encouraging certain businesses to continue to safely operate, and

WHEREAS, a strong and vibrant economy is essential to ensure that Floridians may continue in their meaningful work and ultimately return to the quality of life they enjoyed before the COVID-19 outbreak, and

WHEREAS, Floridians must be allowed to earn a living and support their families without unreasonable government intrusion, and

WHEREAS, the United States Centers for Disease Control and Prevention has issued health guidance to all state and local governments and all citizens, and

WHEREAS, in March 2020, the Centers for Medicare and Medicaid Services recommended the deferral of nonessential surgeries and other procedures, and

WHEREAS, the guidance from the Centers for Medicare and



395520

Medicaid Services to defer medical procedures was based in part on its recognition that the conservation of critical health care resources is essential, and

WHEREAS, on March 20, 2020, the Governor issued Executive Order 20-72, which prohibited health care providers "from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery which, if delayed, does not place a patient's immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious or life-threatening medical condition," and

WHEREAS, on April 29, 2020, the Governor issued Executive Order 20-112, which allowed health care providers to perform procedures prohibited by the earlier order if the health care provider had adequate supplies of personal protective equipment and satisfied other conditions, and

WHEREAS, medical experts have been racing to develop vaccines and to learn how COVID-19 is transmitted and how best to treat those infected with the disease, and

WHEREAS, the Federal Government, along with state and local governments, has sought to slow the spread of COVID-19 through travel bans and restrictions, quarantines, lockdowns, social distancing, and the closure of businesses or limitations on business activities, including limitations on the provision of medical services, and

WHEREAS, health care providers, including hospitals, doctors, nurses, and other health care facilities and workers, have struggled to acquire personal protective equipment and other supplies to protect against the risk of COVID-19 transmission and medications used in the treatment of the



395520

disease, and

WHEREAS, the circumstances of the COVID-19 pandemic have made it difficult or impossible for health care providers to maintain ideal levels of staffing, and

WHEREAS, health care providers are essential to the residents of this state's survival of the pandemic, and health care providers have continued to treat patients despite the potential, and still not fully known, risks of exposure to COVID-19, and

WHEREAS, while many actions may seem reasonable during the pandemic, some may attempt to construe these actions differently in hindsight when calm is restored, and

WHEREAS, as the pandemic continues and recovery begins, health care providers must be able to remain focused on serving the health care needs of their respective communities and not on the potential for unfounded lawsuits, and

WHEREAS, the Legislature finds that it is an overpowering public necessity to enact legislation that will deter unfounded lawsuits against individuals, businesses, health care providers, and other entities based on COVID-19-related claims, while allowing meritorious claims to proceed, and

WHEREAS, the Legislature finds that the unprecedented and rare nature of the COVID-19 pandemic, together with the indefinite legal environment that has followed, requires the Legislature to act swiftly and decisively, NOW, THEREFORE,



469340

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520)

Between lines 137 and 138

insert:

except for claims for intentional conduct,



960140

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Delete lines 250 - 251
and insert:

(c) For COVID-19-related claims governed by chapter 112 or chapter 440 and any other claims for benefits provided by law to individuals suffering injury or illness in the course and scope of employment, the following individuals are presumed to have contracted COVID-19 in the course and scope of their employment:

1. A person licensed under chapter 458, chapter 459,



960140

chapter 461, chapter 463, chapter 464, chapter 465, chapter 466,
or chapter 483;

2. An employee of a:

a. Facility licensed, certified, or approved by any state
agency and for which chapter 395, chapter 400, chapter 429, or
chapter 766 applies;

b. Federally qualified health center as defined in 42
U.S.C. s. 1396d(1)(2)(B); or

c. Sole proprietorship, group practice, partnership, or
corporation that provides health care services by physicians
covered by s. 627.419, that is directly supervised by one or
more of such physicians, and that is wholly owned by one or more
of those physicians or by a physician and the spouse, parent,
child, or sibling of that physician;

3. An emergency medical technician as defined in s.
401.23(11); or

4. A paramedic as defined in 401.23(17).

(d) The presumption in paragraph (c) may be rebutted if the
defendant proves by clear and convincing evidence that the
individual's infection did not arise out of the course and scope
of his or her employment.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 288

and insert:

creating a certain presumption for COVID-19-related
claims of certain employees which are governed by
certain other provisions; providing that such



960140

41 presumption may be rebutted under certain
42 circumstances; providing severability;



760716

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Book) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Between lines 251 and 252
insert:

Section 3. Section 768.39, Florida Statutes, is created to
read:

768.39 Immunity for educational institutions for actions
related to the COVID-19 pandemic.—

(1) For the purposes of this section, the term "educational
institution" has the same meaning as in s. 768.38(2).



760716

(2) An educational institution that has taken reasonably necessary actions in compliance with federal, state, or local guidance to diminish the impact or the spread of COVID-19 may not be held liable for, and shall be immune from, any civil damages, equitable relief, or other remedies relating to such actions. Reasonably necessary actions taken while a state of emergency was declared for this state for the COVID-19 pandemic include, but are not limited to, any of the following:

(a) Shifting in-person instruction to online or remote instruction for any period of time;

(b) Closing or modifying the provision of residential housing, dining, or other facilities on the campus of the educational institution; or

(c) Pausing or modifying ancillary student activities and services available through the educational institution.

(3) The provision of in-person or on-campus education and related services is deemed to have been impossible for educational institutions to provide for any period of time in which such institutions took reasonably necessary actions described in subsection (2) to protect students, staff, and educators in response to the COVID-19 pandemic. As a result of the various governmental orders and the need for educational institutions to protect their communities, the reasonably necessary actions described in subsection (2) are deemed to have been justified.

(4) If any aspect of the immunity under subsection (2) is limited by a court or by operation of law from applying to certain types of claims or causes of action, the immunity under this section must still be provided to the fullest extent



760716

41 authorized by law to any other types of claims or causes of
42 action.

43 (5) This section shall apply retroactively to causes of
44 actions accruing on or before March 9, 2020.

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46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete line 288

49 and insert:

50 providing applicability; creating s. 768.39, F.S.;
51 defining the term "educational institution"; providing
52 educational institutions with immunity from civil
53 liability under certain circumstances; specifying that
54 the provision of in-person or on-campus education and
55 related services is deemed impossible during a
56 specified timeframe; specifying that certain actions
57 taken by educational institutions are deemed to have
58 been justified; providing construction; providing for
59 retroactive application; providing severability;



401736

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Delete line 262
and insert:
before the effective date of this act. This act is repealed 1
year and 1 day after becoming a law, unless reenacted by the
Legislature.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



401736

12 Delete line 290
13 and insert:
14 application; providing for future repeal; providing an
15 effective date.



776924

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520)

Delete lines 108 - 110
and insert:
action. The defendant is not liable for any act or omission
relating to a COVID-19-related claim unless the plaintiff can
demonstrate by the greater weight of the evidence that the
injury was caused by the negligent acts or omissions of the
defendant.



281230

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Between lines 117 and 118
insert:

(5) To receive the liability protections under this section, the defendant must prove by clear and convincing evidence that it had prominently posted at each public entrance a notice with the following statement in at least 20-point font:

ENTER AT YOUR OWN RISK - Pursuant to Section 768.38, Florida



281230

Statutes, this establishment is not liable for transmission of
or exposure to COVID-19, even if such transmission or exposure
was caused by our own negligent conduct.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 278

and insert:

related claims within specified timeframes; requiring
defendants to prove by clear and convincing evidence
that they posted a specified statement at their public
entrances in order to receive certain liability
protections; creating



765044

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520)

Delete line 154
and insert:
of the patient's preexisting conditions by COVID-19. However, a
claim arising from the care or treatment of a person not
diagnosed with COVID-19 which alleges that a nursing home
facility's acts or omissions exacerbated the person's
preexisting condition or injury is not a COVID-19-related claim.



159204

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Delete lines 250 - 251

and insert:

(c) For COVID-19-related claims governed by chapter 112 or chapter 440 and any other claims for benefits provided by law to individuals suffering injury or illness through the course and scope of employment, the following individuals shall be presumed to have contracted COVID-19 in the course and scope of their employment:



159204

1. A person licensed under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 483;

2. An employee of a:

a. Facility licensed, certified, or approved by any state agency and for which chapter 395, chapter 400, chapter 429, or chapter 766 applies;

b. Federally qualified health center as defined in 42 U.S.C. s. 1396d(1)(2)(B); or

c. Sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician;

3. An emergency medical technician as defined in s. 401.23(11); or

4. A paramedic as defined in 401.23(17).

(d) The presumption in paragraph (c) may be rebutted if the defendant proves by clear and convincing evidence that the individual's infection did not arise out of the course and scope of his or her employment.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 288

and insert:

creating a certain rebuttable presumption for claims
by certain employees which are governed by certain



159204

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provisions; providing severability;



250692

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520) (with title amendment)

Between lines 117 and 118
insert:

(5) Any business that is insured under an insurance policy providing coverage for premises liability shall receive a rebate of any insurance premiums paid or accrued from an insurance carrier or insurance provider for the period of any loss of use of the business premises due to authoritative or controlling government-issued health standards or guidance.



250692

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 278

and insert:

related claims within specified timeframes; requiring
certain businesses impacted by specified government-
issued measures to receive a rebate of insurance
premiums if certain conditions are met; creating



637830

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (395520)

Delete line 249

and insert:

a COVID-19-related claim against a health care provider.

However, this act does not apply to claims brought against a facility that was cited for a deficiency pursuant to s.

400.23(8)(a), (b), or (c) during the 3 years preceding the date of the State Surgeon General's declaration of the state public health emergency relating to COVID-19.



743768

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Powell) recommended the following:

Senate Amendment to Amendment (395520)

Delete line 219
and insert:
supplies, materials, equipment, or personnel, unless the claim
arises from an emergency medical condition occurring in the
course of or as a result of the defendant's provision of
nonessential elective medical or surgical care;



442034

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (395520)

Delete lines 83 - 87
and insert:
must present affidavit testimony from a medical expert as
defined in s. 766.202 which attests to the expert's belief,
within a reasonable degree of medical probability, that the
person whose injury or death gave rise to the action was
infected with COVID-19 at the time that the cause of action
accrued and that the plaintiff's infection by COVID-19 resulted
in the injury, damages, or death.



837290

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Between lines 108 and 109
insert:
except for claims for intentional conduct,



646298

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 200 - 205

and insert:

(6) REPEAL.—This section is repealed 1 year and 1 day after
the date this act becomes a law, unless reenacted by the
Legislature.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 11



646298

12 and insert:
13 for future repeal; providing severability; providing
14 for



387648

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Delete line 205
and insert:
whichever is later. This section does not apply to a claim
alleging that a nursing home facility's act or omission
exacerbated a person's preexisting condition or injury.



644596

LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Thurston) recommended the following:

Senate Amendment

Delete line 205
and insert:
whichever is later. This section does not apply to claims
brought against a facility that was cited for a deficiency
pursuant to s. 400.23(8)(a), (b), or (c) during the 3 years
preceding the date of the State Surgeon General's declaration of
the public health emergency relating to COVID-19.

By Senator Brandes

24-01546B-21

202174__

A bill to be entitled

An act relating to COVID-19-related claims against health care providers; creating s. 768.381, F.S.; defining terms; providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing immunity from liability for COVID-19-related claims under certain circumstances; requiring COVID-19-related claims to commence within a specified timeframe; providing construction; providing applicability; providing severability; providing for retroactive application; providing an effective date.

WHEREAS, an outbreak of the disease known as COVID-19, which is caused by a novel coronavirus that was not previously found in humans, occurred in Hubei province, China, in late 2019, and has currently been detected in more than 89 countries, including the United States, and

WHEREAS, COVID-19 is a severe respiratory disease that can result in illness or death and is caused by the person-to-person spread of the novel coronavirus, and

WHEREAS, COVID-19, as a viral agent capable of causing extensive loss of life or serious disability, is deadly, and

WHEREAS, the transmission of COVID-19 is a threat to human health in this state, and

WHEREAS, the Secretary of the United States Department of Health and Human Services declared on January 31, 2020, that a public health emergency exists in the United States due to confirmed cases of COVID-19 in this country, and

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

24-01546B-21

202174__

WHEREAS, on March 1, 2020, the State of Florida Department of Health, in coordination with Governor Ron DeSantis, first declared a public health emergency based on the spread of COVID-19, and

WHEREAS, the United States Centers for Disease Control and Prevention has issued health guidance to all state and local governments and all citizens, and

WHEREAS, in March 2020, the Centers for Medicare and Medicaid Services recommended the deferral of nonessential surgeries and other procedures, and

WHEREAS, the guidance from the Centers for Medicare and Medicaid Services to defer medical procedures was based in part on its recognition that the conservation of critical health care resources is essential, and

WHEREAS, on March 20, 2020, the Governor issued Executive Order 20-72, which prohibited health care providers "from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery which, if delayed, does not place a patient's immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious or life-threatening medical condition," and

WHEREAS, on April 29, 2020, the Governor issued Executive Order 20-112, which allowed health care providers to perform procedures prohibited by the earlier order if the health care provider had adequate supplies of personal protective equipment and satisfied other conditions, and

WHEREAS, medical experts have been racing to develop vaccines and to learn how COVID-19 is transmitted and how best to treat those infected with the disease, and

Page 2 of 8

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

24-01546B-21

202174

WHEREAS, the Federal Government, along with state and local governments, has sought to slow the spread of COVID-19 through travel bans and restrictions, quarantines, lockdowns, social distancing, and the closure of businesses or limitations on business activities, including limitations on the provision of medical services, and

WHEREAS, health care providers, including hospitals, doctors, nurses, and other health care facilities and workers, have struggled to acquire personal protective equipment and other supplies to protect against the risk of COVID-19 transmission and medications used in the treatment of the disease, and

WHEREAS, the circumstances of the COVID-19 pandemic have made it difficult or impossible for health care providers to maintain ideal levels of staffing, and

WHEREAS, health care providers are essential to the residents of this state's survival of the pandemic, and health care providers have continued to treat patients despite the potential, and still not fully known, risks of exposure to COVID-19, and

WHEREAS, while many actions may seem reasonable during the pandemic, some may attempt to construe these actions differently in hindsight when calm is restored, and

WHEREAS, as the pandemic continues and recovery begins, health care providers must be able to remain focused on serving the health care needs of their respective communities and not on the potential for unfounded lawsuits, and

WHEREAS, the Legislature finds that it is an overpowering public necessity to enact legislation that will deter unfounded

24-01546B-21

202174

lawsuits against health care providers based on COVID-19-related claims, while allowing meritorious claims to proceed, and

WHEREAS, the Legislature finds that it is necessary to require those filing lawsuits against health care providers to consider the extraordinary circumstances arising out of the public health emergency caused by the pandemic, NOW, THEREFORE,

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

Section 1. Section 768.381, Florida Statutes, is created to read:

768.381 COVID-19-related claims against health care providers.-

(1) DEFINITIONS.-As used in this section, the term:

(a) "COVID-19" means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

(b) "COVID-19-related claim" means a civil liability claim, whether pled as negligence, breach of contract, or otherwise, against a health care provider which directly, indirectly, or in effect alleges that:

1. The health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to COVID-19;

2. The health care provider failed to properly interpret or apply the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the

24-01546B-21 202174____
 117 allocation of scarce resources, or assistance with daily living;

118 3. The health care provider was negligent in the provision
 119 of a novel or experimental COVID-19 treatment; or

120 4. In the absence of applicable standards and guidance
 121 specific to COVID-19, the health care provider failed to follow
 122 clinical authoritative or government-issued health standards or
 123 guidance relating to infectious diseases in preventing the
 124 transmission of COVID-19 or in diagnosing or treating a person
 125 for COVID-19.

126 (c) "Government-issued health standards or guidance" means
 127 any of the following that are related to COVID-19 or other
 128 infectious diseases and that describe the manner in which a
 129 health care provider must operate at the time of the alleged act
 130 or omission:

131 1. A federal, state, or local law, regulation, or
 132 ordinance;

133 2. A written order or other document published by a
 134 federal, state, or local government or regulatory body;

135 3. Standards or guidance issued by the Agency for Health
 136 Care Administration or the United States Centers for Disease
 137 Control and Prevention, the National Institutes of Health, the
 138 United States Food and Drug Administration, or the Centers for
 139 Medicare and Medicaid Services; or

140 4. Guidance issued by a clinical professional organization
 141 which was used by the Federal Government in developing a
 142 response to COVID-19.

143 (d) "Health care provider" means any of the following:

144 1. A provider as defined in s. 408.803.

145 2. A clinical laboratory providing services in this state

24-01546B-21 202174____
 146 or services to health care providers in this state, if the
 147 clinical laboratory is certified by the Centers for Medicare and
 148 Medicaid Services under the federal Clinical Laboratory
 149 Improvement Amendments and the federal rules adopted thereunder.

150 3. A federally qualified health center as defined in 42
 151 U.S.C. s. 1396d(1)(2)(B), as that definition exists on the
 152 effective date of this act.

153 4. Any site providing health care services which was
 154 established for the purpose of responding to the COVID-19
 155 pandemic pursuant to any federal or state order, declaration, or
 156 waiver.

157 5. A health care practitioner as defined in s. 456.001.

158 6. A health care professional licensed under part IV of
 159 chapter 468.

160 7. A home health aide as defined in s. 400.462(15).

161 (2) PRELIMINARY PROCEDURES.—

162 (a) In any civil action against a health care provider
 163 based on a COVID-19-related claim, the complaint must be pled
 164 with particularity by alleging facts in sufficient detail to
 165 support each element of the claim. An affidavit of a physician
 166 is not required as part of the pleading.

167 (b) If the complaint is not pled with particularity, the
 168 court must dismiss the action.

169 (3) STANDARD OF PROOF.—A plaintiff who brings an action for
 170 a COVID-19-related claim against a health care provider must
 171 prove by the greater weight of the evidence that the health care
 172 provider was grossly negligent or engaged in intentional
 173 misconduct:

174 (a) By failing to substantially follow authoritative or

24-01546B-21

202174__

175 applicable government-issued health standards or guidance
 176 relating to COVID-19;

177 (b) In interpreting or applying the standards or guidance
 178 with respect to the provision of health care or related
 179 services, or lack thereof, or the allocation of scarce resources
 180 or assistance with daily living; or

181 (c) In the provision of a novel or experimental COVID-19
 182 treatment.

183

184 A health care provider is immune from liability for a COVID-19-
 185 related claim if supplies, materials, equipment, or personnel
 186 necessary to comply with the applicable government-issued health
 187 standards or guidance at issue were not readily available or
 188 were not available at a reasonable cost.

189 (4) LIMITATIONS PERIOD.—An action for a COVID-19-related
 190 claim against a health care provider must commence within 1 year
 191 after the later of the date of death due to COVID-19,
 192 hospitalization related to COVID-19, or the first diagnosis of
 193 COVID-19 which forms the basis of the action. However, a
 194 claimant whose cause of action for a COVID-19-related claim
 195 accrued before the effective date of this act must commence such
 196 action within 1 year after the effective date of this act.

197 (5) CONFLICTING LAWS.—This section shall prevail over any
 198 conflicting provisions of law to the extent of the conflict,
 199 except for claims brought under chapter 440.

200 (6) APPLICABILITY.—This section applies to causes of action
 201 that accrue no later than 1 year after the termination or
 202 expiration of the state public health emergency relating to
 203 COVID-19 which was declared by the State Surgeon General or any

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204 nationwide emergency declaration by the Federal Government,
 205 whichever is later.

206 Section 2. If any provision of this act or its application
 207 to any person or circumstance is held invalid, the invalidity
 208 does not affect other provisions or applications of the act
 209 which can be given effect without the invalid provision or
 210 application, and to this end the provisions of this act are
 211 severable.

212 Section 3. This act applies retroactively. However, this
 213 act does not apply in a civil action against a particular named
 214 health care provider which is commenced before the effective
 215 date of this act.

216 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 10, 2021

I respectfully request that **Senate Bill # 74**, relating to COVID-19-related Claims against Health Care Providers, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

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 Rules

BILL: CS/CS/SB 80

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

SUBJECT: Child Welfare

DATE: March 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>
3.	<u>Preston</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 80 amends and creates a number of sections of law related to the child welfare system, making substantial changes, in part, to provisions related to placement decisions and transitions of children in out-of-home care, including specific provisions addressing such complex decisions involving young children and sibling groups. Specifically, the bill:

- Requires the Department of Children and Families (the DCF) and community-based care lead agencies (lead agency) to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource and require the FACE sheet to be updated at least once a month.
- Requires the FACE sheet to be in a uniform and standardized format and be electronic and have the capability to be printed.
- Provides legislative findings and intent related to priority placements for children in out-of-home care.
- Expands and relocates provisions that list the persons that should be considered as priority placements for children in out-of-home care and requires this priority list apply to the initial placement and any subsequent placements.
- Exempts placements made in accordance with s. 63.082, F.S., related to intervention adoptions, from specified provisions of the bill.
- Relocates provisions relating to existing multidisciplinary teams (MDT) and expands those teams to enhance better decisions for the child by engaging with families and other important individuals.

- Provides legislative intent for MDTs, staffings, and assessments and provides definitions for the terms “change in physical custody”; “emergency situation”; and “multidisciplinary team”.
- Enumerates circumstances when MDTs must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.
- Specifies the participants that must be invited to a MDT staffing and provides authority for the DCF or lead agency to invite other relevant participants and requires the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.
- Requires that a unanimous consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provides procedures for when the MDT does not reach a unanimous consensus decision, and requires the facilitator to file a report with the court providing specified information within a certain time frame.
- Requires the DCF to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorizes specified parties to discuss confidential information during a MDT staffing in the presence of participating individuals and provides that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provides legislative findings and intent related to changes in placement and defines the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Requires the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Requires the lead agencies to provide services to a caregiver intended to try and prevent a placement disruption prior to convening the MDT to develop a transition plan.
- Provides clarity that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Provides that transition plans must address specialized concerns, including additional specified factors in specified instances such as for children that are younger than 3 years of age.
- Requires the DCF and the lead agency to consider certain factors when determining the best education placement for a child and provides additional considerations for transitions of early education programs or K-12 education schools.
- Requires that prospective caregivers be prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative that must be attached to the FACE sheet.

- Provides legislative findings related to siblings in out-of-home care and defines the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specifies how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Requires that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home, and the initial placement of a child who enters out-of-home care later than his or her siblings, if it won’t disrupt the placement.
- Provides that the DCF and the court are not required to make a change of placement to develop a sibling bond that does not exist.
- Requires the DCF or the lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establishes specified criteria for the DCF or the lead agency to consider when determining initial placement. It also provides criteria for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships, as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and the lead agency to use in making specified decisions about child placement.
- Provides for contact and visitation between siblings who are not placed together in out-of-home care to allow the siblings to continue established relationships or possibly developing a relationship.
- Requires subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Creates a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and requires the court to conduct an evidentiary hearing to determine the best placement.
- Requires the caregiver, in response to receiving written notice of the DCF or the lead agency’s intent to change a placement, to file written notice to the court and the DCF requesting the evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes.
- Prohibits the DCF from transitioning the child to a new caregiver prior to the expiration of certain time periods or moving the child until a court order states to do so.
- Requires the court to appoint an attorney for the child and an expert in attachment and bonding and authorizes the caregiver to retain counsel.

The DCF projects that CS/SB 80 will have a significant negative fiscal impact on state government and the private sector related to the multidisciplinary teams and transition plans. Specifically, the DCF projects that the provisions of the bill will place additional workload requirements on the DCF, resulting in the need for 45 additional FTE positions and annual recurring costs of \$3,501,592 and one-time costs of \$200,160. The DCF also projects the need for technology changes ranging in cost from \$1,430,500 to \$2,284,000. In addition, the DCF projects that the bill will require additional staff for the lead agencies, resulting in annual

recurring costs of \$2,188,764 and one-time costs of \$142,336. The total costs are estimated to be \$8,316,852. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

II. Present Situation:

Dependency Case Process - Overview

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports of known or suspected child abuse,¹ abandonment,² or neglect,³ 24 hours a day, seven days a week.⁴ Any person who knows or suspects that a child has been abused, abandoned, or neglected must report such knowledge or suspicion to the hotline.⁵ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect.⁶ A child protective investigator investigates the situation either immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁷

If, after conducting an investigation in response to receiving a call to the hotline, the child protective investigator determines that the child is in need of protection and supervision that

¹ Section 39.01(2), F.S., defines “abuse” 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 also 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.

² See s. 39.01(1), F.S., which defines “abandonment”, in part, 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. It further defines, “establish or maintain a substantial and positive relationship” to include, but not be 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. The definition specifically provides that marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.

³ Section 39.01(50), F.S., defines “neglect” 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. Circumstances are not to be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected. Further, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian, unless a court orders the following services to be provided, when the health of the child so requires: medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. The definition further provides that neglect of a child includes acts or omissions.

⁴ Section 39.201(5), F.S.

⁵ Section 39.201(a), F.S.

⁶ Section 39.201(2)(a), F.S.

⁷ Section 39.201(5), F.S.

necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. The proceeding, known as a shelter hearing, results in a court determining if probable cause exists to keep a child in shelter⁸ status pending further investigation of the circumstances leading to the detention of a child.⁹

When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹⁰ Within 28 days after a child has been sheltered, the court must hold an arraignment hearing on the petition for dependency.¹¹ If a parent or legal guardian denies an allegation in the petition, the court must hold an adjudicatory hearing within 30 days.¹²

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.¹³ The court must first consider placing the child with relatives.¹⁴ If a child cannot safely remain in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective supervision of the DCF.¹⁵ Placing the child in the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.¹⁶

The DCF must develop and refine a case plan¹⁷ for each child receiving services throughout the dependency process with input from all parties to the child's dependency case. The case plan details are required to be tailored to address the abuse, abandonment, or neglect that gave rise to the abuse report, consider any other issues which would support family preservation if appropriate, and identify services to address the child's needs, as those needs are identified during the child protective investigation and throughout the case.¹⁸ Case plan services must focus on clearly defined objectives with the intent of improving conditions in the home and facilitating the child's safe return to the home when reunification is an appropriate goal, ensuring proper care of the child, or advancing the child's permanent placement.¹⁹

⁸ Section 39.01(78), F.S., defines "shelter" to mean a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

⁹ Section 39.01(79), F.S.

¹⁰ See s. 39.01(15), F.S., for the definition of "child who is found to be dependent".

¹¹ The purpose of an arraignment hearing is for a parent to admit, deny, or consent to findings of dependency that are alleged in the petition for dependency. If any party has requested a demand for early filing, the court must hold the arraignment hearing within 7 days after the date of filing of the petition. Section 39.506(1), F.S.

¹² Section 39.506(1), F.S.

¹³ Section 39.521(1), F.S.

¹⁴ Section 39.507(7)(c), F.S.

¹⁵ Section 39.521(3)(c), F.S.

¹⁶ Section 39.521(3)(d), F.S.

¹⁷ Section 39.01(11), F.S., defines "case plan" to mean a document, as described in s. 39.6011, F.S., related to case plan development, prepared by the DCF with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

¹⁸ Sections 39.6011 and 39.6012, F.S. Case plans must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and the child's temporary custodian and, if appropriate, the child.

¹⁹ Section 39.6012(1)(a), F.S.

Once the court approves a case plan, the dependency case continues with judicial review hearings,²⁰ custody or placement changes, and permanency planning. The goal is for the dependency court and all parties involved in the child's case to ensure the child remains safe.²¹

In determining the specific permanency goal for the child and whether requirements for that goal have been achieved, or if other actions need to be taken to protect the child, the court considers information about the parent's behavior and other relevant details provided by parties to the case, including written reports submitted to the court and witness testimony at hearings. If an attorney for the DCF decides that a termination of parental rights is appropriate, the DCF must allege in a petition for a termination of parental rights that one of a specified grounds supports the petition.²² The DCF must file a petition to terminate parental rights within 60 days after any of the specified factors has occurred.²³

The dependency court process is summarized in the table below.²⁴

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

²⁰ These hearings are in accordance with s. 39.701, F.S.

²¹ Section 39.001(1)(a), F.S.

²² Section 39.806(1), F.S. A few examples in support of a termination of parental rights petition include that the parent or parents voluntarily executed a written surrender of the child to the DCF for adoption; the parent or parents have abandoned the child; or the parent or parents through their conduct demonstrate that continuing involvement threatens the child's life, safety, or well-being irrespective of the provision of services.

²³ Section 39.8055(1), F.S. Exceptions to the requirement to file a termination of parental rights include the following: the child is being cared for by a qualifying relative or that the DCF provides a compelling reason that filing such a petition is not in the best interests of the child. Compelling reasons include that: adoption is not the appropriate permanency goal for the child; no grounds to file a petition to terminate parental rights exist; the child is an unaccompanied refugee minor; international legal obligations or compelling foreign-policy reasons preclude terminating parental rights; or the DCF has not provided to the family, consistent with the time period in the case plan, services that the DCF deems necessary for the safe return of the child to the home. Section 39.8055(2), F.S.

²⁴ For example, a social study report is submitted prior to judicial review hearings and it includes information on the child's placement, the child's safety in the placement, efforts of the parents to comply with case plan tasks, services provided to the foster family or legal custodian to address the child's needs, information on the visitation between the parent and child, and other information related to the child and the parent.

Dependency Proceeding	Description of Process	Controlling Statute
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement 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 every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Initial Removal and Placement in Out-of-Home Care

Detention or Shelter Determination of a Child

A shelter hearing is a proceeding in which a court determines whether probable cause exists to keep a child in shelter status pending further investigation of the circumstances leading to the detention of a child.²⁵ The circumstances in which a child may be detained or taken into custody by the DCF are limited.

A hospital administrator or licensed health care professional may detain a child without parental consent if returning the child to the parent or caregiver presents an imminent danger to the child. If the child is detained, the medical provider must immediately notify the DCF. Upon receiving notification, the DCF must immediately notify the parents or legal custodians that their child is being detained and begin a child protective investigation.²⁶

Additionally, a law enforcement officer may take a child into custody, if probable cause exists that:

²⁵ Section 39.01(79), F.S.

²⁶ Section 39.395, F.S.

- The child has been abused, neglected, or abandoned, or suffers from, or is in imminent danger of, illness or injury due to abuse, neglect, or abandonment;
- The parent or legal custodian of the child has materially violated a condition of placement ordered by the court; or
- The child has no parent, legal custodian, or responsible adult relative immediately known and able to provide care.²⁷

If a child is taken into custody, the attorney representing the DCF must request a hearing within 24 hours after the removal of the child.²⁸ A child may not be held in a shelter for more than 24 hours unless a court orders the child to remain in the shelter after a shelter hearing.²⁹ Prior to the shelter hearing, the parents or legal custodians must be given written notice that they:

- Will be given an opportunity to be heard and to present evidence at the shelter hearing; and
- Have the right to be represented by counsel, and, if indigent, have counsel appointed at the shelter hearing and at each subsequent hearing or proceeding.³⁰

Further, the shelter hearing can be continued for specified period of time under certain circumstances. If granted by the court, the child continues in shelter care for the length of the continuance.³¹

A child may not be removed from the home or continued in out-of-home care pending disposition if he or she could safely remain at home with the provision of appropriate and available early intervention or preventive services. However, if the child's safety and well-being are in danger, the child must be removed and continue to be removed until the danger has been eliminated. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the DCF will allow the child to remain safely at home, the court shall allow the child to remain in the home.³²

Placement in Out-of-Home Care

In 2001 and 2002, the Florida Legislature expanded the ability of community-based care lead agencies to place children in residential group care until additional foster homes could be recruited.³³ The 2001 legislation made it easier to put children in group care by requiring that any child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once must be assessed for placement in licensed residential group care. It also created s. 409.1676, F.S., which allows comprehensive residential services, including residential care, case management, and other services to be provided to children in the child protection system who have extraordinary needs, such as serious behavioral problems, or who have been determined to not have the options of either reunification with family or

²⁷ Section 39.401(1)(b), F.S.

²⁸ Section 39.401(3)(b), F.S.

²⁹ Section 39.402(8)(a), F.S.

³⁰ Section 39.402(5)(b), F.S. The appointment of counsel is made pursuant s. 39.013, F.S.

³¹ *Id.*

³² Section 39.402(7), F.S.

³³ Chapter 2001-68, ss. 3, 5, and 6, Laws of Fla. (creating ss. 39.521(5), 409.1676, and 409.1677, F.S., effective July 1, 2001); and ch. 2002-219, ss. 1, 2, 3, and 5, Laws of Fla. (repealing s. 39.521(5), F.S., creating s. 39.523, F.S., and amending ss. 39.407(5) and 409.1676, F.S., effective July 1, 2002).

adoption. The 2002 legislation moved the language in 39.521, F.S., enacted in 2001 to newly created s. 39.523, F.S. The legislation also provided that children in the custody of the DCF may be placed in certain residential settings without prior approval of the court.

At the same time, national research was showing an association between frequent placement disruptions and outcomes that are adverse to the child.³⁴ Some of the adverse outcomes included poor academic performance and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Despite this evidence, child welfare systems made limited efforts to intervene and reduce placement instability as a mechanism for improving outcomes for children.³⁵ Mismatching placements to children's needs has been identified as a factor that negatively impacts placement stability. Identifying the right placement requires effective assessment.³⁶

In response to trends in research, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act), enacted in 2008, shifted policies to increase federal support to states so they can place more children permanently with relative guardians or adoptive parents, and enhance aid to foster youth.³⁷ The Fostering Connections Act, in part, increased kinship guardianship assistance payments and increased grants to specified entities who included kinship navigator programs. These reflected the changes that:

- A child must be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents;
- The placement must meet the needs of the child; and
- A child must be placed in a permanent home in a timely manner.³⁸

In 2017, the Florida Legislature recognized the above-mentioned shift in federal policy by amending s. 39.523, F.S., to require a comprehensive placement assessment process to be conducted when any child is removed from a home and placed into out-of-home care to determine the level of care needed by the child and match the child with the most appropriate placement.³⁹ Section 39.523(2), F.S., currently provides that when any child is removed from a home and placed into out-of-home care, a comprehensive placement assessment process must be completed to determine the level of care needed by the child, and match the child with the most appropriate placement.⁴⁰ The lead agency or subcontracted agency must coordinate a multidisciplinary team (MDT) staffing, described in detail below, with any individual who is

³⁴ See The Imprint, A Look Back at the Impact of Research on Child Welfare Policy, available at <https://imprintnews.org/analysis/look-back-impact-research-child-welfare-policy/28350> (last visited March 11, 2021).

³⁵ Noonan, K. and Rubin, D., et al., The Children's Hospital of Philadelphia Research Institute, *Securing Child Safety, Well-being, and Permanency Through Placement Stability in Foster Care*, Fall 2009, p. 2, available at https://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_EtoA_CSAW_Fall_2009.pdf (last visited March 11, 2021).

³⁶ Teija Sudol, *Placement Stability Information Packet*, National Resource Center for Permanency and Family Connections, December 2009, available at http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/Placement_Stability_Info_Pack.htm (last visited March 11, 2021).

³⁷ See Fostering Connections to Success and Increasing Adoptions Act; Pub. L. 110-351; See also the National Conference of State Legislatures, *Fostering Connections to Success and Increasing Adoptions Act of 2008*, available at <https://www.ncsl.org/documents/cyf/FosteringConnectionsSummary.pdf> (last visited March 11, 2021).

³⁸ See Adoption Assistance and Child Welfare Act of 1980; Pub.L. 96-272.

³⁹ Chapter 2017-151, Laws of Fla.

⁴⁰ Section 39.523(2), F.S.

available to attend the staffing and is currently involved with the child.⁴¹ The participants for the MDT assessments include, but are not limited to:

- A representative from the DCF and the case manager for the child;
- A therapist;
- Attorney ad litem;
- Guardian ad litem;
- Teachers;
- Coaches;
- Children’s Medical Services; and
- Other community providers of services to the child or stakeholders, as applicable.
- Clergy, relatives, and fictive kin, if appropriate.⁴²

Further, team participants must gather and consider data and information on the child that is known at the time of the staffing including, but not limited, to:

- Mental, medical, behavioral health, and medication history.
- Community ties and school placement.
- Current placement decisions relating to any siblings.
- Alleged type of abuse or neglect, including sexual abuse and trafficking history.
- The child’s age, maturity, strengths, hobbies or activities, and the child’s preference for placement.⁴³

The most appropriate available out-of-home placement must be chosen after all members of the MDT consider all of the information and data gathered, including the results and recommendations of any evaluations conducted.⁴⁴ Placement decisions for each child in out-of-home placement must be reviewed as often as necessary to ensure permanency for that child and to address special issues related to this population of children.⁴⁵ The DCF, a sheriff’s office acting under s. 39.3065, F.S., a lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network (FSFN).^{46, 47}

⁴¹ Section 39.523(2)(a), F.S.

⁴² *Id.*

⁴³ *Id.* The comprehensive placement assessment process may also include the use of an assessment instrument or tool that is best suited for the individual child.

⁴⁴ Section 39.523(2)(c), F.S.

⁴⁵ Section 39.523(2)(d), F.S. Further, s. 39.523(2)(f), F.S., provides that if it is determined during the comprehensive placement assessment process that residential treatment as defined in s. 39.407, F.S., would be suitable for the child, the procedures in that section must be followed.

⁴⁶ Section 39.523(2)(e), F.S.

⁴⁷ The FSFN system is Florida’s implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). Both systems are made publicly available on the Children’s Bureau’s Child Welfare Outcomes Report Data website. See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at <https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx> (last visited March 11, 2021).

At each judicial review required under s. 39.701, F.S., the court is required to consider the results of the assessment, the placement decision made for the child, and the services provided to the child.

Special Considerations for Placement of Siblings

An important consideration when placing children into out-of-home care involves the placement of sibling groups. Children may experience anxiety or pain when they are separated from their siblings. However, child welfare agencies can experience obstacles in trying to place siblings together when they enter out-of-home care including, but not limited to:

- Children in sibling groups often have diverse and special needs that may require one-on-one attention;
- Foster and adoptive parents are often unwilling to take in sibling groups;
- Resources to find and maintain placements for sibling groups are often challenged by agencies with excessive caseloads and limited resources; and
- Children may enter care through different agencies, possibly in different jurisdictions.⁴⁸

There is limited research on the importance of the sibling bond which has only recently been accepted by research scientists and policymakers, sparking a flurry of attention to research, policy making, litigation, and development of innovative programs.⁴⁹

Child welfare laws have evolved in many states to address this issue. The Fostering Connections Act made federal funding contingent on complying with the law, which requires:

- Reasonable efforts to place siblings together in out-of-home care unless the state documents that it would be contrary to their safety or well-being; and
- Frequent visitation if siblings are not placed together, unless the state documents that it would be contrary to the children's safety or well-being.⁵⁰

In general, child protection agencies understand the importance of maintaining sibling connections and have embraced approaches that support sibling placements. Thirty-seven states and the District of Columbia have statutes requiring agencies to make reasonable efforts to place siblings together unless a joint placement would not be in the best interests of one of the siblings, such as when one sibling poses a risk to the other. Additionally, 35 states and Puerto Rico have statutes requiring agencies to make provisions for siblings who cannot be placed together, including opportunities for visits and/or other forms of contact or communication.⁵¹

A number of strategies can be encouraged to mitigate the barriers to joint placements for siblings, including:

- Prioritizing placement with kin.

⁴⁸ The National Center for Youth Law, *Keeping Siblings together: Past, Present, and Future*, available at <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/> (last visited March 11, 2021).

⁴⁹ *Id.*

⁵⁰ The Children's Bureau, Child Welfare Information Gateway, *Sibling Issues in Foster Care and Adoption*, available at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>; the U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Child and Family Services Reviews, available at <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews> (all sites last visited March 11, 2021).

⁵¹ The Casey Family Programs, *How are child protection agencies promoting and supporting joint sibling placements and adoptions?*, available at <https://www.casey.org/joint-sibling-placements/> (last visited March 11, 2021).

- Establishing clear policies and training for caseworkers and foster or adoptive parents about the importance of preserving sibling connections, and ensuring that siblings are assigned to the same caseworker, regardless of when they enter care.
- Involving children in placement decisions for the sibling group.
- Utilizing targeted foster or adoptive parent recruitment and retention strategies that aim to recruit foster and adoptive homes specifically for sibling groups, and homes that are reflective of the racial and ethnic diversity of children in care.⁵²

Florida law currently addresses sibling placement and visitation in a number of sections of statute, but there is no single consolidated section specifically dealing with sibling related issues. For example:

- Section 409.996(19)(b), F.S., requires the DCF and each lead agency to monitor and document any reasons that siblings are not placed together in out-of-home care; sibling placement information must be incorporated into the results-oriented accountability system and into the evaluation of the outcome and made available to the Florida Institute for Child Welfare for use in assessing the performance of child welfare services.
- Section 39.522(1)(a)8., F.S., requires the court, when determining whether a change of placement is in the best interests of the child, to consider the child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- Section 39.6012(3)(b), F.S., requires that the case plan include a description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings with whom he or she is separated.

Postdisposition Change of Custody

Currently, the court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing when a child is already under the jurisdiction of the court, without the necessity of another adjudicatory hearing.

At any time before a child is residing in the permanent placement approved at the permanency hearing, a motion alleging a need for a change in the conditions of protective supervision or the placement may be filed by the DCF or by any other interested person in the case of a child who has been placed in:

- The child's own home under the protective supervision of an authorized agent of the DCF;
- The home of a relative;
- The home of a legal custodian; or
- Some other place.⁵³

If the parents or other legal custodians deny the need for a change, the court must hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after the hearing, the court must enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.⁵⁴

⁵² *Id.*

⁵³ Section 39.522(1)(a), F.S.

⁵⁴ *Id.*

The standard for changing custody of the child must be the best interests of the child.⁵⁵ When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider all of the following:

- The child's age.
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.
- The stability and longevity of the child's current placement.
- The established bonded relationship between the child and the current or proposed caregiver.
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
- The recommendation of the child's current caregiver.
- The recommendation of the child's guardian ad litem, if one has been appointed.
- The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- The likelihood of the child attaining permanency in the current or proposed placement.
- Any other relevant factors.⁵⁶

If the child is not placed in foster care, the new placement for the child must meet the home study criteria and court approval under ch. 39, F.S.⁵⁷

When the court is determining reunification, the court is required to review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the child may be returned to the home, with an in-home safety plan prepared and in place. Alternatively, if the reunification is approved by the DCF, the court must determine that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.⁵⁸

A court considering whether a child who is placed in the custody of a non-offending parent should be reunited with the other parent, upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied, to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child, must find that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.⁵⁹

⁵⁵ United Nations, Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited March 11, 2021). The term "best interests" or "best interests of the child" is a child rights principle, which derives from Article 3 of the UN Convention on the Rights of the Child, which says that all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Convention on the Rights of the Child is the most rapidly and widely ratified human rights treaty in history—with 196 countries as "states parties." The United States is the only signatory country that has not ratified the Convention.

⁵⁶ Section 39.522(1)(a), F.S.

⁵⁷ Section 39.522(1)(b), F.S.

⁵⁸ Section 39.522(2), F.S.

⁵⁹ Section 39.522(3), F.S.

A court must consider additional factors when deciding whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan to determine whether to place the child in out-of-home care. The factors include, at a minimum:

- The circumstances that caused the child's dependency and other subsequently identified issues.
- The length of time the child has been placed in the home with an in-home safety plan.
- The parent's or caregiver's current level of protective capacities.
- The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.⁶⁰

In addition, the court is required to evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to s. 39.6013(5), F.S.⁶¹

Respite Care

Respite care is typically when one foster family temporarily cares for another family's foster children. It gives the children's original foster family a short break. Respite can be planned or offered during emergencies or times of crisis and may be available to relative or nonrelative caregivers, adoptive families, as well as birth families in need of support. Respite care can be attributed to improving family stability and reducing the risk of abuse or neglect.⁶²

Transitions

Placement Transitions

Transition planning and practice may be used for any move of any child from one caregiver to another caregiver, including to or from a biological parent. It is important to minimize the number of out-of-home care placements in every child's case. However, in some situations, a change in out-of-home care placement might be considered necessary.⁶³

Once the child establishes a bond with a caregiver who becomes the psychological parent, transition planning from one caregiver's home to another must be as emotionally protective as possible.⁶⁴ Poorly executed or improperly timed transitions may adversely affect a child's healthy development and capacity to attach to others.⁶⁵

⁶⁰ Section 39.522(4), F.S.

⁶¹ Section 39.522, F.S.

⁶² See Child Welfare Information Gateway, *Respite Care Programs*, available at <https://www.childwelfare.gov/topics/preventing/prevention-programs/respite/>; Arc Broward, *Respite and Therapy Services*, available at <https://www.arcbroward.com/respite-care-therapy#:~:text=Respite%20Care%20is%20designed%20to,best%20care%20by%20trained%20professionals> (all sites last visited March 11, 2021).

⁶³ Advokids, *Transition Planning*, available at <https://advokids.org/childhood-mental-health/transitions/> (last visited March 11, 2021).

⁶⁴ *Id.*

⁶⁵ *Id.*

Any change in primary caregiver may be very traumatic and this trauma can be minimized by implementing a caring transition plan. Visitation with a future caregiver does not establish the same bond that develops when a child bonds with a caregiver who provides day-to-day care. This includes visitation with a biological parent relative who has been visiting consistently and appropriately, which suggests there will inevitably be trauma when the child is moved to a different day-to-day caregiver when the child has formed an attachment to a current caregiver.⁶⁶

Transition planning and visiting must be tailored to the individual child's circumstances and consideration must be given to certain factors such as the child's age and attachment to his or her current caregiver. Special consideration should be given to transitioning infants and toddlers who are removed from their placement during developmental phases that may be adverse to such change, given they may lack verbal skills or developmental ability and maturity to understand what is happening to them.⁶⁷

The fundamental task in early childhood is the formation of attachment. Attachment is an emotional bond with another person. It is believed that the earliest bonds formed by children with their caregivers have a tremendous impact that continues throughout life. Typical attachment stages are:

- At 0-8 weeks of age, the stage for developing secure attachment is being set. During this pre-attachment period the mother will 'warm up' the emotional bond with her sensitive and consistent responses. The infant may distinguish between caregivers but in general displays little preference. Baby separation anxiety in relation to the mother has not kicked in yet.
- At 2-6 months, the child starts to distinguish more clearly between known and unknown figures. The child starts to get a sense of how his or her mother will react when they are anxious or distressed.
- At 6-11 months and stage of child development, the baby has developed a clear understanding as to who his or her primary caregiver is (typically the mother). This awareness often makes the mother the preferred caregiver.
- At 18-24 months, the child's attachment behavior is very clear. The child is very conscious of good strategies for reaching the desired proximity of his or her mother.⁶⁸

Infants and toddlers who are removed from their home and placed in out-of-home care need special consideration and guidance through the grieving process, in their relationships, and through transitions from one caregiver to another. Because they may be non-verbal or lack the developmental ability and maturity to understand what is happening to them, let alone articulate it, their feelings are easily overlooked or misinterpreted. Young children in out-of-home care suffer the same grief and loss and doubts that older children do, without the ability to express how he or she is feeling.⁶⁹

⁶⁶ *Id.*

⁶⁷ Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited March 11, 2021).

⁶⁸ Positive Parenting Ally, Psychology Attachment Behavior, available at <https://www.positive-parenting-ally.com/psychology-attachment.html> (last visited March 11, 2021).

⁶⁹ Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited March 11, 2021).

Florida law addresses out-of-home care transitions and educational stability in a number of circumstances, including, but not limited to:

- Section 39.6035(1), F.S., requires, within 180 days after a child reaches 17 years old, the DCF and lead agency to collaborate with the caregiver and other individuals identified by the child to assist the child with developing a transition plan to prepare for when the child ages out of care.⁷⁰
- Section 39.604(5), F.S., provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.
- Section 39.701(3)(d), F.S., which provides at the last review hearing before the child reaches 18 years of age, the court must:
 - 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 and a supervised living arrangement under s. 39.6251, F.S.;
 - Ensure the child has been informed of the:
 - Right to continued support and services from the DCF and the lead agency;
 - Right to request termination of dependency jurisdiction and be discharged from foster care;
 - Opportunity to reenter foster care pursuant to s. 39.6251, F.S.;
 - Ensure that the young adult, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:
 - Services or benefits for which the young adult may be eligible based on his or her former placement in foster care;
 - Services or benefits that may be lost through termination of dependency jurisdiction; and
 - Other federal, state, local, or community-based services or supports available to him or her.

Florida rules require two weeks' notice prior to a change of placement except in an emergency situation, and requires a transition plan to a new placement if the child's current placement is unable to be stabilized and is not in the child's best interest.⁷¹ The DCF also has operating procedures for transition planning for youth to ensure that children develop necessary life skills and to prepare children to transition to adulthood.⁷²

Education Transitions

State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

⁷⁰ Section 39.6035(1), F.S. The plan must address housing, health insurance, education, and workforce support and employment services.

⁷¹ Rule 65C-28.005, F.A.C.

⁷² The DCF, *CFOP 170-17 Transitioning Youth and Young Adult*, ch. 2 (July 29, 2019) available at <https://myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-17%20Services%20for%20Transitioning%20Youth%20and%20Young%20Adults/CFOP%20170-17,%20%20Chapter%2002,%20Transition%20Planning%20for%20Youth.pdf> (last visited March 11, 2021)

The Every Student Succeeds Act (ESSA)⁷³ was signed into law on December 10, 2015. ESSA reauthorized the Elementary and Secondary Education Act and includes new provisions that promote educational stability for children in foster care so they can continue their education without disruption, maintain important relationships, and have the opportunity to achieve college and career readiness. The law also emphasizes the importance of collaboration and joint decision-making between child welfare agencies and educational agencies.

Specific protections related to children in out-of-home care include:

- Being able to remain in the same school when in the child's best interest;
- Immediate enrollment in school and transfer of school records;
- School transportation when changing schools;
- Point of contact designated within state educational agency;
- Local educational agency point of contact; and
- Required data collection and reporting.

For the first time, state educational agencies will be required to report annually on student achievement and graduation rates for students in out-of-home care.⁷⁴

The Fostering Connections Act also places requirements on child welfare agencies to work with schools to support the education needs of children in foster care. Since its passage in 2008, the Fostering Connections Act has brought much-needed attention to the critical importance of education stability for children in out-of-home care.⁷⁵ The Fostering Connections Act helps children and in out-of-home care, guardianship and adoption achieve their educational goals by requiring that states ensure that they attend school and, when placed in out-of-home care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school. It also provides increased federal support to assist with school-related transportation costs.

Florida law provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.⁷⁶

Multidisciplinary Teams

The use of a MDT team in child welfare settings is a concept that has been an established practice for over the past 60 years through the use of hospital-based child protection teams and,

⁷³ The Every Student Succeeds Act, Public Law 114-95.

⁷⁴ *Id.*

⁷⁵ See Fostering Connections to Success and Increasing Adoptions Act, Pub.L. 110-351.

⁷⁶ Section 39.604, F.S.

more recently, child advocacy centers.^{77, 78} Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDT teams are often used to enhance and improve investigations and responses necessary for children and families to recover and succeed. The MDT teams are becoming more widely used today to include 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. The MDT may also be referred to as an "interdisciplinary team," or a "case consultation team."⁷⁹

Utilizing a MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is key to engaging children, youth, and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs. By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.⁸⁰

The 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.⁸¹ As a result, a number of states⁸² are using a MDT team model, also known as a "Child and Family Team", that is key to the well-being of children and families served by child welfare agencies and their partners. 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.⁸³

In California, for example, the process begins when a child enters out-of-home care, and a child welfare social worker engages with a child and his or her family, and then uses a variety of strategies to identify other team members and factors to develop a plan to help achieve positive

⁷⁷ The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, available at <http://www.kempe.org/child-protection-team-celebrates-60-years/> (last visited March 11, 2021).

⁷⁸ The National Children's Alliance, *History of NCA*, available at <https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children's,system%20to%20help%20abused%20children> (last visited March 11, 2021).

⁷⁹ The Child Welfare Information Gateway, *Multidisciplinary Teams*, available at <https://www.childwelfare.gov/topics/responding/iaa/investigation/multidisciplinary/> (last visited March 11, 2021).

⁸⁰ The Kinship Center, *The Importance of the Child and Family Team*, available at <http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html> (last visited March 11, 2021).

⁸¹ 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, available at <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last visited March 11, 2021).

⁸² See Clark County Department of Family Services, *Child and Family Team Meetings Nevada Case Planning and Assessment Policies*, available at https://www.childwelfare.gov/pubPDFs/NV_CaseManagementTrainingFacilitator.pdf; 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>; Indiana Department of Child Services, *Child Welfare Policy* (January 1, 2020) available at <https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf> (all sites last visited March 11, 2021).

⁸³ 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 March 11, 2021).

outcomes for a child’s safety, permanency, and well-being.⁸⁴ This strengths-based approach to child welfare recognizes that families are experts in their own lives, and they can achieve success when they have an active role in creating and implementing solutions.⁸⁵

Currently, Florida law provides for the use of MDTs in a number of circumstances, including, in part:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- MDT staffing’s under s. 39.523, F.S.; and
- MDT staffings under ss. 39.524 and 409.1754, F.S.

Additionally, the DCF reports that it or lead agencies currently coordinate MDT staffings for a number of purposes, including, in part:

- Adoption related staffings;
- Baker Act staffings;
- Case plan conferences;
- Case staffings;
- Case transfer staffings;
- Close the loop staffings;
- Comprehensive Medical Assessment Team staffings;
- Comprehensive Placement Assessment Team staffings;
- Human Trafficking staffings;
- The Department of Juvenile Justice staffings;
- High risk staffing or critical case staffings;
- Independent living staffings;
- Institutional staffings;
- Legal, medical, or mental health staffings;
- New child staffings;
- Permanency staffing;
- Safety management staffing;
- Separated sibling staffings;
- Service staffings; and
- Transfer staffings.⁸⁶

Child Advocacy Centers

Child advocacy centers also conduct MDTs on cases that are handled by the centers. Child advocacy centers must meet specified criteria to become eligible for membership in the Florida Network of Children’s Advocacy Centers, Inc. (FNCAC),⁸⁷ a statewide nonprofit membership

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ The DCF, Electronic mail from John Paul Fiore, Legislative Specialist, *RE: Follow up on data request from last week*, February 12, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (noting several other meetings and conferences that are held for other purposes throughout dependency cases) (hereinafter cited as “The DCF Supplemental Information”).

⁸⁷ Section 39.3035(1), F.S.

organization.⁸⁸ In addition, child advocacy center staff must be trained and meet background screening requirements in accordance with s. 39.001(1), F.S.,⁸⁹ which the FNCAC is responsible for ensuring compliance.⁹⁰ The FNCAC reports that there are 27 children's advocacy centers that serve 85 percent of the children and families in Florida.⁹¹ Florida Children Advocacy Centers provide the following services, including, but not limited to:

- Forensic interviews;
- Crisis intervention and support services;
- Medical evaluations;
- Multidisciplinary review of cases;
- Evidenced-based prevention and intervention programs; and
- Professional training and community education.⁹²

In 2018, the Florida Children Advocacy Centers served over 34,000 children who were victims of child abuse and neglect and provided the following services:

- 20,259 received therapy services;
- 17,297 received crisis intervention services;
- 11,120 medical evaluations; and
- 10,675 forensic/specialized interviews.⁹³

Case Record Face Sheet

A case record face sheet is generally defined as any cover sheet to a multipage document that contains the relevant points covered in the document itself. They are commonly used in the medical or healthcare arenas and typically provides a patient's information at a quick glance. Face sheets can include contact details, a brief medical history and the patient's level of functioning, along with patient preferences and wishes.⁹⁴

A number of states also use similar face sheets to record pertinent information about a child welfare case, including most notably Iowa and Illinois.⁹⁵

Currently, Florida law does not require a face sheet to be included in the case file for child welfare cases.

⁸⁸ FNCAC, *About Us*, available at <https://www.fncac.org/about-us> (last visited March 1, 2021) (hereinafter cited as "FNCAC About Us").

⁸⁹ Employees must complete a level 2 background screening pursuant to ch. 435, F.S.

⁹⁰ Section 39.3035(2), F.S.

⁹¹ FNCAC, *About Us*.

⁹² FNCAC, *What is a CAC*, available at <https://www.fncac.org/what-cac> (last visited March 1, 2021).

⁹³ FNCAC, *Impact of Children's Advocacy Centers on Child Abuse and Neglect*, available at <https://www.fncac.org/impact-childrens-advocacy-centers-child-abuse-and-neglect> (last visited February 26, 2021).

⁹⁴ Caring.com, *What is a Face Sheet*, available at <https://www.caring.com/articles/what-is-a-face-sheet/>; the Medical Dictionary, available at <https://medical-dictionary.thefreedictionary.com/face+sheet> (all sites last visited March 11, 2021).

⁹⁵ Iowa Department of Human Services, *Child Welfare Services Referral Face Sheet*, available at <https://dhs.iowa.gov/sites/default/files/470-5150.pdf?102920201715>; State of Illinois, Department of Children and Family Service, *Help Unit Face Sheet*, available at https://www2.illinois.gov/dhfs/aboutus/notices/Documents/cfs399_2.pdf#search=face%20sheet (all sites last visited March 11, 2021).

Rebuttable Presumptions

A rebuttable presumption is defined as a legal assumption the court is required to make if certain facts are established and no contradictory evidence is produced. There are various rebuttable presumptions found in Florida law. Two examples found in ch. 39, F.S., include:

- Section 39.0139, F.S., relating to visitation and contact with children who have been sexually abused, provides for the creation of a rebuttable presumption of detriment to a child when specified conditions are met.
- Section 39.203, F.S., relating to immunity from liability in cases of child abuse, abandonment or neglect, provides a rebuttable presumption that specified actions are retaliatory if the specified actions are committed within a prescribed period of time against a person who reports child abuse, abandonment, or neglect under ch. 39, F.S.

Adoption Intervention

In Florida, a parent may place their child for adoption with a private adoption agency, even if the child is under jurisdiction of the court and in out-of-home care as long as no final judgment of termination of parental rights has been entered. This means that birth parents can choose a private adoption placement if their parental rights are still be intact. This process is commonly referred to as an intervention and results in a private adoption entity intervening into the DCF case and handling the adoption according to the wishes of the biological parent.⁹⁶

III. Effect of Proposed Changes:

The bill codifies, consolidates, and amends, in part, current law in new sections regarding priority placement under s. 39.4021, F.S., multidisciplinary team staffings to make placement, education and other important life decisions of the child under s. 39.4022, F.S., transition plans under s. 39.4023, F.S., and sibling placements under s. 39.4024, F.S. These new sections are created in Part V, titled Taking Children into Custody and Shelter Hearings, to ensure that these issues are addressed at the time a child is removed from his or her home due to abuse, abandonment, or neglect and applied throughout dependency proceedings as current law is silent on how to deal with placement issues between the time of shelter and the disposition hearing. Current law in other sections that relate to these placement or education issues have been amended to cross-reference the new sections.

The bill also amends ss. 39.522 and 39.523, F.S., relocating factors related to postdisposition changes and placement in out-of-home care into s. 39.4022, F.S., creating the new MDTs. Section 39.522, F.S., is also amended to create a rebuttable presumption in certain cases.

Placement in Out-of-Home Care

Section 39.4021, F.S., is created to set out the following list of priority placements of which the DCF must attempt to place a child when he or she is being placed in out-of-home care:

- Non-offending parent;

⁹⁶ Section 63.082, F.S. See also Adoption Choice of Florida, *What is an adoption intervention?*, available at <https://www.adoptionchoicesofflorida.com/blog/2019/november/what-is-an-adoption-intervention/> (last visited March 11, 2021).

- Relative;
- Adoptive parent of a child's sibling, when the DCF or lead agency is aware of such sibling;
- Fictive kin, with a close existing relationship to the child;
- Licensed foster care; and
- Group or congregate care.

The bill provides that placements made pursuant to s. 63.082(6), F.S., related to intervention adoptions, are exempt from the priority placements mentioned above.

This priority placement list slightly amends the list under current law in s. 39.401, F.S., by clarifying that the child may be released to a non-offending parent, fictive kin with a close existing relationship to the child, or group or congregate care, in the order of priority set out above.

Section 39.4021, F.S., also confirms the requirement under current law to place sibling groups together whenever possible unless it is not in the children's best interest when applying the criteria and factors as set out under s. 39.4022, F.S., and 39.4024, F.S. Placement decisions after shelter must be made in compliance with s. 39.4021, F.S., unless otherwise provide in ch. 39, F.S.

The bill also amends ss. 39.401 and 39.402, F.S., to cross-reference s. 39.4021, F.S., which codifies current law and clarifies the priority of placement which the DCF is required to apply when determining where to release a child who is removed due to abuse, abandonment, or neglect while awaiting a shelter hearing and to require the court to make written findings in shelter orders that the DCF has made reasonable efforts to place the child in order of priority unless it is not an option or in the best interest of the child, respectively.

Multidisciplinary Teams

The DCF reports that MDTs are presently being convened for many purposes throughout a dependency case, and current law makes reference to requirements to convene these staffings, for instance in s. 39.523, F.S., in relation to postdisposition change of placement decisions. Section 39.4022, however, codifies the creation of these teams, defines them, provide for stated goals, an expanded list of mandatory reasons when staffings must be convened, and specified factors that must be considered when making decisions about what is in the child's best interest.

The bill provides legislative findings including that:

- There is an increasing body of evidence showing that services for children and families are most effective when delivered in the context of a single, integrated multidisciplinary team that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.
- Effective assessment through an integrated MDT is particularly important for children who are vulnerable due to existing histories of trauma that led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a result of the enhanced need for such children to have healthy and

stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

The bill provides definitions for the following terms:

- “Change in physical custody”, which is defined to mean a change by the DCF or the lead agency to the child’s physical residential address, regardless of whether such change requires a court order changing the legal custody of the child.
- “Emergency situation”, which is defined to mean that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.
- “Multidisciplinary team”, which is defined to mean an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

The bill sets out MDT goals that are child and family focused with an emphasis of having them involved in important life changing decisions, securing a child’s safety, minimizing any potential trauma, and monitoring their strengths and needs throughout the case. The MDTs are required to adhere to the following goals:

- Secure a child’s safety in the least restrictive and intrusive placement that can meet his or her needs;
- Minimize the trauma associated with separation from the child’s family and help the child to maintain meaningful connections with family members and others who are important to him or her;
- Provide input into the placement decision made by the community-based care lead agency and the services to be provided in order to support the child;
- Provide input into the decision to preserve or maintain the placement, including necessary placement preservation strategies;
- Contribute to an ongoing assessment of the child and the family’s strengths and needs;
- Ensure that plans are monitored for progress and that such plans are revised or updated as the child’s or family’s circumstances change; and
- Ensure that the child and family always remain the primary focus of each MDT staffing.

The bill provides for collaboration among diverse, qualified individuals who are part of the child’s network to make the most informed decisions possible for a child. The MDT participants necessary to achieve an appropriately diverse team for a child may vary by child, but each MDT staffing must invite the following members:

- The child, unless he or she is not of an age or capacity to participate in the team;
- 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;
- The current caregiver;

- A representative from the DCF other than the Children's Legal Services attorney, when the DCF is directly involved in the goal identified by the staffing;
- A representative from the lead agency, when the lead agency is directly involved in the goal identified by the staffing; and
- The case manager for the child, or his or her case manager supervisor.

The bill requires the MDT to make reasonable efforts to have all mandatory invitees attend. However, the MDT staffing may not be delayed if the mandatory invitees described above fail to attend after being provided reasonable opportunities.

The DCF or lead agency may invite additional participants depending on the stated purpose of the staffing, including, but not limited to:

- A representative from Children's Medical Services;
- A guardian ad litem, if one is appointed;
- A school personnel representative who has direct contact with the child;
- A therapist or other behavioral health professional, if the DCF or lead agency deems such expert is necessary;
- A mental health professional with expertise in sibling bonding, if applicable; or
- Other community providers of services to the child or stakeholders, when applicable.

The bill provides that each MDT staffing must be led by a facilitator who is a trained professional who is otherwise required to attend the staffing in his or her official capacity and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The facilitator does not need to be the same person for each staffing convened in a child's case or in the service area of the designated lead agency handling a child's case.

The bill provides that the MDT staffings must be held as soon as possible before all of the following events occur or within 72 hours after an emergency situation arises as defined in s. 39.4023(2), F.S., and in accordance with s. 39.4023, F.S.:

- Initial out-of-home placement decisions;
- Changes in physical custody and appropriate mandatory transition plans in accordance with s. 39.4023, F.S.;
- Changes in a child's educational placement and mandatory transition plans in accordance with s. 39.4023, F.S.;
- Placement decisions for a child which involve sibling groups in accordance with s. 39.4024, F.S.; and
- Any other important decisions in the child's life which are so complex that the DCF or appropriate lead agency determines that it must be addressed by convening a MDT staffing to ensure the best interest of the child is maintained.

For MDT staffings addressing decisions related to initial out-of-home placements, the staffing may occur before the initial placement. However, if a staffing is not possible before the initial placement, the bill requires the staffing to occur as soon as possible after initial removal and placement to evaluate the appropriateness of the initial placement and to ensure that any adjustments to the placement, if necessary, are promptly handled.

The bill exempts certain types of placement decisions from the MDT provisions of the bill, including placement decisions that are:

- Facilitated by a children's advocacy center (CAC) in accordance with s. 39.3035, F.S. However, the CAC that facilitates a staffing is encouraged to include family members or other persons important to the family in the staffing if the CAC determines it is safe for the child to involve such persons.
- Made pursuant to s. 63.082(6), F.S., related to intervention adoptions.

The bill codifies current law, which provides that an assessment conducted by the MDT may also use an evidence-based assessment instrument, or tool that is best suited for the child and clarifies that the instrument or tool used should be best suited for determining the specific decision of the staffing and the needs of that individual child and family. The bill requires that MDT staffing participants must, before formulating a decision, gather and consider data and information on the child which is known at the time, including, but not limited to:

- The child's age, maturity, and strengths;
- Mental, medical, behavioral health, and medication history;
- Community ties and school placement;
- The stability and longevity of the child's current placement;
- The established bonded relationship between the child and the current or proposed caregiver;
- The child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024, F.S.;
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement;
- The reasonable preference of the child, if the court has found that the child is of sufficient age and capacity to express a preference;
- The recommendation of the child's current caregiver, if applicable;
- The recommendation of the child's guardian ad litem, if one has been appointed;
- The likelihood of the child attaining permanency in the current or proposed placement;
- The likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.;
- The disruption of continuity of care with medical, mental health, behavioral health, dental, or other treatment services the child is receiving at the time of the change of custody decision;
- The allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect;
- The impact on activities that are important to the child, including the ability of the child to continue in such activities;
- The impact on the child's future access to education, Medicaid, and independent living benefits; and
- Any other relevant factors.⁹⁷

⁹⁷ Further, the bill requires that MDT staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

These factors are a consolidation of factors that are set out in current law under ss. 39.522(1)(a) and 39.523(2)(a), F.S., with one new factor and amendments to two current factors as follows:

- The factor relating to the child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, is amended to require that any issues regarding siblings must be evaluated in accordance with s. 39.4024, F.S.;
- A new factor is added which states the team must consider the likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.; and
- The factor relating to allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care is amended to include consideration of any history of additional allegations of abuse, abandonment, or neglect.

The bill lists specified information that must be gathered and considered by the MDTs for a decision related to a child 3 years of age or younger, and reviewed as often as necessary to ensure permanency, including:

- Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.
- The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.
- The prospective caregiver's ability and willingness to:
 - Accept supports related to early childhood development and services addressing any possible developmental delays;
 - Address the emotional needs of the child and accept infant mental health supports, if needed;
 - Help nurture the child during the transition into out-of-home care;
 - Work with the parent to build or maintain the attachment relationship between parent and child;
 - Effectively co-parent with the parent; and
 - Ensure frequent family visits and sibling visits.

The bill provides that if the staffing participants reach a unanimous consensus decision, it becomes the official position of the lead agency regarding the decision for which the MDT convened and binds all DCF and lead agency participants, who are obligated to support it. If the participants cannot reach a unanimous consensus decision, the trained professional acting as the facilitator is required to notice the court and the DCF within 48 hours of the conclusion of the staffing. The DCF is then required to determine how to address the identified goal of the staffing by what is in the child's best interest.

The bill provides that if a MDT staffing fails to reach a unanimous consensus decision, the facilitator must prepare and submit a written report to the court within five business days after the conclusion of the staffing that details the decision made and the positions of the MDT's participants.

The bill permits the DCF to discuss confidential information during MDT staffings in the presence of those participating. The bill requires any individuals who participate in MDT staffings to maintain the confidentiality of all information shared during the staffing.

The bill also provides that these provisions related to the MDTs may not be construed to mean that MDT staffings coordinated by the DCF or the appropriate lead agency for purposes other than those specifically enumerated in the bill before October 1, 2021, are no longer required to be conducted or are required to be conducted in accordance with the above-mentioned criteria. Further, if the DCF or lead agency is not required to attend an MDT staffing for one of the above-mentioned purposes before October 1, 2021, the bill provides that the provisions may not be construed to create a new duty on the DCF or lead agency to attend that type of staffing.

The bill also requires the DCF to adopt rules.

Transitions

The bill creates s. 39.4023, F.S., establishing specific provisions for transitioning a child who is in the dependency system and specifically addressing placement transitions and education transitions. The bill provides legislative findings and intent, including, specifically:

- The Legislature finds that many children in out-of-home care have experienced multiple changes in placement, and those transitions often result in trauma not only for the child, but also for caregivers, families, siblings, and all professionals involved.
- The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.
- The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.
- The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.
- It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

The bill also provides definitions for the following terms:

- "Educational change," which is defined to mean any time a child is moved between schools which is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.
- "Emergency situation," which is defined to mean that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.
- "Placement change," which is defined to mean any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians,

or prospective adoptive parents, and reunification with parents or legal custodians. A child being moved temporarily to respite care for the purpose of providing the primary caregiver relief does not constitute a placement change.

- “School,” which is defined to mean any child care, early education, elementary, secondary, or postsecondary educational setting.

Placement Transitions

The bill requires the DCF or lead agency to create and implement an individualized transition plan for each child before each placement change. In order to minimize changes in placement, once a caregiver accepts responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

- The caregiver is unwilling or unable to safely or legally care for the child;
- The child is reunified with the parent or legal guardian;
- The child is being placed in a legally permanent home in accordance with a case plan or court order; or
- The removal is demonstrably in the best interests of the child.

The bill requires the lead agency to provide a caregiver and a child with any necessary supportive services to stabilize the child’s current out-of-home placement if there is in danger of it needing modification. If the child is required to be removed notwithstanding the preventative services provided, the DCF or the lead agency must convene a MDT staffing before the child’s placement is changed or within 72 hours of moving the child in an emergency situation to develop an appropriate transition plan.

The bill requires the DCF or lead agency to provide notice at least 14 days before moving a child from one out-of-home placement to another, which must include the reason a placement change is necessary. It must be filed with the court, and a copy must be provided to the:

- Child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the DCF or lead agency to provide notice in an age- and capacity-appropriate alternative manner;
- Child’s parents, unless prohibited by court order;
- Child’s out-of-home caregivers;
- Guardian ad litem, if one is appointed to the child;
- Attorney for the child, if one is appointed; and
- Attorney for the DCF.

The bill also provides that the transition plan must be developed by the individuals required to receive notice of intent to move a child, and any relevant information must be shared and considered to ensure that the transition plan does all of the following:

- Respects the child’s developmental stage and psychological needs;
- Ensures the child has all of his or her belongings and is allowed to help pack those belongings when appropriate;
- Allows for a gradual transition from the current caregiver’s home with substantial overlap between the two caregivers and provides time for the child to have a final visitation with everyone important to him or her;

- Allows, when possible, for continued contact with the previous caregiver and others in the home; and
- Prohibits a change in placement that occurs between 7 p.m. and 8 a.m.

However, the bill specifically exempts the above provisions related to transition planning when the removal that is necessitating the transition plan is the result of an emergency situation due to direct safety concerns caused by a caregiver in the current placement.

The bill requires the DCF or the lead agency to file the transition plan with the court within 48 hours after the creation of the plan and provide a copy of the plan to the specified persons who receive notice of intent to move the child.

The bill provides for additional considerations for transitions of infants and children under school age. Placement decisions for infants and children under 5 years of age in out-of-home care must focus on promoting security and continuity. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and specify what decision was made as to how each of the following applies to the child:

- The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:
 - Six months of age or younger; or
 - Seven months of age or older, but younger than 3 years of age.
- The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.
- The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the relationship with both caregivers.
- The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the needs and reactions of the child.

The bill requires the lead agency to fully inform prospective caregivers of the child's needs and circumstances and ensure that he or she is willing and able to accept responsibility for providing high-quality care for such needs and circumstances before the child is placed. The bill requires the lead agency to review the caregivers' roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415, F.S., the case manager must sign a copy of it, and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement of the child.

Education Transitions

In addition to placement changes, the bill also establishes a number of provisions related to education transitions, which often occur in conjunction with a placement change, but may also be considered independently. The bill provides legislative findings, including that:

- Children in out-of-home care frequently changing child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less

academic progress than their peers and fall further behind with each school change. Additionally, educational instability at any level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

The bill requires that the DCF and lead agency must make every effort to keep a child in his or her school of origin and that any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary. To determine which school is in the child's best interest to attend, the DCF and lead agency must consult with specified persons, including, but not limited to the child; parents; caregiver; child welfare professional; guardian ad litem, if appointed; educational surrogate, if appointed; child care and educational staff, including teachers and guidance counselors; and the school district representative or foster care liaison. The bill requires the DCF or the lead agency to create and implement an individualized education transition plan each time a child experiences a school change.

If it is not in the child's best interest to remain in the school or program of origin, the specified individuals must consider the following relevant factors when determining the school the child will attend, including, but not limited to:

- The child's desire to remain in the school or program of origin;
- The child's parents or legal guardians' school preference;
- The child's relationship with other students or mentors the school or program of origin;
- The child's cultural and community connections in the school or program of origin;
- 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 multi-tiered system of supports;
- Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973;
- 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;
- Whether the child is an English Language Learner student and is receiving language services, and, if so, whether those required services are available in the proposed new school or program;
- The impact a change to the school or program of origin would have on academic credits and progress toward promotion;
- The availability of extracurricular activities important to the child;
- 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 the proposed new school or program;
- The child's permanency goal and timeframe for achieving permanency;
- The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally;

- The length of the commute to the school or program and how it would impact the child; and
- The length of time the child has attended the school or program of origin.

The bill specifically provides that the cost of transportation cannot be a factor in making the best interest determination.

Transitions between Child Care and Early Education Programs.

The child must, if possible, remain with the familiar child care provider or early education program when their placement changes unless there is an opportunity to transition to a higher quality program. When this is not possible, however, the child's education transition plan must be made with the participation of the child's current and future school or program, and the plan must give the child an opportunity to say goodbye to important figures in the educational environment.

Transitions between K-12 Schools.

The bill requires that a transition plan for a school change between K-12 schools must include all of the following:

- The decision and any related details of all factors considered to change the child's school in accordance with reasons allowed for removal;
- Evidence that the DCF or lead agency has coordinated with local educational agencies to provide immediate and appropriate enrollment in a new school, including transfer of educational records, record of a school entry health examination, and arrangements for transportation to the new school;
- Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities;⁹⁸ and
- Information regarding transportation of the child to school.

Transition Plan Documentation

The bill requires the DCF, in collaboration with the Quality Parenting Initiative,⁹⁹ to develop a form to be completed and updated each time a child experiences a change of placement covered under s. 39.4023, F.S. The updated form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146(b), F.S. The form must be used statewide and, at a minimum, must include the following information:

- The membership of the MDT convened to develop a transition plan for the change in placement and the dates the team met;
- The identity of the MDT professional facilitator;

⁹⁸ The bill provides that education plans for this level must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and extracurricular participation.

⁹⁹ The Quality Parenting Initiative (QPI) is a national movement for foster care change, which focusing on creating a system that gives parents the tools to provide excellent parenting every day. The QPI system requires the support and involvement of birth families, relative caregivers, foster families, young people, and others in the child welfare system. It consists of a network of states, including Florida, as well as counties and private agencies that are committed to ensuring all children in care have excellent parenting and lasting relationships so they can thrive and grow. Florida implemented this program as a pilot in 2008.

- The topics considered by the MDT; and
- The MDT's recommendations and the name of each individual or entity responsible for carrying out each recommendation.

The bill requires the DCF or the lead agency to document all MDT staffings and placement transition decisions in the Florida Safe Families Network (FSFN). This information must be included in the social study report for judicial review.¹⁰⁰ The bill also provides the DCF with rulemaking authority to implement the provisions of the bill related to placement and education transitions.

The bill exempts the provisions of s. 39.4023, F.S., relating to placements and transitions, if the placement is related to intervention adoptions made pursuant to s. 63.082(6), F.S.

Placement of Siblings

The bill creates s. 39.4024, F.S., relating to the placement of siblings and providing clarity to provisions that address placement decision of sibling groups. These provisions expand current law to highlight the importance of providing clear guidance for these children that enter out-of-home care. The bill provides legislative findings related to sibling relationships including that:

- Sibling relationships can provide a significant source of continuity throughout a child's life, are likely to be the longest relationships that individuals experience, and that healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care.
- It is beneficial for a child who is placed in out-of-home care to be able to continue existing relationships with his or her siblings, regardless of age, so that they may share their strengths and association in their everyday and often common experiences.
- Healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and caseworkers should be aware of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reason that siblings are not placed together.
- It is the responsibility of all entities and adults involved in a child's life to seek opportunities to foster existing sibling relationships to promote continuity and help to sustain family connections, including, but not limited to, the DCF, lead agencies, parents, foster parents, guardians ad litem, next of kin, and other persons important to the child.
- While there is a presumption in law and policy that it is in the best interest of a child going into foster care to be placed with any siblings the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care.

¹⁰⁰ The judicial review referenced is as required under s. 39.701, F.S.

The bill provides the following definitions that apply to the provision related to the placement of siblings:

- “Lead agency,” which is defined to mean a community-based care lead agency under contract with the DCF to provide care to children in foster care under ch. 409, F.S.
- “Multidisciplinary team,” which is defined to have the same meaning as provided in s. 39.4022, F.S.
- “Sibling,” which is defined to mean:
 - A child who shares a birth parent or legal parent with one or more other children;
 - A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

Placement Decisions

The bill provides that the DCF is required to make reasonable efforts to place siblings who have been removed from their home and have an existing relationship in the same foster, kinship, adoptive, or guardianship home, when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available. Further, the bill provides that if a child is removed from his or her home after his or her sibling, the DCF or lead agency and the MDT must make reasonable efforts to initially place the child who has entered out-of-home care with his or her siblings in the sibling’s existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

When determining whether to move a child from a current placement to a new placement when such change is instigated by a sibling relationship, all relevant factors must be considered by the MDT to ensure that the child is best served by the decision.

The bill clarifies that the DCF and the court are not required to make a change in placement, whether such change is to the physical residential address of the child or the legal custody of the child, to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care.

The bill provides a number of considerations when determining how to place a child who is a part of a sibling group. To ensure that the placement decision is appropriate as early as possible, the bill provides that the DCF or lead agency must convene a MDT staffing in accordance with s. 39.4022, F.S., at the time a child who is a part of a sibling group is removed from the home to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The MDT must consider all relevant factors included in ss. 39.4022 and 39.4024, F.S., including, but not limited to, the existing emotional ties between and among the siblings, the degree of harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative.

The bill provides provisions that detail how the DCF or lead agency must place a child in a sibling group that has an existing relationship, including:

- Requiring that if the DCF or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the MDT determines that the placement is suitable for each child, the sibling group must be placed together.

- Requiring the DCF or lead agency to make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements when the DCF or appropriate lead agency is not able to locate a caregiver or placement option that allows the sibling group to be placed together in an initial placement.

Further, if all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his or her current placement to a new placement that will unite the sibling group, the DCF or lead agency must consider all of the following additional factors:

- The presence and quality of current attachment relationships, including:
 - The quality and length of the attachment of the child to both the current and prospective caregiver;
 - The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;
 - The ease with which the child formed an attachment to the current family;
 - Any indications of attachment difficulty in the child's history; and
 - The number of moves and number of caregivers the child has experienced.
- The potential of the new caregiver to be a primary attachment figure to the sibling group by ensuring care for each child's physical needs and the willingness and availability to meet the each child's emotional needs.
- The quality of existing sibling relationships and the potential quality of sibling relationships that can be formed between the children.
- The consideration of any costs and benefits of disrupting existing emotional attachments to a primary caregiver to place children in a new placement with siblings, including:
 - The length and quality of the established and current primary attachment relationships between the siblings and between the siblings and their current caregivers; and
 - Relationships between any other siblings and whether such relationships appear adequate and not stressful or harmful.
- The ability to establish and maintain sibling visitation and contact pursuant to this section in a manner and schedule that makes sense for an infant or young child if it is determined that the infant or young child is to remain with his or her primary caregivers rather than be placed with his or her siblings.
- The ability to establish and maintain contact with the sibling and new caregiver as part of a transition plan developed in accordance with s. 39.4023, F.S., before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

The bill requires that if, after considering the required provisions and factors described above, the determination is that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023, F.S.

The bill requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols that incorporate the required provisions and factors and any other factors deemed relevant for use in making decisions about when placing siblings together would be

contrary to a child's well-being or safety or decisions providing for frequent visitation and contact. These protocols will be used by the DCF and lead agency.

The Legislature finds that regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The bill requires the following practices to be considered in helping to maintain or strengthen the relationships of separated siblings:

- Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she must assist the child in maintaining allowable visitation and other forms of communication. The DCF and lead agency must provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.
- Provide adequate support to address any caregiver concerns and to enhance the caregiver's ability to facilitate contact between siblings who are not in the same out-of-home placement and promote the benefits of sibling contact.
- Prioritize placements with kinship caregivers who have an established personal relationship with each child so that even when siblings cannot be placed together in the same home, kinship caregivers are more likely to facilitate contact.
- Prioritize placement of siblings geographically near each other, such as in the same neighborhood or school district, to make it easier for the siblings to see each other regularly.
- Encourage frequent and regular visitation, if the siblings choose to do so, to allow the children to be actively involved in each other's lives and to participate in celebrations, including, but not limited to, birthdays, graduations, holidays, school and extracurricular activities, cultural customs, and other milestones. However, a child being moved temporarily as respite care for the purpose of providing the primary caregiver relief and encouraging and facilitating contact among the siblings does not constitute a placement change or require the convening of a multidisciplinary team.
- Provide other forms of contact when regular in-person meetings are not possible or are not sufficient to meet the needs or desires of the siblings, such as maintaining frequent contact through letters, e-mail, social media, cards, or telephone calls.
- Coordinate, when possible, joint outings or summer or weekend camp experiences to facilitate time together, including, but not limited to, activities or camps specifically designed for siblings in out-of-home care.
- Encourage joint respite care to assist the caregivers who are caring for separated siblings to have needed breaks while also facilitating contact among the siblings, including, but not limited to, providing babysitting or respite care for each other.
- Prohibit the withholding communication or visitation among the siblings as a form of punishment.

The bill authorizes the court to limit or restrict communication or visitation upon a finding by clear and convincing evidence that the communication or visitation is harmful to the child. If the court makes such a finding, it must direct the DCF or lead agency to immediately provide services to ameliorate the harm so that communication and visitation may be restored as soon as possible.

The bill requires the DCF and the lead agency to periodically, but at least once every 6 months, reassess sibling placement, visitation, and other sibling contact decisions in cases where siblings are separated, not visiting, or not maintaining contact to determine if a change in placement is warranted unless the decision to not place a child with his or her sibling group was made due to such placement being inappropriate, unhealthy, or unsafe for the child.

Further, the bill requires the lead agency to provide services to the caregiver and sibling group in accordance with s. 39.4023(3), F.S., to try to prevent the disruption of a placement if a child in a sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement. However, if after reasonable efforts are made under s. 39.4023(3), F.S., the child still has not adjusted to the out-of-home placement, a MDT staffing must be convened to determine what is best for all of the children. The MDT is required to review the current placement of the sibling group and choose a plan that will be least detrimental to each child. The MDT must develop a transition plan in accordance with ss. 39.4022 and 39.4023, F.S., if the decision is to move the child to ensure the opportunity for the siblings to maintain contact.

The DCF or lead agency must convene a MDT staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification if it becomes known that a child in out-of-home care has a sibling of whom the child, DCF, or lead agency was previously unaware.

The bill provides a number of other provisions related to a child and his or her siblings including:

- Requiring the DCF to promptly provide a child with the location of and contact information for his or her siblings and must make reasonable efforts to ascertain such information if the existence or location of or contact information for a child's siblings is not known.
- Providing that a child has a right to continued communication with his or her sibling if the child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, emancipation, adoption, or reunification with his or her parent or guardian, if one of the following circumstances applies:
 - The legally emancipated sibling, sibling's adoptive parent, or the parent with whom the sibling was reunified consents to the communication; or
 - The court that is considering the adoption or reunification of the sibling who is leaving out-of-home care orders the communication after determining that such communication is in the best interest of each sibling.
- Requiring the DCF or the lead agency to document in writing any decision to separate siblings in the case file as required in s. 39.00146, F.S., and document the decision in the FSFN, including any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

The bill exempts the provisions of the bill related to sibling placements and communication if the placement is related to intervention adoptions made pursuant to s. 63.082(6), F.S.

The bill requires the DCF to adopt rules to implement this section of the bill.

Postdisposition Change of Custody

A MDT staffing must be convened to try to reach a consensus on a postdisposition change of placement under s. 39.522, F.S. If any party or the caregiver denies the change of physical custody, the court must have an evidentiary hearing and consider the factors listed in s. 39.4022, F.S.;¹⁰¹ the report filed by the MDT team, if applicable; and the priority of placements established under s. 39.4021, F.S., discussed above. However, the bill exempts the provisions of the bill related to postdisposition changes of custody hearings if the change of custody is related to intervention adoptions made pursuant to s. 63.082(6), F.S.

The bill creates a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current physical placement if:

- The child has been in the same safe and stable placement for 9 consecutive months or more;
- Reunification is not a permanency option for the child;
- The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;
- The caregiver is not requesting the change in physical placement; and
- The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

The bill defines "change of physical custody" to mean a change by the DCF or lead agency to the child's physical residential address, regardless of whether such change requires a court order to change the legal custody of the child. However, this term does not include a change in placement made pursuant to s. 63.082(6), F.S., related to intervention adoptions.

The court must consider competent and substantial evidence and testimony at an evidentiary hearing, related to the factors enumerated in s. 39.4022, F.S., expert evidence in the science and research of child-parent bonding and attachment, and any other evidence deemed relevant to a determination of placement. The presumption may not be rebutted solely by the expressed wishes of a biological parent, a biological relative, or a caregiver of a sibling of the child.

The bill also requires the DCF or lead agency to notify a current caregiver who has been in the physical custody placement for at least 9 consecutive months and who meets all the above-mentioned criteria of an intent to change the physical custody of the child as well as hold a MDT staffing in accordance with ss. 39.4022 and 39.4023, F.S., at least 21 days before the intended date for the child's change in physical custody. If there is not a unanimous consensus decision reached by the MDT, the DCF's official position must be provided to the parties within the 48-hour time period required under s. 39.4022, F.S.

A caregiver who objects to the DCF's official position on the change in physical custody is required to notify the court and the DCF or lead agency of his or her objection and the intent to request an evidentiary hearing in writing within 5 days of receiving notice of the DCF's official position.

¹⁰¹ This is an expanded list of factors that includes, in part, those currently listed in s. 39.523, F.S.

The bill provides that 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. Additionally, the child's placement must not be changed without a court order once the DCF or the lead agency receives written notice of the caregiver's objection.

The court must conduct an initial case status hearing within 7 days after receiving written notice from the caregiver, at which time the court must:

- Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months;
- 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;
- Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and
- Appoint a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

The bill requires that no later than 90 days from the date the caregiver provides written notice of objection to the court, it must conduct an evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child. A copy of the order must be provided to all parties and the current caregiver and prospective caregiver. If the court decides that the child's placement will be modified from his or her current caregiver after an evidentiary hearing, the DCF or lead agency must provide an appropriate transition plan in accordance with s. 39.4023, F.S. The bill also provides that the party status granted to the current caregiver terminates upon the written order by the court, or upon the 90-day time limit, whichever occurs first.

As noted above, the bill amends s. 39.523, F.S., removing the list of factors that the MDT must gather and consider at staffings to assess postdisposition change of placement, and cross-references s. 39.4022, F.S., which is one of the new sections which consolidated these factors with other factors in s. 39.522, F.S., to create one comprehensive list to consider when determining what is in a child's best interest.

Case Record Face Sheet

The bill creates s. 39.00146, F.S., implementing the use of a case record sheet, known as a "FACE sheet", with all child welfare cases in Florida. To achieve this goal, the bill provides definitions for the following terms: "multidisciplinary team," "placement change," "school," and "sibling".

The bill requires that the FACE sheet of every child under the supervision or in the custody of the DCF, the DCF's agents, or providers contracting with the DCF, including 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:

- General case information, including, but not limited to:
 - The child's name and date of birth;
 - The current county of residence and the county of residence at the time of the referral;
 - The reason for the referral and any family safety concerns;

- 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;
- The date of removal from the home; and
- 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 DCF and the parents, and the guardian ad litem, if appointed to the child.
- The name and contact information for any employees of the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, who have worked with the child, including the child's current and previous case managers, and the supervisor information for such employees.
- The personal information of relevant family members and other fictive kin, including, but not limited to, the name and contact information of:
 - The child's parents;
 - The child's siblings, including the location of the current out-of-home placement, if applicable;
 - The child's current caregivers and any previous out-of-home placements;
 - Any other caretaking adults; and
 - All children in the out-of-home placement, if applicable.
- A description of any threats of danger placing the child at imminent risk of removal.
- A description of individual parent or caregiver concerns for the child.
- Any concerns that exist regarding the parent or the current caregiver's ability to:
 - Engage or bond with the child if the child is an infant;
 - Structure daily activities that stimulate the child;
 - Manage the child's behavior;
 - Maintain a safe home; or
 - Make good health decisions for the child.
- Any transitions in placement the child has experienced since the child's initial placement and a description of how such transitions were accomplished in accordance with s. 39.4023, F.S.
- If the child has any siblings and they are not placed in the same out-of-home placement, the reasons the children are not in joint placement and the reasonable efforts that the DCF or appropriate lead agency will make to provide frequent visitation or other ongoing interaction between the siblings, unless the court determines that the interaction would be contrary to a sibling's safety or well-being in accordance s. 39.4024, F.S.
- Information pertaining to recent and upcoming court hearings, including, but not limited to, the date, subject matter, and county of court jurisdiction of the most recent and next scheduled court hearing.
- Any other relevant information.

The bill requires the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, to ensure that the FACE sheet for each case is updated at least once per month. The DCF must obtain updated information from any case service providers working on the case.

The bill also requires the FACE sheet to be in a uniform and standardized format for use statewide and must be developed, either by the DCF or a third party, using real-time data from

Florida's child welfare information system. The bill authorizes the DCF to develop a specific FACE sheet or may contract with a third party to use existing software that, at a minimum, meets the requirements described above. The FACE sheet developed or contracted for use must be electronic and have the capability to be printed. The lead agencies are required to use this uniform and standardized FACE sheet.

The bill provides the DCF with rulemaking authority to implement provisions relating to case record face sheets.

The bill is effective October 1, 2021.

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 requires the DCF or lead agency to develop a transition plan for each placement change that occurs. The DCF states that this requirement will impact the lead agencies. The DCF estimates that, according to the Florida Safe Families Network (FSFN) data, of the 14,825 transitions that would be needed, 6,592 transitions could be performed by case managers and 8,233 transitions could be performed by family support workers. The DCF anticipates the CBC lead agencies will need 18 additional family support worker positions and 14 new case management positions to implement the transition plans that could not be implemented by the caregivers, with a total need for salary, expenses, and

travel anticipated to be \$2,331,100 (\$2,188,764 in recurring and \$142,336 in nonrecurring funds).¹⁰²

C. Government Sector Impact:

The DCF states in the agency analysis dated March 12, 2021, that CS/SB 80 will have a significant negative fiscal impact on state government and the private sector related to the multidisciplinary teams and transition plans. Specifically, the DCF states that to fulfill the requirements of the teams, it needs at least 45 FTEs to serve as statewide facilitators for multidisciplinary team meetings conducted each time there is a placement change and on an annual basis in conjunction with the child's permanency hearing. The estimated total cost for the additional FTEs is \$3,701,752 (\$3,501,592 in recurring and \$200,160 in nonrecurring funds).¹⁰³

Additionally, the DCF provides that the bill will require significant changes to the FSFN system to support data currently not in FSFN and the development of web services to provide the data required for the case record face sheet. The DCF anticipates a recurring cost to use an external provider solution to maintain the Face Sheet program capability. The DCF estimates the costs for the FSFN changes, web services, and external provider solution will range between \$1,430,500 and \$2,284,000. The DCF also notes that additional portal functionality requirements may affect costs.¹⁰⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.401, 39.402, 39.522, 39.523, and 39.806.

This bill creates the following sections of the Florida Statutes: 39.00146, 39.4021, 39.4022, 39.4023, and 39.4024.

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 Rules on March 11, 2021:

¹⁰² The Department of Children and Families (DCF), *CS/CS/SB 80 Fiscal Analysis* (March 13, 2021) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰³ *Id.*

¹⁰⁴ The DCF, *CS/CS/SB 80 Fiscal Analysis*, p. 27-28.

The committee substitute:

- Requires the “FACE sheet” to be in a uniform and standardized format and be electronic and have the capability to be printed.
- Moves the definition of “emergency situation” from s. 39.4023, F.S., to s. 39.4022, F.S., to ensure it applies to all decisions considered by the multidisciplinary team staffings (MDTs).
- Clarifying that the DCF and CBCs are not required to participate in MDTs if the decision is not one that the entity would normally participate in.
- Clarifies a number of aspects related to the participants that are invited to MDTs.
- Provides that reasonable efforts must be made to ensure the mandatory invitees attend, but prohibiting the MDT from being delayed if these participants choose to not attend.
- Clarifies that the MDT must be done as soon as reasonably possible after an initial removal.
- Exempts MDTs conducted by Children’s Advocacy Centers for placements related to children that are served by the centers.
- Requires that the consensus decision for MDTs be unanimous and ensure that the DCF make the final decision related to the child if not unanimous based on what is in the child’s best interest.
- Clarifies that temporary moves to provide respite care to a caregiver do not require a transition plan or a MDT staffing. Exempting gradual transition planning when the move is the result of a safety concern caused by the current caregiver.
- Clarifies the circumstances when a sibling that is still in out-of-home care has a right to continue communication with a sibling who has left out-of-home care.
- Requires that for the rebuttable presumption provision that an MDT be conducted at least 21 days before the date to move the child and that the caregiver has 5 days from receiving the official position of the DCF after a non-unanimous consensus at the MDT to provide written notification to the court of the intent to seek the rebuttable presumption.
- Exempts placement and transition decisions related to intervention adoptions under ch. 63, F.S., from the provisions of the bill

CS by Children, Families, and Elder Affairs on February 16, 2021:

The committee substitute:

- Requires the DCF and lead agencies to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource.
- Requires the DCF and the lead agencies to update the FACE sheet at least once a month.
- Provides legislative findings and intent related to priority placements for children in out-of-home care.
- Expands and relocates the list of persons that should be considered as priority placements for these children and ensure this priority list applies to initial and for all subsequent removals.
- Relocates and expands existing MDT teams to ensure better decisions for the child through engaging with families and other important individuals.

- Provides legislative intent for MDT, staffings, and assessments and provide a definition for the term “multidisciplinary team”.
- Enumerates circumstances when the MDT must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.
- Specifies the participants that must be invited and provide authority for the DCF or lead agency to invite other relevant participants and requires the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.
- Requires that a consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provides procedures for when the MDT does not reach a consensus decision, and requires the facilitator to file a report with the court providing specified information within a certain time frame.
- Requires the lead agency to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorizes specified parties to discuss confidential information during a team staffing in the presence of participating individuals and provides that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provides legislative findings and intent related to changes in placement and defines the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Requires the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Requires the lead agencies to provide services to a caregiver intended to try and prevents a placement disruption prior to convening the MDT to develop a transition plan.
- Clarifies that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Provides that the transition plans address specialized concerns, including additional specified factors, which include consideration of additional specified factors for children that are younger than 3 years of age.
- Requires the DCF and lead agency to consider certain factors when determining the best education placement for a child and provides additional considerations for transitions of early education or programs versus K-12 education schools.
- Requires that prospective caregivers are prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.

- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative (QPI) to be attached to the FACE sheet.
- Provides legislative findings related to siblings in out-of-home care and define the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specifies how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Requires that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home and on an initial placement of a child who enters out-of-home care later than his or her siblings if it won’t disrupt the placement and provides that the DCF and the court are not required to make an initial placement or change of placement to develop a sibling bond that does not exist.
- Requires the DCF or lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establishes specified criteria for the DCF or lead agency to consider when determining initial placement and for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and lead agency for use in making specified decisions about child placement.
- Provides for the contact and visitation between siblings who are not placed together in out-of-home care that will assist the siblings with continuing established relationships or possibly developing a relationship.
- Requires subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Creates a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and require the court to conduct an evidentiary hearing to determine the best placement.
- Requires the caregiver, in response to receiving written notice of the DCF or lead agency’s intent to change a placement, to file written notice to the court and the DCF requesting the evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes and prohibits the DCF from moving the child until a court order states to do so.
- Requires the court to appoint an attorney for the child and an expert in attachment and bonding and authorizes the caregiver to retain counsel.

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	.	
03/11/2021	.	
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The Committee on Rules (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 273 - 1408
and insert:

(4) The case record face sheet must be in a uniform and
standardized format for use statewide and must be developed,
either by the department or a third party, using real-time data
from the state child welfare information system. The department
may develop a specific case record face sheet or may contract
with a third party to use existing software that, at a minimum,
meets the requirements of subsection (2). The case record face



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sheet developed or contracted for use under this section must be electronic and have the capability to be printed. The community-based care lead agencies shall use this uniform and standardized case record face sheet to comply with this section.

(5) The department shall adopt rules to implement this section.

Section 2. Subsection (3) of section 39.401, Florida Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(a) If the facts are not sufficient, the child shall immediately be returned to the custody of the parent or legal custodian.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child.

(c) While awaiting the shelter hearing, the authorized agent of the department may place the child in out-of-home care, and placement shall be determined based on priority of



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41 placements as provided in s. 39.4021 and what is in the child's
42 best interest based on the criteria and factors set out in s.
43 39.4022 licensed shelter care or may release the child to a
44 parent or legal custodian or responsible adult relative or the
45 adoptive parent of the child's sibling who shall be given
46 priority consideration over a licensed placement, or a
47 responsible adult approved by the department if this is in the
48 best interests of the child.

49 (d) Placement of a child which is not in a licensed shelter
50 must be preceded by a criminal history records check as required
51 under s. 39.0138.

52 (e) In addition, the department may authorize placement of
53 a housekeeper/homemaker in the home of a child alleged to be
54 dependent until the parent or legal custodian assumes care of
55 the child.

56 Section 3. Paragraph (h) of subsection (8) of section
57 39.402, Florida Statutes, is amended to read:

58 39.402 Placement in a shelter.—

59 (8)

60 (h) The order for placement of a child in shelter care must
61 identify the parties present at the hearing and must contain
62 written findings:

63 1. That placement in shelter care is necessary based on the
64 criteria in subsections (1) and (2).

65 2. That placement in shelter care is in the best interest
66 of the child.

67 3. That continuation of the child in the home is contrary
68 to the welfare of the child because the home situation presents
69 a substantial and immediate danger to the child's physical,



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70 mental, or emotional health or safety which cannot be mitigated
71 by the provision of preventive services.

72 4. That based upon the allegations of the petition for
73 placement in shelter care, there is probable cause to believe
74 that the child is dependent or that the court needs additional
75 time, which may not exceed 72 hours, in which to obtain and
76 review documents pertaining to the family in order to
77 appropriately determine the risk to the child.

78 5. That the department has made reasonable efforts to
79 prevent or eliminate the need for removal of the child from the
80 home. A finding of reasonable effort by the department to
81 prevent or eliminate the need for removal may be made and the
82 department is deemed to have made reasonable efforts to prevent
83 or eliminate the need for removal if:

84 a. The first contact of the department with the family
85 occurs during an emergency;

86 b. The appraisal of the home situation by the department
87 indicates that the home situation presents a substantial and
88 immediate danger to the child's physical, mental, or emotional
89 health or safety which cannot be mitigated by the provision of
90 preventive services;

91 c. The child cannot safely remain at home, either because
92 there are no preventive services that can ensure the health and
93 safety of the child or because, even with appropriate and
94 available services being provided, the health and safety of the
95 child cannot be ensured; or

96 d. The parent or legal custodian is alleged to have
97 committed any of the acts listed as grounds for expedited
98 termination of parental rights in s. 39.806(1)(f)-(i).



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99 6. That the department has made reasonable efforts to place
100 the child in order of priority as provided in s. 39.4021 unless
101 such priority placement is not a placement option or in the best
102 interest of the child based on the criteria and factors set out
103 in s. 39.4022.

104 7. That the department has made reasonable efforts to keep
105 siblings together if they are removed and placed in out-of-home
106 care unless such placement is not in the best interest of each
107 child. It is preferred that siblings be kept together in a
108 foster home, if available. Other reasonable efforts shall
109 include short-term placement in a group home with the ability to
110 accommodate sibling groups if such a placement is available. The
111 department shall report to the court its efforts to place
112 siblings together unless the court finds that such placement is
113 not in the best interest of a child or his or her sibling.

114 ~~8.7.~~ That the court notified the parents, relatives that
115 are providing out-of-home care for the child, or legal
116 custodians of the time, date, and location of the next
117 dependency hearing and of the importance of the active
118 participation of the parents, relatives that are providing out-
119 of-home care for the child, or legal custodians in all
120 proceedings and hearings.

121 ~~9.8.~~ That the court notified the parents or legal
122 custodians of their right to counsel to represent them at the
123 shelter hearing and at each subsequent hearing or proceeding,
124 and the right of the parents to appointed counsel, pursuant to
125 the procedures set forth in s. 39.013.

126 ~~10.9.~~ That the court notified relatives who are providing
127 out-of-home care for a child as a result of the shelter petition



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being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

~~11.10-~~ That the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

Section 4. Section 39.4021, Florida Statutes, is created to read:

39.4021 Priority placement for out-of-home placements.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that it is a basic tenet of child welfare practice and the law that a child be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents which meets the needs of the child, and that a child be placed in a permanent home in a timely manner.

(2) PLACEMENT PRIORITY.—

(a) When a child cannot safely remain at home with a parent, out-of-home placement options must be considered in the following order:

1. Non-offending parent.

2. Relative caregiver.

3. Adoptive parent of the child's sibling, when the department or community-based care lead agency is aware of such sibling.

4. Fictive kin with a close existing relationship to the child.

5. Licensed foster care.

6. Group or congregate care.

(b) Except as otherwise provided for in ss. 39.4022 and



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39.4024, sibling groups must be placed in the same placement whenever possible and if placement together is in the best interest of each child in the sibling group. Placement decisions for sibling groups must be made pursuant to ss. 39.4022 and 39.4024.

(c) Except as otherwise provided for in this chapter, a change to a child's physical or legal placement after the child has been sheltered but before the child has achieved permanency must be made in compliance with this section. Placements made pursuant to s. 63.082(6) are exempt from this section.

Section 5. Section 39.4022, Florida Statutes, is created to read:

39.4022 Multidisciplinary teams; staffings; assessments; report.—

(1) LEGISLATIVE INTENT.—

(a) The Legislature finds that services for children and families are most effective when delivered in the context of a single integrated multidisciplinary team staffing that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.

(b) The Legislature also finds that effective assessment through an integrated multidisciplinary team is particularly important for children who are vulnerable due to existing histories of trauma which led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a



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result of the enhanced need for such children to have healthy and stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

(2) DEFINITIONS.—For purposes of this section, the term:

(a) "Change in physical custody" means a change by the department or the community-based care lead agency to the child's physical residential address, regardless of whether such change requires a court order changing the legal custody of the child.

(b) "Emergency situation" means that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.

(c) "Multidisciplinary team" means an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

(3) CREATION AND GOALS.—

(a) Multidisciplinary teams must be established for the purpose of allowing better engagement with families and a shared commitment and accountability from the family and their circle of support.

(b) The multidisciplinary teams must adhere to the following goals:



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215 1. Secure a child's safety in the least restrictive and
216 intrusive placement that can meet his or her needs;

217 2. Minimize the trauma associated with separation from the
218 child's family and help the child to maintain meaningful
219 connections with family members and others who are important to
220 him or her;

221 3. Provide input into the placement decision made by the
222 community-based care lead agency and the services to be provided
223 in order to support the child;

224 4. Provide input into the decision to preserve or maintain
225 the placement, including necessary placement preservation
226 strategies;

227 5. Contribute to an ongoing assessment of the child and the
228 family's strengths and needs;

229 6. Ensure that plans are monitored for progress and that
230 such plans are revised or updated as the child's or family's
231 circumstances change; and

232 7. Ensure that the child and family always remain the
233 primary focus of each multidisciplinary team meeting.

234 (4) PARTICIPANTS.—

235 (a) Collaboration among diverse individuals who are part of
236 the child's network is necessary to make the most informed
237 decisions possible for the child. A diverse team is preferable
238 to ensure that the necessary combination of technical skills,
239 cultural knowledge, community resources, and personal
240 relationships is developed and maintained for the child and
241 family. The participants necessary to achieve an appropriately
242 diverse team for a child may vary by child and may include
243 extended family, friends, neighbors, coaches, clergy, coworkers,



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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;

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;

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; and

f. The case manager for the child, or his or her case manager supervisor.

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:



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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;
4. A therapist or other behavioral health professional, if applicable.
5. A mental health professional with expertise in sibling bonding, if the department or lead agency deems such expert is necessary; or
6. Other community providers of services to the child or stakeholders, when applicable.

(c) Each multidisciplinary team staffing must be led by a person who serves as a facilitator and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The person serving as the facilitator must be a trained professional who is otherwise required to attend the multidisciplinary team staffing under this section in his or her official capacity. Further, the trained professional serving as the facilitator does not need to be the same person for each meeting convened in a child's case under this section or in the service area of the designated lead agency handling a child's case.

(5) SCOPE OF MULTIDISCIPLINARY TEAM.—

(a) A multidisciplinary team staffing must be held when an important decision is required to be made about a child's life, including all of the following:

1. Initial placement decisions for a child who is placed in out-of-home care. A multidisciplinary team staffing required under this subparagraph may occur before the initial placement



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or, if a staffing is not possible before the initial placement, must occur as soon as possible after initial removal and placement to evaluate the appropriateness of the initial placement and to ensure that any adjustments to the placement, if necessary, are promptly handled.

2. Changes in physical custody after the child is placed in out-of-home care by a court and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

3. Changes in a child's educational placement and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

4. Placement decisions for a child as required by subparagraph 1., subparagraph 2., or subparagraph 3. which involve sibling groups that require placement in accordance with s. 39.4024.

5. Any other important decisions in the child's life which are so complex that the department or appropriate community-based care lead agency determines convening a multidisciplinary team staffing is necessary to ensure the best interest of the child is maintained.

(b) This section does not apply to multidisciplinary team staffings that occur for one of the decisions specified in paragraph (a) and that are facilitated by a children's advocacy center in accordance with s. 39.3035. The children's advocacy center that facilitates a staffing is encouraged to include family members or other persons important to the family in the staffing if the children's advocacy center determines it is safe for the child to involve such persons.



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(c) This section does not apply to placements made pursuant to s. 63.082(6).

(6) ASSESSMENTS.—

(a)1. The multidisciplinary team staffing participants must, before formulating a decision under this section, gather and consider data and information on the child which is known at the time, including, but not limited to:

a. The child's age, maturity, and strengths;

b. Mental, medical, behavioral health, and medication history;

c. Community ties and school placement;

d. The stability and longevity of the child's current placement;

e. The established bonded relationship between the child and the current or proposed caregiver;

f. The child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024;

g. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement;

h. The reasonable preference of the child, if the child is of sufficient age and capacity to express a preference;

i. The recommendation of the child's current caregiver, if applicable;

j. The recommendation of the child's guardian ad litem, if one has been appointed;

k. The likelihood of the child attaining permanency in the



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current or proposed placement;

1. The likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change, including an education transition plan required under s. 39.4023;

m. The disruption of continuity of care with medical, mental health, behavioral health, dental, or other treatment services the child is receiving at the time of the change of custody decision;

n. The allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect;

o. The impact on activities that are important to the child, including the ability of the child to continue in such activities;

p. The impact on the child's future access to education, Medicaid, and independent living benefits; and

q. Any other relevant factors.

2. Multidisciplinary team staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

(b) The assessment conducted by the multidisciplinary team may also use an evidence-based assessment instrument or tool that is best suited for determining the specific decision of the staffing and the needs of that individual child and family.

(c) To adequately prepare for a multidisciplinary staffing team meeting to consider a decision related to a child 3 years



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of age or younger, all of the following information on the child which is known at the time must be gathered and considered by the team:

1. Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.

2. The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.

3. The prospective caregiver's ability and willingness to:

a. Accept supports related to early childhood development and services addressing any possible developmental delays;

b. Address the emotional needs of the child and accept infant mental health supports, if needed;

c. Help nurture the child during the transition into out-of-home care;

d. Work with the parent to build or maintain the attachment relationship between parent and child;

e. Effectively co-parent with the parent; and

f. Ensure frequent family visits and sibling visits.

4. Placement decisions for each child in out-of-home placement which are made under this paragraph must be reviewed as often as necessary to ensure permanency for that child and to address special issues that may arise which are unique to younger children.

(d)1. If the participants of a multidisciplinary team



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staffing reach a unanimous consensus decision, it becomes the official position of the community-based care lead agency regarding the decision under subsection (5) for which the team convened. Such decision is binding upon all department and lead agency participants, who are obligated to support it.

2. If the participants of a multidisciplinary team staffing cannot reach a unanimous consensus decision on a plan to address the identified goal, the trained professional acting as the facilitator shall notify the court and the department within 48 hours after the conclusion of the staffing. The department shall then determine how to address the identified goal of the staffing by what is in the child's best interest.

(7) CONVENING A TEAM UPON REMOVAL.—The formation of a multidisciplinary team staffing must begin as soon as possible when a child is removed from a home. The multidisciplinary team must convene a staffing no later than 72 hours from the date of a subsequent removal in an emergency situation in accordance with s. 39.4023.

(8) REPORT.—If a multidisciplinary team staffing fails to reach a unanimous consensus decision, the facilitator must prepare and submit a written report to the court within 5 business days after the conclusion of the staffing which details the decision made at the conclusion of the multidisciplinary team staffing under subsection (6) and the positions of the staffing's participants.

(9) CONFIDENTIALITY.—Notwithstanding any other provision of law, participants representing the department and the community-based care lead agency may discuss confidential information during a multidisciplinary team staffing in the presence of



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individuals who participate in the staffing. Information collected by any agency or entity that participates in the multidisciplinary team staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in a staffing required under this section. All individuals who participate in the staffing shall maintain the confidentiality of any information shared during the staffing.

(10) CONSTRUCTION.—This section may not be construed to mean that multidisciplinary team staffings coordinated by the department or the appropriate lead agency for purposes other than those provided for in subsection (5) before October 1, 2021, are no longer required to be conducted or are required to be conducted in accordance with this section. Further, this section may not be construed to create a duty on the department or lead agency to attend multidisciplinary staffings that the department or lead agency does not attend for any purpose specified in subsection (5) for which the department or lead agency is not required to attend before October 1, 2021.

(11) RULEMAKING.—The department shall adopt rules to implement this section.

Section 6. Section 39.4023, Florida Statutes, is created to read:

39.4023 Placement and education transitions; transition plans.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that many children in out-of-home care experience multiple changes in placement, and those transitions often result in trauma not only for the child but also for caregivers, families, siblings, and all professionals



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involved.

(b) The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.

(c) The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.

(d) The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.

(e) It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Educational change" means any time a child is moved between schools when such move is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.

(b) "Emergency situation" means that there is an imminent risk to the health or safety of the child, other children, or



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others in the home or facility if the child remains in the placement.

(c) "Placement change" means any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians, or prospective adoptive parents and reunification with parents or legal custodian. A child being moved temporarily to respite care for the purpose of providing the primary caregiver relief does not constitute a placement change.

(d) "School" means any child care, early education, elementary, secondary, or postsecondary educational setting.

(3) PLACEMENT TRANSITIONS.—

(a) Mandatory transition plans.—Except as otherwise provided, the department or the community-based care lead agency shall create and implement an individualized transition plan before each placement change experienced by a child.

(b) Minimizing placement transitions.—Once a caregiver accepts the responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

1. The caregiver is unwilling or unable to safely or legally care for the child;
2. The child and the birth or legal parent are reunified;
3. The child is being placed in a legally permanent home in accordance with a case plan or court order; or
4. The removal is demonstrably in the best interest of the child.

(c) Services to prevent disruption.—The community-based care lead agency shall provide any supportive services deemed necessary to a caregiver and a child if the child's current out-



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of-home placement with the caregiver is in danger of needing
modification. The supportive services must be offered in an
effort to remedy the factors contributing to the placement being
considered unsuitable and therefore contributing to the need for
a change in placement.

(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 a convening a multidisciplinary team staffing.
However, a multidisciplinary team staffing must be held within
72 hours after the emergency situation arises.

3. At least 14 days before moving a child from one out-of-
home placement to another or within 72 hours after an emergency
situation, the department or the community-based care lead
agency must provide written notice of the planned move and must
include in the notice the reason a placement change is
necessary. A copy of the notice must be filed with the court and
be provided to:

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- and



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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 for the child, if one is appointed; and

f. The attorney for the department.

4.a. The transition plan must be developed through cooperation among the persons included in subparagraph 3., and such persons must share any relevant information necessary to ensure that the transition plan does all of the following:

(I) Respects the child's developmental stage and psychological needs.

(II) Ensures the child has all of his or her belongings and is allowed to help pack those belongings when appropriate.

(III) Allows for a gradual transition from the current caregiver's home with substantial overlap between the two caregivers and provides time for the child to have a final visitation with everyone important to the child from the current placement, including pets.

(IV) Allows, when possible, for continued contact with the previous caregiver and others in the home after the child leaves.

(V) Prohibits a placement change which occurs between 7 p.m. and 8 a.m.

b. However, this subparagraph is not applicable when the basis for a removal necessitating the transition plan is the result of an emergency situation due to direct safety concerns caused by a caregiver in the current placement.

5. The department or the community-based care lead agency



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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.

(e) Additional considerations for transitions of infants and children under school age.—Relationship patterns over the first year of life are important predictors of future relationships. Research demonstrates that babies begin to form a strong attachment to a caregiver at approximately 7 months of age. From that period of time through age 2, moving a child from a caregiver who is the psychological parent is considerably more damaging. Placement decisions must focus on promoting security and continuity for infants and children under 5 years of age in out-of-home care. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and must specify what decision was made as to how each of the following applies to the child:

1. The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:

a. Six months of age or younger, thereby indicating that it may be in the child's best interest to move the child sooner rather than later; or

b. Seven months of age or older, but younger than 3 years of age, thereby indicating it may not be a healthy time to move the child.

2. The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.



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3. The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the child's relationship with both caregivers.

4. The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the child's needs and reactions.

(f) Preparation of prospective caregivers before placement.—

1. Prospective caregivers must be fully informed of the child's needs and circumstances and be willing and able to accept responsibility for providing high-quality care for such needs and circumstances before placement.

2. The community-based care lead agency shall review with the prospective caregiver the caregiver's roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415. The case manager shall sign a copy of the parenting partnerships plan and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement.

(4) EDUCATION TRANSITIONS.—

(a) Findings.—Children in out-of-home care frequently change child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less academic progress than their peers and fall further behind with each school change. Additionally, educational instability at any



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level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

(b) Mandatory educational transition plans.—The department or the community-based care lead agency shall create and implement an individualized transition plan each time a child experiences a school change.

(c) Minimizing school changes.—

1. Every effort must be made to keep a child in the school of origin. Any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary.

2. A determination that it is not the child's best interest to remain in the school of origin and 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.

3. If a determination is made that remaining in the school or program of origin is not in the child's best interest, selection of a new school or program must consider relevant factors, including, but not limited to:

a. The child's desire to remain in the school or program of



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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



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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.

1. 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.

4. The cost of transportation cannot be a factor in making a best interest determination.

(d) Transitions between child care and early education programs.—When a child enters out-of-home care or undergoes a placement change, the child shall, if possible, remain with a familiar child care provider or early education program unless there is an opportunity to transition to a higher quality program. If it is not possible for the child to remain with the familiar child care provider or early education program or transition to a higher quality program, the child's transition plan must be made with the participation of the child's current and future school or program. The plan must give the child an opportunity to say goodbye to important figures in the educational environment.

(e) Transitions between K-12 schools.—The transition plan for a transition between K-12 schools must include all of the



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following:

1. Documentation that the department or community-based care lead agency has made the decision to change the child's school in accordance with paragraph (c). The plan must include a detailed discussion of all factors considered in reaching the decision to change the child's school.

2. Documentation that the department or community-based care lead agency has coordinated with local educational agencies to provide immediate and appropriate enrollment in a new school, including transfer of educational records, any record of a school-entry health examination, and arrangements for transportation to the new school.

3. Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities. This section must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and extracurricular participation.

4. Details concerning the transportation of the child to school.

(5) TRANSITION PLAN AND DOCUMENTATION.—

(a) The department, in collaboration with the Quality Parenting Initiative, shall develop a form to be completed and updated each time a child in out-of-home care is moved from one placement to another.

(b) A completed form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146. The form must be used statewide and, at a minimum, must include all of the following information:

1. The membership of the multidisciplinary team staffing



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convened under s. 39.4022 to develop a transition plan for the change in placement and the dates on which the team met.

2. The name of the person who served as the facilitator in that specific multidisciplinary team staffing.

3. The topics considered by the multidisciplinary team staffing in order to ensure an appropriate transition.

4. The recommendations of the multidisciplinary team and the name of each individual or entity responsible for carrying out each recommendation.

(c) The department or the community-based care lead agency shall document all multidisciplinary team staffings and placement transition decisions in the Florida Safe Families Network and must include the information in the social study report for judicial review, as required under s. 39.701.

(6) EXEMPTION.—Placements made pursuant to s. 63.082(6) are exempt from this section.

(7) RULEMAKING.—The department shall adopt rules to implement this section.

Section 7. Section 39.4024, Florida Statutes, is created to read:

39.4024 Placement of siblings; visitation; continuing contact.—

(1) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that sibling relationships can provide a significant source of continuity throughout a child's life and are likely to be the longest relationships that most individuals experience. Further, the placement of siblings together can increase the likelihood of achieving permanency and is associated with a significantly higher rate of family



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reunification.

(b) The Legislature finds that it is beneficial for a child who is placed in out-of-home care to be able to continue existing relationships with his or her siblings, regardless of age, so that they may share their strengths and association in their everyday and often common experiences.

(c) The Legislature also finds that healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and caseworkers should be aware of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reasons that siblings are not placed together.

(d) The Legislature also finds that it is the responsibility of all entities and adults involved in a child's life, including, but not limited to, the department, community-based care lead agencies, parents, foster parents, guardians ad litem, next of kin, and other persons important to the child to seek opportunities to foster sibling relationships to promote continuity and help sustain family connections.

(e) While there is a presumption in law and policy that it is in the best interest of a child going into out-of-home care to be placed with any siblings, the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and



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develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Lead agency" means a community-based care lead agency under contract with the department to provide care to children in foster care under chapter 409.

(b) "Multidisciplinary team" has the same meaning as provided in s. 39.4022.

(c) "Sibling" means:

1. A child who shares a birth parent or legal parent with one or more other children; or

2. A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

(3) PLACEMENT OF SIBLINGS IN OUT-OF-HOME CARE.—

(a) General provisions.—

1. The department or lead agency shall make reasonable efforts to place sibling groups that are removed from their home in the same foster, kinship, adoptive, or guardianship home when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available.

2. If a child enters out-of-home care after his or her sibling, the department or lead agency and the multidisciplinary team shall make reasonable efforts to initially place the child



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who has entered out-of-home care with his or her siblings in the sibling's existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

3. When determining whether to move a child from a current placement to a new placement when such change is initiated by a sibling relationship, all relevant factors must be considered by the multidisciplinary team to ensure that the child is best served by the decision. A uniform policy that does not consider and apply a balancing test to ensure all existing attachment bonds for a child and his or her siblings are honored and evaluated holistically may result in placement decisions or changes of placement decisions that may result in additional trauma.

4. The department and the court are not required to make a change in placement, whether such change is to the physical residential address of the child or the legal custody of the child, to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care.

(b) Factors to consider when placing sibling groups.—

1. At the time a child who is a part of a sibling group is removed from the home, the department or lead agency shall convene a multidisciplinary team staffing in accordance with s. 39.4022 to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The multidisciplinary team shall consider all relevant factors included in s. 39.4022 and this section, including, but not limited to, the existing emotional ties between and among the siblings, the degree of



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harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative under paragraph (d).

2.a. If the department or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the multidisciplinary team determines that the placement is suitable for each child, the sibling group must be placed together.

b. If the department or appropriate lead agency is not able to locate a caregiver or placement option that allows the sibling group to be placed together in an initial placement, the department or lead agency must make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements in accordance with this section.

3. If all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his or her current placement to a new placement that will unite the sibling group, the department or lead agency must consider all of the following additional factors:

a. The presence and quality of current attachment relationships, including:

(I) The quality and length of the attachment of the child to both the current and prospective caregiver;

(II) The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;



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911 (III) The ease with which the child formed an attachment to
912 the current family;

913 (IV) Any indications of attachment difficulty in the
914 child's history; and

915 (V) The number of moves and number of caregivers the child
916 has experienced.

917 b. The potential of the new caregiver to be a primary
918 attachment figure to the sibling group by ensuring care for each
919 child's physical needs and the willingness and availability to
920 meet the each child's emotional needs.

921 c. The quality of existing sibling relationships and the
922 potential quality of sibling relationships that can be formed
923 between the children.

924 d. The consideration of any costs and benefits of
925 disrupting existing emotional attachments to a primary caregiver
926 to place children in a new placement with siblings, including:

927 (I) The length and quality of the established and current
928 primary attachment relationships between the siblings and
929 between the siblings and their current caregivers; and

930 (II) Relationships between any other siblings and whether
931 such relationships appear adequate and not stressful or harmful.

932 e. The ability to establish and maintain sibling visitation
933 and contact pursuant to this section in a manner and schedule
934 that makes sense for an infant or young child if it is
935 determined that the infant or young child is to remain with his
936 or her primary caregivers rather than be placed with his or her
937 siblings.

938 f. The ability to establish and maintain contact with the
939 sibling and new caregiver as part of a transition plan developed



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in accordance with paragraph (c) and s. 39.4023 before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

(c) Transitioning a child after a determination.—If after considering the provisions and factors described in paragraphs (a) and (b) it is determined that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023.

(d) Standards for evaluating sibling placements.—The department, in collaboration with the Quality Parenting Initiative, must develop standard protocols for the department and lead agency which incorporate the provisions and factors described in paragraphs (a), (b), and (c) and any other factors deemed relevant for use in making decisions about when placing siblings together would be contrary to a child's well-being or safety or decisions providing for frequent visitation and contact under subsection (4).

(4) MAINTAINING CONTACT WHEN SIBLINGS ARE SEPARATED.—

(a) Regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The following practices must be considered in helping to maintain or strengthen the relationships of separated siblings:

1. Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she



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969 must assist the child in maintaining allowable visitation and
970 other forms of communication. The department and lead agency
971 shall provide a caregiver with the information, guidance,
972 training, and support necessary for fulfilling this
973 responsibility.

974 2. Provide adequate support to address any caregiver
975 concerns and to enhance the caregiver's ability to facilitate
976 contact between siblings who are not in the same out-of-home
977 placement and promote the benefits of sibling contact.

978 3. Prioritize placements with kinship caregivers who have
979 an established personal relationship with each child so that
980 even when siblings cannot be placed together in the same home,
981 kinship caregivers are more likely to facilitate contact.

982 4. Prioritize placement of siblings geographically near
983 each other, such as in the same neighborhood or school district,
984 to make it easier for the siblings to see each other regularly.

985 5. Encourage frequent and regular visitation, if the
986 siblings choose to do so, to allow the children to be actively
987 involved in each other's lives and to participate in
988 celebrations, including, but not limited to, birthdays,
989 graduations, holidays, school and extracurricular activities,
990 cultural customs, and other milestones.

991 6. Provide other forms of contact when regular in-person
992 meetings are not possible or are not sufficient to meet the
993 needs or desires of the siblings, such as maintaining frequent
994 contact through letters, e-mail, social media, cards, or
995 telephone calls.

996 7. Coordinate, when possible, joint outings or summer or
997 weekend camp experiences to facilitate time together, including,



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but not limited to, activities or camps specifically designed
for siblings in out-of-home care.

8. Encourage joint respite care to assist the caregivers
who are caring for separated siblings to have needed breaks
while also facilitating contact among the siblings, including,
but not limited to, providing babysitting or respite care for
each other. A child being moved temporarily as respite care for
the purpose of providing the primary caregiver relief and
encouraging and facilitating contact among the siblings does not
constitute a placement change or require the convening of a
multidisciplinary team.

9. Prohibit the withholding communication or visitation
among the siblings as a form of punishment.

(b) The court may limit or restrict communication or
visitation under this subsection only upon a finding by clear
and convincing evidence that the communication or visitation is
harmful to the child. If the court makes such a finding, it must
direct the department or lead agency to immediately provide
services to ameliorate the harm so that communication and
visitation may be restored as soon as possible.

(5) SUBSEQUENT REVIEWS.—

(a) The department and the lead agency shall periodically,
but at least once every 6 months, reassess sibling placement,
visitation, and other sibling contact decisions in cases where
siblings are separated, not visiting, or not maintaining contact
to determine if a change in placement is warranted unless the
decision to not place a child with his or her sibling group was
made due to such placement being inappropriate, unhealthy, or
unsafe for the child.



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(b) If a child in a sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement, the lead agency must provide services to the caregiver and sibling group in accordance with s. 39.4023(3) to try to prevent the disruption of the placement. If after reasonable efforts are made under s. 39.4023(3), the child still has not adjusted to the out-of-home placement, a multidisciplinary team staffing must be convened to determine what is best for all of the children. The multidisciplinary team shall review the current placement of the sibling group and choose a plan that will be least detrimental to each child. If the team determines that the best decision is to move the child who has not adjusted to a new out-of-home placement, the team must develop a transition plan in accordance with ss. 39.4022 and 39.4023 which ensures the opportunity for the siblings to maintain contact in accordance with subsection (4) of this section.

(c) If it becomes known that a child in out-of-home care has a sibling of whom the child, department, or lead agency was previously unaware, the department or lead agency must convene a multidisciplinary team staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification.

(6) ADDITIONAL REQUIREMENTS AND CONSIDERATIONS.—

(a) The department shall promptly provide a child with the location of and contact information for his or her siblings. If the existence or location of or contact information for a child's siblings is not known, the department must make reasonable efforts to ascertain such information.



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(b) If a child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, emancipation, adoption, or reunification with his or her parent or guardian, the child has a right to continued communication with his or her sibling as provided under subsection (4) either:

1. Upon consent by the legally emancipated sibling, the sibling's adoptive parent, or the parent with whom the sibling was reunified; or

2. By order of the court that is considering the adoption or reunification of the sibling who is leaving out-of-home care, provided the court determines that such communication is in the best interest of each sibling.

(c) The department or the lead agency must document in writing any decision to separate siblings in the case file as required in s. 39.00146 and document the decision in the Florida Safe Families Network. The documentation must include any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

(7) EXEMPTION.—Placements made pursuant to s. 63.082(6) are exempt from this section.

(8) RULEMAKING AUTHORITY.—The department shall adopt rules to implement this section.

Section 8. Section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—



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(1) The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(2) ~~(a) (1) (a)~~ At any time before a child is residing in the permanent placement approved at the permanency hearing, a child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a motion alleging a need for a change in the conditions of protective supervision or the placement. If any party or the current caregiver denies ~~the parents or other legal custodians deny~~ the need for a change, the court shall hear all parties in person or by counsel, or both.

(b) Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interests of the child. When determining whether a change of legal custody or placement is in the best interests of the child, the court shall consider the factors listed in s. 39.4022 and the report filed by the multidisciplinary team, if applicable, unless the change of custody or placement is made pursuant to s. 63.082(6). The court shall also consider the priority of placements established under s. 39.4021 when making a decision regarding the best interest of the child in out-of-home care.



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~~1. The child's age.~~

~~2. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.~~

~~3. The stability and longevity of the child's current placement.~~

~~4. The established bonded relationship between the child and the current or proposed caregiver.~~

~~5. The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.~~

~~6. The recommendation of the child's current caregiver.~~

~~7. The recommendation of the child's guardian ad litem, if one has been appointed.~~

~~8. The child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.~~

~~9. The likelihood of the child attaining permanency in the current or proposed placement.~~

~~10. Any other relevant factors.~~

~~(c)(b)~~ If the child is not placed in foster care, the new placement for the child must meet the home study criteria and court approval under this chapter.

(3)(a) For purposes of this subsection, the term "change in physical custody" means a change by the department or community-based care lead agency to the child's physical residential address, regardless of whether such change requires a court order to change the legal custody of the child. However, this term does not include a change in placement made pursuant to s.



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63.082(6).

(b)1. In a hearing on the change of physical custody under this section, there shall be a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current physical placement if:

a. The child has been in the same safe and stable placement for 9 consecutive months or more;

b. Reunification is not a permanency option for the child;

c. The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;

d. The caregiver is not requesting the change in physical placement; and

e. The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

2. In order to rebut the presumption established in this paragraph, the court shall hold an evidentiary hearing on the change in physical custody to determine if the change in placement is in the best interest of the child. As part of the evidentiary hearing, the court must consider competent and substantial evidence and testimony related to the factors enumerated in s. 39.4022 and any other evidence deemed relevant to a determination of placement, including evidence from a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

3. This presumption may not be rebutted solely by the expressed wishes of a biological parent, a biological relative,



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or a caregiver of a sibling of the child.

(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 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. 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 of 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.

4. Within 7 days after receiving written notice from the caregiver, the court must conduct an initial case status



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hearing, at which time the court must:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months;

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;

c. Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and

d. Appoint a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

(d) The court must conduct the evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child no later than 90 days from the date the caregiver provided written notice to the court under this subsection. The court must provide its written order to the department or community-based care lead agency, the caregiver, and the prospective caregiver. The party status granted to the current caregiver under sub-subparagraph (c)4.a. terminates upon the written order by the court, or upon the 90-day time limit established in this paragraph, whichever occurs first.

(e) If the court orders that the physical custody of the child change from the current caregiver after the evidentiary hearing, the department or community-based care lead agency must implement the appropriate transition plan developed in accordance with ss. 39.4022 and 39.4023 or as ordered by the court.



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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 lines 12 - 174

and insert:

monthly; providing requirements for the case record
face sheet; authorizing the department to develop, or
contract with a third party to develop, a case record
face sheet; requiring community-based care lead
agencies to use such face sheets; requiring the
department to adopt rules; amending s. 39.401, F.S.;
requiring the department to determine out-of-home
placement based on priority of placements and other
factors; amending s. 39.402, F.S.; requiring the
department to make reasonable efforts to place a child
in out-of-home care based on priority of placements;
providing exceptions and other criteria; creating s.
39.4021, F.S.; providing legislative findings;
establishing certain placement priorities for out-of-
home placements; requiring the department or lead
agency to place sibling groups together when possible
if in the best interest of each child after
considering specified factors; providing an exception;
providing construction; creating s. 39.4022, F.S.;
providing legislative intent; defining terms;
requiring that multidisciplinary teams be established
for certain purposes; providing goals for such teams;
providing for membership of multidisciplinary team
staffings; authorizing the department or lead agency



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1259 to invite other participants to attend a team staffing
1260 under certain circumstances; providing requirements
1261 for multidisciplinary team staffings; requiring that
1262 team staffings be held when specified decisions
1263 regarding a child must be made; providing
1264 applicability; requiring team staffing participants to
1265 gather and consider data and information on the child
1266 before formulating a decision; providing for the use
1267 of an evidence-based assessment instrument or tool;
1268 requiring multidisciplinary teams to conduct
1269 supplemental assessments for certain children;
1270 requiring team participants to gather certain
1271 information related to the child for such supplemental
1272 assessments; requiring that a unanimous consensus
1273 decision reached by the team becomes the official
1274 position and that specified parties are bound by such
1275 consensus decision; providing procedures for when the
1276 team does not reach a consensus decision; requiring
1277 that the department to determine a suitable placement
1278 if the team cannot come to a consensus decision;
1279 requiring the formation of a team within specified
1280 timeframes; requiring the facilitator to file a report
1281 with the court within a specified timeframe if the
1282 team does not reach a consensus decision; providing
1283 requirements for the report; authorizing specified
1284 parties to discuss confidential information during a
1285 team staffing in the presence of participating
1286 individuals; providing that information collected by
1287 any agency or entity that participates in a staffing



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which is confidential and exempt upon collection
remains confidential and exempt when discussed in
staffings; requiring individuals who participate in a
staffing to maintain the confidentiality of all
information shared; providing construction; requiring
the department to adopt rules; creating s. 39.4023,
F.S.; providing legislative findings and intent;
defining terms; providing for the creation of
transition plans for specified changes in placement;
providing conditions under which a child may be
removed from a caregiver's home; requiring community-
based care lead agencies to provide services to
prevent a change in placement; requiring the
department and a community-based care lead agency to
convene a multidisciplinary team staffing to develop a
transition plan under certain circumstances; requiring
the department or community-based care lead agency to
provide written notice of a planned placement change;
providing requirements for the notice; providing
applicability; requiring additional considerations for
placement changes for infants and young children;
providing findings; requiring the department or
community-based care lead agency to create and
implement individualized transition plans; specifying
factors that must be considered when selecting a new
school for a child; requiring children who enter out-
of-home care or undergo changes in placement to remain
with familiar child care providers or early education
programs, if possible; providing requirements for



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1317 transition plans for transitions between K-12 schools;
1318 requiring the department, in collaboration with the
1319 Quality Parenting Initiative, to develop a form for a
1320 specified purpose; specifying requirements for the
1321 form; requiring the department and community-based
1322 care lead agencies to document multidisciplinary team
1323 staffings and placement transition decisions in the
1324 Florida Safe Families Network and include such
1325 information in the social study report for judicial
1326 review; providing an exemption; requiring the
1327 department to adopt rules; creating s. 39.4024, F.S.;
1328 providing legislative findings; defining terms;
1329 requiring the department or lead agency to make
1330 reasonable efforts to place siblings in the same
1331 foster, kinship, adoptive, or guardianship home when
1332 certain conditions are met; requiring the department
1333 or lead agency and multidisciplinary team to take
1334 certain actions when siblings are not placed together;
1335 specifying that the department and court are not
1336 required to make a placement or change in placement to
1337 develop certain sibling relationships; requiring the
1338 department or the lead agency to convene a
1339 multidisciplinary team staffing to determine and
1340 assess sibling relationships when a child is removed
1341 from a home; providing for the placement of sibling
1342 groups in certain circumstances; specifying factors
1343 for the multidisciplinary team to consider when
1344 determining placement or change of placement for
1345 children in sibling groups who do not have an existing



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1346 relationship with siblings; requiring that a child's
1347 transition to a new home be carried out gradually when
1348 it is determined that the child would benefit from
1349 being placed with siblings; requiring the department,
1350 in collaboration with the Quality Parenting
1351 Initiative, to develop standard protocols for the
1352 department and lead agency for use in making specified
1353 decisions about child placement; providing
1354 considerations for maintaining contact between
1355 siblings when separated; providing duties for
1356 caregivers; authorizing the court to limit and
1357 restrict communication and visitation upon a finding
1358 of clear and convincing evidence that such
1359 communication or visitation is harmful to the child;
1360 requiring the department and community-based care lead
1361 agencies to periodically reassess certain sibling
1362 placements in certain instances; requiring the
1363 department to provide certain services to prevent
1364 disruption in a placement when a child does not adjust
1365 to such placement; requiring that a multidisciplinary
1366 team staffing is convened when one child does not
1367 adjust to placement as a sibling group under certain
1368 conditions; requiring the team to review such
1369 placement and choose a plan least detrimental to each
1370 child; requiring that a multidisciplinary team be
1371 convened in certain circumstances where the department
1372 or child subsequently identifies a sibling; requiring
1373 the department to provide children with specified
1374 information relating to their siblings; requiring the



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1375 department to make reasonable efforts to ascertain
1376 such information if it is not known; providing that a
1377 child has a right to continued communication with a
1378 sibling under certain circumstances; requiring the
1379 department and lead agencies to document in writing
1380 decisions to separate siblings in case files and the
1381 Florida Safe Families Network; specifying requirements
1382 for such documentation; providing an exemption;
1383 requiring the department to adopt rules; amending s.
1384 39.522, F.S.; deleting and relocating criteria for the
1385 court to consider when determining whether a legal
1386 change of custody is in the best interest of the
1387 child; conforming a provision to changes made by the
1388 act; defining the term "change in physical custody";
1389 providing a rebuttable presumption that the best
1390 interest of a child is to remain in a current
1391 placement; providing applicability for such
1392 presumption; establishing the manner in which to rebut
1393 the presumption; requiring the department or lead
1394 agency to notify certain caregivers within a specified
1395 timeframe of the intent to change the physical custody
1396 of a child; requiring that a multidisciplinary team
1397 staffing be held within a specified timeframe before
1398 the intended date for the child's change in physical
1399 custody; requiring that the department's official
1400 position be provided to the parties under certain
1401 circumstances; requiring the caregiver to provide
1402 written notice of objection to such change in physical
1403 custody within a specified timeframe; requiring the



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1404 court to conduct an initial case status hearing within
1405 a specified timeframe upon receiving specified written
1406 notice from a caregiver; providing procedures for when
1407 a caregiver objects to the child's change in physical
1408 custody; requiring the court to conduct an initial
1409 case status hearing; requiring the court to conduct an
1410 evidentiary hearing; requiring the department or lead
1411 agency to implement an appropriate transition plan if
1412 the court orders a change in physical custody of the
1413 child; amending s.

By the Committee on Children, Families, and Elder Affairs; and
Senators Brodeur and Albritton

586-02155-21

202180c1

1 A bill to be entitled
2 An act relating to child welfare; creating s.
3 39.00146, F.S.; defining terms; requiring the case
4 record of every child under the supervision or in the
5 custody of the Department of Children and Families,
6 the department's agents, or providers contracting with
7 the department to include a case record face sheet;
8 specifying information required to be included in the
9 case record face sheet; requiring the department, the
10 department's agents, and providers contracting with
11 the department to update the case record face sheet
12 monthly; requiring the department to adopt rules;
13 amending s. 39.401, F.S.; requiring the department to
14 determine out-of-home placement based on priority of
15 placements and other factors; amending s. 39.402,
16 F.S.; requiring the department to make reasonable
17 efforts to place a child in out-of-home care based on
18 priority of placements; providing exceptions and other
19 criteria; creating s. 39.4021, F.S.; providing
20 legislative findings; establishing certain placement
21 priorities for out-of-home placements; requiring the
22 department or lead agency to place sibling groups
23 together when possible if in the best interest of each
24 child after considering specified factors; providing
25 construction; creating s. 39.4022, F.S.; providing
26 legislative intent; defining terms; requiring that
27 multidisciplinary teams be established for certain
28 purposes; providing goals for such teams; providing
29 for membership of multidisciplinary team staffings;

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30 authorizing the department or lead agency to invite
31 other participants to attend a team staffing under
32 certain circumstances; providing requirements for
33 multidisciplinary team staffings; requiring that team
34 staffings be held when specified decisions regarding a
35 child must be made; requiring team staffing
36 participants to gather and consider data and
37 information on the child before formulating a
38 decision; providing for the use of an evidence-based
39 assessment instrument or tool; requiring
40 multidisciplinary teams to conduct supplemental
41 assessments for certain children; requiring team
42 participants to gather certain information related to
43 the child for such supplemental assessments; requiring
44 that a consensus decision reached by the team becomes
45 the official position and that specified parties are
46 bound by such consensus decision; providing procedures
47 for when the team does not reach a consensus decision;
48 requiring that the lead agency determine a suitable
49 placement if the team cannot come to a consensus
50 decision; requiring the formation of a team within
51 specified timeframes; requiring the facilitator to
52 file a report with the court within a specified
53 timeframe if the team does not reach a consensus
54 decision; providing requirements for the report;
55 authorizing specified parties to discuss confidential
56 information during a team staffing in the presence of
57 participating individuals; providing that information
58 collected by any agency or entity that participates in

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59 a staffing which is confidential and exempt upon
 60 collection remains confidential and exempt when
 61 discussed in staffings; requiring individuals who
 62 participate in a staffing to maintain the
 63 confidentiality of all information shared; providing
 64 construction; requiring the department to adopt rules;
 65 creating s. 39.4023, F.S.; providing legislative
 66 findings and intent; defining terms; providing for the
 67 creation of transition plans for specified changes in
 68 placement; providing conditions under which a child
 69 may be removed from a caregiver's home; requiring
 70 community-based care lead agencies to provide services
 71 to prevent a change in placement; requiring the
 72 department and a community-based care lead agency to
 73 convene a multidisciplinary team staffing to develop a
 74 transition plan under certain circumstances; requiring
 75 the department or community-based care lead agency to
 76 provide written notice of a planned placement change;
 77 providing requirements for the notice; requiring
 78 additional considerations for placement changes for
 79 infants and young children; providing findings;
 80 providing for determinations to be made to minimize
 81 changes in school placements; specifying factors that
 82 must be considered when selecting a new school for a
 83 child; requiring children who enter out-of-home care
 84 or undergo changes in placement to remain with
 85 familiar child care providers or early education
 86 programs, if possible; providing requirements for
 87 transition plans for transitions between K-12 schools;

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88 requiring the department, in collaboration with the
 89 Quality Parenting Initiative, to develop a form for a
 90 specified purpose; specifying requirements for the
 91 form; requiring the department and community-based
 92 care lead agencies to document multidisciplinary team
 93 staffings and placement transition decisions in the
 94 Florida Safe Families Network and include such
 95 information in the social study report for judicial
 96 review; requiring the department to adopt rules;
 97 creating s. 39.4024, F.S.; providing legislative
 98 findings; defining terms; requiring the department or
 99 lead agency to make reasonable efforts to place
 100 siblings in the same foster, kinship, adoptive, or
 101 guardianship home when certain conditions are met;
 102 requiring the department or lead agency and
 103 multidisciplinary team to take certain actions when
 104 siblings are not placed together; specifying that the
 105 department and court are not required to make a
 106 placement or change in placement to develop certain
 107 sibling relationships; requiring the department or the
 108 lead agency to convene a multidisciplinary team
 109 staffing to determine and assess sibling relationships
 110 when a child is removed from a home; providing for the
 111 placement of sibling groups in certain circumstances;
 112 specifying factors for the multidisciplinary team to
 113 consider when determining placement or change of
 114 placement for children in sibling groups who do not
 115 have an existing relationship with siblings; requiring
 116 that a child's transition to a new home be carried out

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117 gradually when it is determined that the child would
 118 benefit from being placed with siblings; requiring the
 119 department, in collaboration with the Quality
 120 Parenting Initiative, to develop standard protocols
 121 for the department and lead agency for use in making
 122 specified decisions about child placement; providing
 123 considerations for maintaining contact between
 124 siblings when separated; providing duties for
 125 caregivers; authorizing the court to limit and
 126 restrict communication and visitation upon a finding
 127 of clear and convincing evidence that such
 128 communication or visitation is harmful to the child;
 129 requiring the department and community-based care lead
 130 agencies to periodically reassess certain sibling
 131 placements in certain instances; requiring the
 132 department to provide certain services to prevent
 133 disruption in a placement when a child does not adjust
 134 to such placement; requiring that a multidisciplinary
 135 team staffing is convened when one child does not
 136 adjust to placement as a sibling group under certain
 137 conditions; requiring the team to review such
 138 placement and choose a plan least detrimental to each
 139 child; requiring that a multidisciplinary team be
 140 convened in certain circumstances where the department
 141 or child subsequently identify a sibling; requiring
 142 the department to provide children with specified
 143 information relating to their siblings; requiring the
 144 department to make reasonable efforts to ascertain
 145 such information if it is not known; providing that a

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146 child has a right to continued communication with a
 147 sibling when the child's sibling is also in out-of-
 148 home care and such sibling leaves out-of-home care for
 149 any reason; requiring the department and lead agencies
 150 to document in writing decisions to separate siblings
 151 in case files and the Florida Safe Families Network;
 152 specifying requirements for such documentation;
 153 requiring the department to adopt rules; amending s.
 154 39.522, F.S.; deleting and relocating criteria for the
 155 court to consider when determining whether a legal
 156 change of custody is in the best interest of the
 157 child; defining the term "change in physical custody";
 158 providing a rebuttable presumption that the best
 159 interest of a child is to remain in a current
 160 placement; providing applicability for such
 161 presumption; establishing the manner in which to rebut
 162 the presumption; requiring the department or lead
 163 agency to notify a caregiver within a specified
 164 timeframe of the intent to move a child; requiring the
 165 caregiver to provide written notice of objection to
 166 such move within a specified time frame; requiring the
 167 court to conduct an initial status hearing within a
 168 specified timeframe upon receiving specified written
 169 notice from a caregiver; prohibiting the department or
 170 lead agency from moving a child upon receiving
 171 specified written notice from a caregiver; providing
 172 for the appointment of an attorney for a child;
 173 providing for the appointment of an expert; providing
 174 deadlines for an evidentiary hearing; amending s.

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175 39.523, F.S.; requiring the department or lead agency
 176 to coordinate a multidisciplinary team staffing for
 177 specified purposes; requiring, rather than
 178 authorizing, the department to create rules; amending
 179 s. 39.806, F.S.; conforming a cross-reference;
 180 providing an effective date.

181
 182 Be It Enacted by the Legislature of the State of Florida:

183
 184 Section 1. Section 39.00146, Florida Statutes, is created
 185 to read:

186 39.00146 Case record face sheet.-

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

188 (a) "Multidisciplinary team" has the same meaning as
 189 provided in s. 39.4022(2).

190 (b) "Placement change" has the same meaning as provided in
 191 s. 39.4023(2).

192 (c) "School" has the same meaning as in s. 39.4023(2).

193 (d) "Sibling" has the same meaning as in s. 39.4024(2).

194 (2) The case record of every child under the supervision or
 195 in the custody of the department or the department's authorized
 196 agents, including community-based care lead agencies and their
 197 subcontracted providers, must include a face sheet containing
 198 relevant information about the child and his or her case,
 199 including at least all of the following:

200 (a) General case information, including, but not limited
 201 to:

202 1. The child's name and date of birth;

203 2. The current county of residence and the county of

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204 residence at the time of the referral;

205 3. The reason for the referral and any family safety
 206 concerns;

207 4. The personal identifying information of the parents or
 208 legal custodians who had custody of the child at the time of the
 209 referral, including name, date of birth, and county of
 210 residence;

211 5. The date of removal from the home; and

212 6. The name and contact information of the attorney or
 213 attorneys assigned to the case in all capacities, including the
 214 attorney or attorneys that represent the department and the
 215 parents, and the guardian ad litem, if one has been appointed.

216 (b) The name and contact information for any employees of
 217 the department, the department's authorized agents, or providers
 218 contracting with the department, including community-based care
 219 lead agencies and their subcontracted service providers, who
 220 have worked with the child, including the child's current and
 221 previous case managers, and the supervisor information for such
 222 employees.

223 (c) The personal information of relevant family members and
 224 other fictive kin, including, but not limited to, the name and
 225 contact information of:

226 1. The child's parents;

227 2. The child's siblings, including the location of their
 228 current out-of-home placement, if applicable;

229 3. The child's current caregivers and any previous out-of-
 230 home placements;

231 4. Any other caretaking adults; and

232 5. All children in the out-of-home placement, if

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233 applicable.

234 (d) A description of any threats of danger placing the
 235 child at imminent risk of removal.

236 (e) A description of individual parent or caregiver
 237 concerns for the child.

238 (f) Any concerns that exist regarding the parent or the
 239 current caregiver's ability to:

240 1. Maintain a safe home;

241 2. Engage or bond with the child if the child is an infant;

242 3. Structure daily activities that stimulate the child;

243 4. Manage the child's behavior; or

244 5. Make good health decisions for the child.

245 (g) Any transitions in placement the child has experienced
 246 since the child's initial placement and a description of how
 247 such transitions were accomplished in accordance with s.
 248 39.4023.

249 (h) If the child has any siblings and they are not placed
 250 in the same out-of-home placement, the reasons the children are
 251 not in joint placement and the reasonable efforts that the
 252 department or appropriate lead agency will make to provide
 253 frequent visitation or other ongoing interaction between the
 254 siblings, unless the court determines that the interaction would
 255 be contrary to a sibling's safety or well-being in accordance s.
 256 39.4024.

257 (i) Information pertaining to recent and upcoming court
 258 hearings, including, but not limited to, the date, subject
 259 matter, and county of court jurisdiction of the most recent and
 260 next scheduled court hearing.

261 (j) Any other information the department, the department's

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262 authorized agents, or providers contracting with the department,
 263 including community-based care lead agencies deem relevant.

264 (3) The department, the department's authorized agents, or
 265 providers contracting with the department, including community-
 266 based care lead agencies, must ensure that the face sheet for
 267 each case is updated at least once per month. This requirement
 268 includes ensuring that the department, its authorized agents, or
 269 providers contracting with the department gather any relevant
 270 information from any subcontracted providers who provide
 271 services for the case record information required to be included
 272 under this section.

273 (4) The department shall adopt rules to implement this
 274 section.

275 Section 2. Subsection (3) of section 39.401, Florida
 276 Statutes, is amended to read:

277 39.401 Taking a child alleged to be dependent into custody;
 278 law enforcement officers and authorized agents of the
 279 department.—

280 (3) If the child is taken into custody by, or is delivered
 281 to, an authorized agent of the department, the agent shall
 282 review the facts supporting the removal with an attorney
 283 representing the department. The purpose of the review is to
 284 determine whether there is probable cause for the filing of a
 285 shelter petition.

286 (a) If the facts are not sufficient, the child shall
 287 immediately be returned to the custody of the parent or legal
 288 custodian.

289 (b) If the facts are sufficient and the child has not been
 290 returned to the custody of the parent or legal custodian, the

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department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child.

(c) While awaiting the shelter hearing, the authorized agent of the department may place the child in out-of-home care, and placement shall be determined based on priority of placements as provided in s. 39.4021 and what is in the child's best interest based on the criteria and factors set out in s. 39.4022 licensed shelter care or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child.

(d) Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138.

(e) In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

Section 3. Paragraph (h) of subsection (8) of section 39.402, Florida Statutes, is amended to read:

39.402 Placement in a shelter.—

(8)

(h) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

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1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent or that the court needs additional time, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency;

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services;

c. The child cannot safely remain at home, either because

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there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or

d. The parent or legal custodian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

6. That the department has made reasonable efforts to place the child in order of priority as provided in s. 39.4021 unless such priority placement is not a placement option or in the best interest of the child based on the criteria and factors set out in s. 39.4022.

7. That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such placement is not in the best interest of each child. It is preferred that siblings be kept together in a foster home, if available. Other reasonable efforts shall include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

~~8.7.~~ That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

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~~9.8.~~ That the court notified 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.

~~10.9.~~ That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

~~11.10.~~ That the department has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing.

Section 4. Section 39.4021, Florida Statutes, is created to read:

39.4021 Priority placement for out-of-home placements.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that it is a basic tenet of child welfare practice and the law that a child be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents which meets the needs of the child, and that a child be placed in a permanent home in a timely manner.

(2) PLACEMENT PRIORITY.—

(a) When a child cannot safely remain at home with a parent, out-of-home placement options must be considered in the following order:

1. Non-offending parent.

2. Relative caregiver.

3. Adoptive parent of the child's sibling.

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4. Fictive kin, with a close existing relationship to the child.

5. Licensed foster care.

6. Group or congregate care.

(b) Sibling groups must be placed in the same placement whenever possible and if placement together is in the best interest of each of child in the sibling group. Placement decisions for sibling groups must be made pursuant to ss. 39.4022 and 39.4024.

(c) Except as otherwise provided for in this chapter, a change to a child's physical or legal placement after the child has been sheltered but before the child has achieved permanency must be made in compliance with this section.

Section 5. Section 39.4022, Florida Statutes, is created to read:

39.4022 Multidisciplinary teams; staffings; assessments; report.—

(1) LEGISLATIVE INTENT.—

(a) The Legislature finds that services for children and families are most effective when delivered in the context of a single integrated multidisciplinary team staffing that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.

(b) The Legislature also finds that effective assessment through an integrated multidisciplinary team is particularly important for children who are vulnerable due to existing

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histories of trauma which led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a result of the enhanced need for such children to have healthy and stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

(2) DEFINITIONS.—For purposes of this section, the term:

(a) "Change in physical custody" means a change by the department or the community-based care lead agency to the child's physical residential address, even when such change does not require a court order changing the legal custody of the child.

(b) "Multidisciplinary team" means an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

(3) CREATION AND GOALS.—

(a) Multidisciplinary teams must be established for the purpose of allowing better engagement with families and a shared commitment and accountability from the family and their circle of support.

(b) The multidisciplinary teams must adhere to the following goals:

1. Secure a child's safety in the least restrictive and

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intrusive placement that can meet his or her needs;

2. Minimize the trauma associated with separation from the child's family and help the child to maintain meaningful connections with family members and others who are important to him or her;

3. Provide input into the placement decision made by the community-based care lead agency and the services to be provided in order to support the child;

4. Provide input into the decision to preserve or maintain the placement, including necessary placement preservation strategies;

5. Contribute to an ongoing assessment of the child and the family's strengths and needs;

6. Ensure that plans are monitored for progress and that such plans are revised or updated as the child's or family's circumstances change; and

7. Ensure that the child and family always remain the primary focus of each multidisciplinary team meeting.

(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.

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Each multidisciplinary team staffing must consist of the following members:

1. The child, unless he or she is not of an age or capacity to participate in the team;

2. The child's family members and other individuals identified by the family as being important;

3. The current caregiver;

4. A representative from the department; and

5. The case manager for the child.

(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;

4. A therapist or other behavioral health professional, if applicable.

5. A mental health professional with expertise in sibling bonding, if applicable; or

6. Other community providers of services to the child or stakeholders, when applicable.

(c) Each multidisciplinary team staffing must be led by a person who serves as a facilitator and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The person serving as the facilitator must be a trained professional who is otherwise

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required to attend the multidisciplinary team staffing under this section in his or her official capacity. Further, the trained professional serving as the facilitator does not need to be the same person for each meeting convened in a child's case under this section or in the service area of the designated lead agency handling a child's case.

(5) SCOPE OF MULTIDISCIPLINARY TEAM.—A multidisciplinary team staffing must be held when an important decision is required to be made about a child's life, including all of the following:

(a) Initial placement decisions for a child who is placed in out-of-home care.

(b) Changes in physical custody after the child is placed in out-of-home care by a court and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

(c) Changes in a child's educational placement and, if necessary, determination of an appropriate mandatory transition plan in accordance with s. 39.4023.

(d) Placement decisions for a child as required by paragraphs (a), (b), or (c) which involve sibling groups that require placement in accordance with s. 39.4024.

(e) Any other important decisions in the child's life which are so complex that the department or appropriate community-based lead agency determines convening a multidisciplinary team staffing is necessary to ensure the best interest of the child is maintained.

(6) ASSESSMENTS.—

(a)1. The multidisciplinary team staffing participants

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must, before formulating a decision under this section, gather and consider data and information on the child which is known at the time, including, but not limited to:

a. The child's age, maturity, and strengths;

b. Mental, medical, behavioral health, and medication history;

c. Community ties and school placement;

d. The stability and longevity of the child's current placement;

e. The established bonded relationship between the child and the current or proposed caregiver;

f. The child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024;

g. The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement;

h. The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference;

i. The recommendation of the child's current caregiver, if applicable;

j. The recommendation of the child's guardian ad litem, if one has been appointed;

k. The likelihood of the child attaining permanency in the current or proposed placement;

l. The likelihood that the child will have to change schools or day care placement, the impact of such a change, and

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the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023;

m. The disruption of continuity of care with medical, mental health, behavioral health, dental, or other treatment services the child is receiving at the time of the change of custody decision;

n. The allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect;

o. The impact on activities that are important to the child, including the ability of the child to continue in such activities;

p. The impact on the child's future access to education, Medicaid, and independent living benefits; and

g. Any other relevant factors.

2. Multidisciplinary team staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

(b) The assessment conducted by the multidisciplinary team may also use an evidence-based assessment instrument or tool that is best suited for determining the specific decision of the staffing and the needs of that individual child and family.

(c) To adequately prepare for a multidisciplinary staffing team meeting to consider a decision related to a child 3 years of age or younger, all of the following information on the child which is known at the time must be gathered and considered by the team:

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1. Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.

2. The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.

3. The prospective caregiver's ability and willingness to:

a. Accept supports related to early childhood development and services addressing any possible developmental delays;

b. Address the emotional needs of the child and accept infant mental health supports, if needed;

c. Help nurture the child during the transition into out-of-home care;

d. Work with the parent to build or maintain the attachment relationship between parent and child;

e. Effectively co-parent with the parent; and

f. Ensure frequent family visits and sibling visits.

4. Placement decisions for each child in out-of-home placement which are made under this paragraph must be reviewed as often as necessary to ensure permanency for that child and to address special issues that may arise which are unique to younger children.

(d)1. If the participants of a multidisciplinary team staffing reach a consensus decision, it becomes the official position of the community-based care lead agency regarding the decision under subsection (5) for which the team convened. Such

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639 decision is binding upon all department and lead agency
 640 participants, who are obligated to support it.

641 2. If the participants of a multidisciplinary team staffing
 642 cannot reach a consensus decision, the trained professional
 643 acting as the facilitator must attempt to bring at least the
 644 lead agency's staff to a decision that all participants can
 645 support. If there is disagreement even among lead agency staff,
 646 the multidisciplinary team may request a review of the decision
 647 from a designated, high level administrator within the
 648 community-based care lead agency and such person's decision
 649 becomes the official position for the decision under subsection
 650 (5) for which the team was convened.

651 3. If the multidisciplinary team cannot agree on the
 652 placement, it is the responsibility of the placing lead agency
 653 to determine the most appropriate placement for the child in
 654 order to achieve the goals of child safety, permanency, and
 655 well-being.

656 (7) CONVENING A TEAM UPON REMOVAL.—The formation of a
 657 multidisciplinary team staffing must begin as soon as possible
 658 when a child is removed from a home. The multidisciplinary team
 659 must convene a staffing no later than 72 hours from the date of
 660 a subsequent removal in an emergency situation as that term is
 661 defined in s. 39.4023(2) and in accordance with s. 39.4023.

662 (8) REPORT.—If a multidisciplinary team staffing fails to
 663 reach a consensus decision, the facilitator must prepare and
 664 submit a written report to the court within 5 business days
 665 after the conclusion of the staffing which details the decision
 666 made at the conclusion of the multidisciplinary team staffing
 667 under subsection (6) and the positions of the staffing's

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668 participants.

669 (9) CONFIDENTIALITY.—Notwithstanding any other provision of
 670 law, participants representing the department and the community-
 671 based care lead agency may discuss confidential information
 672 during a multidisciplinary team staffing in the presence of
 673 individuals who participate in the staffing. Information
 674 collected by any agency or entity that participates in the
 675 multidisciplinary team staffing which is confidential and exempt
 676 upon collection remains confidential and exempt when discussed
 677 in a staffing required under this section. All individuals who
 678 participate in the staffing shall maintain the confidentiality
 679 of any information shared during the staffing.

680 (10) CONSTRUCTION.—This section may not be construed to
 681 mean that multidisciplinary team staffings coordinated by the
 682 department or the appropriate lead agency for purposes other
 683 than those provided for in subsection (5) before October 1,
 684 2021, are no longer required to be conducted or are required to
 685 be conducted in accordance with this section.

686 (11) RULEMAKING.—The department shall adopt rules to
 687 implement this section.

688 Section 6. Section 39.4023, Florida Statutes, is created to
 689 read:

690 39.4023 Placement and education transitions; transition
 691 plans.—

692 (1) LEGISLATIVE FINDINGS AND INTENT.—

693 (a) The Legislature finds that many children in out-of-home
 694 care experience multiple changes in placement, and those
 695 transitions often result in trauma not only for the child but
 696 also for caregivers, families, siblings, and all professionals

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involved.

(b) The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.

(c) The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.

(d) The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.

(e) It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Educational change" means any time a child is moved between schools when such move is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.

(b) "Emergency situation" means that there is an imminent risk to the health or safety of the child, other children, or

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others in the home or facility if the child remains in the placement.

(c) "Placement change" means any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians, prospective adoptive parents, and reunification with parents. The term also includes moves between rooms and buildings operated by a group home provider.

(d) "School" means any child care, early education, elementary, secondary, or postsecondary educational setting.

(3) PLACEMENT TRANSITIONS.—

(a) Mandatory transition plans.—Except as otherwise provided, the department or the community-based lead agency shall create and implement an individualized transition plan before each placement change experienced by a child.

(b) Minimizing placement transitions.—Once a caregiver accepts the responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

1. The caregiver is unwilling or unable to safely or legally care for the child;

2. The child and the birth or legal parent are reunified;

3. The child is being placed in a legally permanent home in accordance with a case plan or court order; or

4. The removal is demonstrably in the best interest of the child.

(c) Services to prevent disruption.—The community-based care lead agency shall provide any supportive services deemed necessary to a caregiver and a child if the child's current out-of-home placement with the caregiver is in danger of needing

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modification. The supportive services must be offered in an effort to remedy the factors contributing to the placement being considered unsuitable and therefore contributing to the need for a change in placement.

(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 a convening a multidisciplinary team staffing. However, a multidisciplinary team staffing must be held within 72 hours after the emergency situation arises.

3. At least 14 days before moving a child from one out-of-home placement to another or within 72 hours after an emergency situation, the department or the community-based care lead agency must provide written notice of the planned move and must include in the notice the reason a placement change is necessary. A copy of the notice must be filed with the court and be provided to:

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- and capacity-appropriate alternative manner;

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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; and
e. 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 to ensure that the transition plan does all of the following:

a. Respects the child's developmental stage and psychological needs.
b. Ensures the child has all of his or her belongings and is allowed to help pack those belongings when appropriate.
c. Allows for a gradual transition from the current caregiver's home with substantial overlap between the two caregivers and provides time for the child to have a final visitation with everyone important to the child from the current placement, including pets.

d. Allows, when possible, for continued contact with the previous caregiver and others in the home after the child leaves.

e. Prohibits a placement change which occurs 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.

(e) Additional considerations for transitions of infants and children under school age.—Relationship patterns over the first year of life are important predictors of future

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relationships. Research demonstrates that babies begin to form a strong attachment to a caregiver at approximately 7 months of age. From that period of time through age 2, moving a child from a caregiver who is the psychological parent is considerably more damaging. Placement decisions must focus on promoting security and continuity for infants and children under 5 years of age in out-of-home care. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and must specify what decision was made as to how each of the following applies to the child:

1. The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:

a. Six months of age or younger, thereby indicating that it may be in the child's best interest to move the child sooner rather than later; or

b. One year to 2 years of age, thereby indicating it may not be a healthy time to move the child.

2. The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.

3. The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the child's relationship with both caregivers.

4. The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the child's needs and reactions.

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(f) Preparation of prospective caregivers before placement.—

1. Prospective caregivers must be fully informed of the child's needs and circumstances and be willing and able to accept responsibility for providing high-quality care for such needs and circumstances before placement.

2. The community-based care lead agency shall review with the prospective caregiver the caregiver's roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415. The case manager shall sign a copy of the parenting partnerships plan and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement.

(4) EDUCATION TRANSITIONS.—

(a) Findings.—Children in out-of-home care frequently change child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less academic progress than their peers and fall further behind with each school change. Additionally, educational instability at any level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

(b) Mandatory educational transition plans.—The department

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871 or the community-based care lead agency shall create and
 872 implement an individualized transition plan each time a child
 873 experiences a school change.

874 (c) Minimizing school changes.—

875 1. Every effort must be made to keep a child in the school
 876 of origin. Any placement decision must include thoughtful
 877 consideration of which school a child will attend if a school
 878 change is necessary.

879 2. A determination that it is not the child's best interest
 880 to remain in the school of origin and which school the child
 881 will attend in the future must be made in consultation with the
 882 child; the parents; the caregiver; the child welfare
 883 professional; the guardian ad litem, the educational surrogate
 884 child care and educational staff, including teachers and
 885 guidance counselors; and the school district representative or
 886 foster care liaison.

887 3. If a determination is made that remaining in the school
 888 or program of origin is not in the child's best interest,
 889 selection of a new school or program must consider relevant
 890 factors, including, but not limited to:

891 a. The child's desire to remain in the school or program of
 892 origin.

893 b. The preference of the child's parents or legal
 894 guardians.

895 c. Whether the child has siblings, close friends, or
 896 mentors at the school or program of origin.

897 d. The child's cultural and community connections in the
 898 school or program of origin.

899 e. Whether the child is suspected of having a disability

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900 under the Individuals with Disabilities Education Act (IDEA) or
 901 s. 504 of the Rehabilitation Act of 1973, or has begun receiving
 902 interventions under this state's multitiered system of supports.

903 f. Whether the child has an evaluation pending for special
 904 education and related services under IDEA or s. 504 of the
 905 Rehabilitation Act of 1973.

906 g. Whether the child is a student with a disability under
 907 IDEA who is receiving special education and related services or
 908 a student with a disability under s. 504 of the Rehabilitation
 909 Act of 1973 who is receiving accommodations and services and, if
 910 so, whether those required services are available in a school or
 911 program other than the school or program of origin.

912 h. Whether the child is an English Language Learner student
 913 and is receiving language services, and if so, whether those
 914 required services are available in a school or program other
 915 than the school or program of origin.

916 i. The impact a change to the school or program of origin
 917 would have on academic credits and progress toward promotion.

918 j. The availability of extracurricular activities important
 919 to the child.

920 k. The child's known individualized educational plan or
 921 other medical and behavioral health needs and whether such plan
 922 or needs are able to be met at a school or program other than
 923 the school or program of origin.

924 l. The child's permanency goal and timeframe for achieving
 925 permanency.

926 m. The child's history of school transfers and how such
 927 transfers have impacted the child academically, emotionally, and
 928 behaviorally.

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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.

4. The cost of transportation cannot be a factor in making a best interest determination.

(d) Transitions between child care and early education programs.—When a child enters out-of-home care or undergoes a placement change, the child shall, if possible, remain with a familiar child care provider or early education program unless there is an opportunity to transition to a higher quality program. If it is not possible for the child to remain with the familiar child care provider or early education program or transition to a higher quality program, the child's transition plan must be made with the participation of the child's current and future school or program. The plan must give the child an opportunity to say goodbye to important figures in the educational environment.

(e) Transitions between K-12 schools.—The transition plan for a transition between K-12 schools must include all of the following:

1. Documentation that the department or community-based care lead agency has made the decision to change the child's school in accordance with paragraph (c). The plan must include a detailed discussion of all factors considered in reaching the decision to change the child's school.

2. Documentation that the department or community-based care lead agency has coordinated with local educational agencies

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to provide immediate and appropriate enrollment in a new school, including transfer of educational records, any record of a school-entry health examination, and arrangements for transportation to the new school.

3. Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities. This section must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and extracurricular participation.

4. Details concerning the transportation of the child to school.

(5) TRANSITION PLAN AND DOCUMENTATION.—

(a) The department, in collaboration with the Quality Parenting Initiative, shall develop a form to be completed and updated each time a child in out-of-home care is moved from one placement to another.

(b) A completed form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146. The form must be used statewide and, at a minimum, must include all of the following information:

1. The membership of the multidisciplinary team staffing convened under s. 39.4022 to develop a transition plan for the change in placement and the dates on which the team met.

2. The name of the person who served as the facilitator in that specific multidisciplinary team staffing.

3. The topics considered by the multidisciplinary team staffing in order to ensure an appropriate transition.

4. The recommendations of the multidisciplinary team and the name of each individual or entity responsible for carrying

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out each recommendation.

(c) The department or the community-based care lead agency shall document all multidisciplinary team staffings and placement transition decisions in the Florida Safe Families Network and must include the information in the social study report for judicial review, as required under s. 39.701.

(6) RULEMAKING.—The department shall adopt rules to implement this section.

Section 7. Section 39.4024, Florida Statutes, is created to read:

39.4024 Placement of siblings; visitation; continuing contact.—

(1) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that sibling relationships can provide a significant source of continuity throughout a child's life and are likely to be the longest relationships that most individuals experience. Further, the placement of siblings together can increase the likelihood of achieving permanency and is associated with a significantly higher rate of family reunification.

(b) The Legislature finds that it is beneficial for a child who is placed in out-of-home care to be able to continue existing relationships with his or her siblings, regardless of age, so that they may share their strengths and association in their everyday and often common experiences.

(c) The Legislature also finds that healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and caseworkers should be aware

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of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reasons that siblings are not placed together.

(d) The Legislature also finds that it is the responsibility of all entities and adults involved in a child's life, including, but not limited to, the department, community-based lead agencies, parents, foster parents, guardians ad litem, next of kin, and other persons important to the child to seek opportunities to foster sibling relationships to promote continuity and help sustain family connections.

(e) While there is a presumption in law and policy that it is in the best interest of a child going into out-of-home care to be placed with any siblings, the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Multidisciplinary team" has the same meaning as provided in s. 39.4022.

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(b) "Lead agency" means a community-based care lead agency under contract with the department to provide care to children in foster care under chapter 409.

(c) "Sibling" means:

1. A child who shares a birth parent or legal parent with one or more other children; or

2. A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

(3) PLACEMENT OF SIBLINGS IN OUT-OF-HOME CARE.—

(a) General provisions.—

1. The department or lead agency shall make reasonable efforts to place sibling groups that are removed from their home in the same foster, kinship, adoptive, or guardianship home when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available.

2. If a child enters out-of-home care after his or her sibling, the department or lead agency and the multidisciplinary team shall make reasonable efforts to initially place the child who has entered out-of-home care with his or her siblings in the sibling's existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

3. When determining whether to move a child from a current placement to a new placement when such change is initiated by a sibling relationship, all relevant factors must be considered by the multidisciplinary team to ensure that the child is best served by the decision. A uniform policy that does not consider and apply a balancing test to ensure all existing attachment

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bonds for a child and his or her siblings are honored and evaluated holistically may result in placement decisions or changes of placement decisions that may result in additional trauma.

4. The department and the court are not required to make an initial placement or change in placement to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care.

(b) Factors to consider when placing sibling groups.—

1. At the time a child who is a part of a sibling group is removed from the home, the department or lead agency shall convene a multidisciplinary team staffing in accordance with s. 39.4022 to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The multidisciplinary team shall consider all relevant factors included in s. 39.4022 and this section, including, but not limited to, the existing emotional ties between and among the siblings, the degree of harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative under paragraph (d).

2.a. If the department or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the multidisciplinary team determines that the placement is suitable for each child, the sibling group must be placed together.

b. If the department or appropriate lead agency is not able to locate a caregiver or placement option that allows the sibling group to be placed together in an initial placement, the

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department or lead agency must make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements in accordance with this section.

3. If all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his or her current placement to a new placement that will unite the sibling group, the department or lead agency must consider all of the following additional factors:

a. The presence and quality of current attachment relationships, including:

(I) The quality and length of the attachment of the child to both the current and prospective caregiver;

(II) The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;

(III) The ease with which the child formed an attachment to the current family;

(IV) Any indications of attachment difficulty in the child's history; and

(V) The number of moves and number of caregivers the child has experienced.

b. The potential of the new caregiver to be a primary attachment figure to the sibling group by ensuring care for each child's physical needs and the willingness and availability to meet the each child's emotional needs.

c. The quality of existing sibling relationships and the

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potential quality of sibling relationships that can be formed between the children.

d. The consideration of any costs and benefits of disrupting existing emotional attachments to a primary caregiver to place children in a new placement with siblings, including:

(I) The length and quality of the established and current primary attachment relationships between the siblings and between the siblings and their current caregivers; and

(II) Relationships between any other siblings and whether such relationships appear adequate and not stressful or harmful.

e. The ability to establish and maintain sibling visitation and contact pursuant to this section in a manner and schedule that makes sense for an infant or young child if it is determined that the infant or young child is to remain with his or her primary caregivers rather than be placed with his or her siblings.

f. The ability to establish and maintain contact with the sibling and new caregiver as part of a transition plan developed in accordance with paragraph (c) and s. 39.4023 before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

(c) *Transitioning a child after a determination.*—If after considering the provisions and factors described in paragraphs (a) and (b) it is determined that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023.

(d) *Standards for evaluating sibling placements.*—The department, in collaboration with the Quality Parenting

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Initiative, must develop standard protocols for the department and lead agency which incorporate the provisions and factors described in paragraphs (a), (b), and (c) and any other factors deemed relevant for use in making decisions about when placing siblings together would be contrary to a child's well-being or safety or decisions providing for frequent visitation and contact under subsection (4).

(4) MAINTAINING CONTACT WHEN SIBLINGS ARE SEPARATED.—

(a) Regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The following practices must be considered in helping to maintain or strengthen the relationships of separated siblings:

1. Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she must assist the child in maintaining allowable visitation and other forms of communication. The department and lead agency shall provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.

2. Provide adequate support to address any caregiver concerns and to enhance the caregiver's ability to facilitate contact between siblings who are not in the same out-of-home placement and promote the benefits of sibling contact.

3. Prioritize placements with kinship caregivers who have an established personal relationship with each child so that

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even when siblings cannot be placed together in the same home, kinship caregivers are more likely to facilitate contact.

4. Prioritize placement of siblings geographically near each other, such as in the same neighborhood or school district, to make it easier for the siblings to see each other regularly.

5. Encourage frequent and regular visitation, if the siblings choose to do so, to allow the children to be actively involved in each other's lives and to participate in celebrations, including, but not limited to, birthdays, graduations, holidays, school and extracurricular activities, cultural customs, and other milestones.

6. Provide other forms of contact when regular in-person meetings are not possible or are not sufficient to meet the needs or desires of the siblings, such as maintaining frequent contact through letters, e-mail, social media, cards, or telephone calls.

7. Coordinate, when possible, joint outings or summer or weekend camp experiences to facilitate time together, including, but not limited to, activities or camps specifically designed for siblings in out-of-home care.

8. Encourage joint respite care to assist the caregivers who are caring for separated siblings to have needed breaks while also facilitating contact among the siblings, including, but not limited to, providing babysitting or respite care for each other.

9. Prohibit the withholding communication or visitation among the siblings as a form of punishment.

(b) The court may limit or restrict communication or visitation under this subsection only upon a finding by clear

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and convincing evidence that the communication or visitation is harmful to the child. If the court makes such a finding, it must direct the department or lead agency to immediately provide services to ameliorate the harm so that communication and visitation may be restored as soon as possible.

(5) SUBSEQUENT REVIEWS.—

(a) The department and the lead agency shall periodically, but at least once every 6 months, reassess sibling placement, visitation, and other sibling contact decisions in cases where siblings are separated, not visiting, or not maintaining contact to determine if a change in placement is warranted unless the decision to not place a child with his or her sibling group was made due to such placement being inappropriate, unhealthy, or unsafe for the child.

(b) If a child in a sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement, the lead agency must provide services to the caregiver and sibling group in accordance with s. 39.4023(3) to try to prevent the disruption of the placement. If after reasonable efforts are made under s. 39.4023(3), the child still has not adjusted to the out-of-home placement, a multidisciplinary team staffing must be convened to determine what is best for all of the children. The multidisciplinary team shall review the current placement of the sibling group and choose a plan that will be least detrimental to each child. If the team determines that the best decision is to move the child who has not adjusted to a new out-of-home placement, the team must develop a transition plan in accordance with ss. 39.4022 and 39.4023 which ensures the opportunity for the siblings to

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maintain contact in accordance with subsection (4) of this section.

(c) If it becomes known that a child in out-of-home care has a sibling of whom the child, department, or lead agency was previously unaware, the department or lead agency must convene a multidisciplinary team staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification.

(6) ADDITIONAL REQUIREMENTS AND CONSIDERATIONS.—

(a) The department shall promptly provide a child with the location of and contact information for his or her siblings. If the existence or location of or contact information for a child's siblings is not known, the department must make reasonable efforts to ascertain such information.

(b) If a child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, emancipation, adoption, or reunification with his or her parent or guardian, the child has a right to continued communication with his or her sibling as provided under subsection (4).

(c) The department or the lead agency must document in writing any decision to separate siblings in the case file as required in s. 39.00146 and document the decision in the Florida Safe Families Network. The documentation must include any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

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1277 (7) RULEMAKING AUTHORITY.—The department shall adopt rules
 1278 to implement this section.

1279 Section 8. Section 39.522, Florida Statutes, is amended to
 1280 read:

1281 39.522 Postdisposition change of custody.—

1282 (1) The court may change the temporary legal custody or the
 1283 conditions of protective supervision at a postdisposition
 1284 hearing, without the necessity of another adjudicatory hearing.

1285 (2) (a) (1) (a) At any time before a child is residing in the
 1286 permanent placement approved at the permanency hearing, a child
 1287 who has been placed in the child's own home under the protective
 1288 supervision of an authorized agent of the department, in the
 1289 home of a relative, in the home of a legal custodian, or in some
 1290 other place may be brought before the court by the department or
 1291 by any other interested person, upon the filing of a motion
 1292 alleging a need for a change in the conditions of protective
 1293 supervision or the placement. If any party or the current
 1294 caregiver denies the parents or other legal custodians deny the
 1295 need for a change, the court shall hear all parties in person or
 1296 by counsel, or both.

1297 (b) Upon the admission of a need for a change or after such
 1298 hearing, the court shall enter an order changing the placement,
 1299 modifying the conditions of protective supervision, or
 1300 continuing the conditions of protective supervision as ordered.
 1301 The standard for changing custody of the child shall be the best
 1302 interests of the child. When determining whether a change of
 1303 legal custody or placement is in the best interests of the
 1304 child, the court shall consider the factors listed in s. 39.4022
 1305 and the report filed by the multidisciplinary team, if

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1306 applicable. The court shall also consider the priority of
 1307 placements established under s. 39.4021 when making a decision
 1308 regarding the best interest of the child in out-of-home care.†

1309 ~~1. The child's age.~~

1310 ~~2. The physical, mental, and emotional health benefits to~~
 1311 ~~the child by remaining in his or her current placement or moving~~
 1312 ~~to the proposed placement.~~

1313 ~~3. The stability and longevity of the child's current~~
 1314 ~~placement.~~

1315 ~~4. The established bonded relationship between the child~~
 1316 ~~and the current or proposed caregiver.~~

1317 ~~5. The reasonable preference of the child, if the court has~~
 1318 ~~found that the child is of sufficient intelligence,~~
 1319 ~~understanding, and experience to express a preference.~~

1320 ~~6. The recommendation of the child's current caregiver.~~

1321 ~~7. The recommendation of the child's guardian ad litem, if~~
 1322 ~~one has been appointed.~~

1323 ~~8. The child's previous and current relationship with a~~
 1324 ~~sibling, if the change of legal custody or placement will~~
 1325 ~~separate or reunite siblings.~~

1326 ~~9. The likelihood of the child attaining permanency in the~~
 1327 ~~current or proposed placement.~~

1328 ~~10. Any other relevant factors.~~

1329 (c) (b) If the child is not placed in foster care, the new
 1330 placement for the child must meet the home study criteria and
 1331 court approval under this chapter.

1332 (3) (a) For purposes of this subsection, the term "change in
 1333 physical custody" means a change by the department or community-
 1334 based care lead agency to the child's physical residential

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address even when such change does not require a court order to change the legal custody of the child.

(b)1. In a hearing on the change of physical custody under this section, there shall be a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current physical placement if:

a. The child has been in the same safe and stable placement for 9 consecutive months or more;

b. Reunification is not a permanency option for the child;

c. The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;

d. The caregiver is not requesting the change in physical placement; and

e. The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

2. In order to rebut the presumption established in this paragraph, the court shall hold an evidentiary hearing on the change in physical custody to determine if the change in placement is in the best interest of the child. As part of the evidentiary hearing, the court must consider competent and substantial evidence and testimony related to the factors enumerated in s. 39.4022 and any other evidence deemed relevant to a determination of placement, including evidence from a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

3. This presumption may not be rebutted solely by the

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expressed wishes of a biological parent, a biological relative, or a caregiver of a sibling of the child.

(c)1. A current caregiver who has been the physical custody placement for at least 9 consecutive months and who meets all the established criteria in paragraph (b) shall be notified by the department or community-based care lead agency of an intent to change the physical custody of the child at least 21 days before the desired date for transitioning the child to the new physical custody placement.

2. A caregiver who objects to the change in physical custody must notify the court and the department or lead agency of his or her objection and the intent to request an evidentiary hearing in writing in accordance with this subsection as soon as possible after receiving notice under subparagraph 1., but no later than 5 days before the desired date for transitioning the child to the new physical custody placement.

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.

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:

a. Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months;

b. Appoint a lawyer for the child who is the subject of the permanent custody proceeding;

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1393 c. Advise the caregiver of his or her right to retain
 1394 counsel for purposes of the evidentiary hearing; and
 1395 d. Appoint a court-selected neutral and independent expert
 1396 in the science and research of child-parent bonding and
 1397 attachment.
 1398 (d) The court must conduct the evidentiary hearing and
 1399 provide a written order of its findings regarding the placement
 1400 that is in the best interest of the child no later than 90 days
 1401 from the date the caregiver provided written notice to the court
 1402 under this subsection. The court must provide its written order
 1403 to the department or lead agency, the caregiver, and the
 1404 prospective caregiver.
 1405 (e) If the court orders that the physical custody of the
 1406 child change from the current caregiver after the evidentiary
 1407 hearing, the department or lead agency must provide an
 1408 appropriate transition plan in accordance with s. 39.4023.
 1409 (4)(2) In cases where the issue before the court is whether
 1410 a child should be reunited with a parent, the court shall review
 1411 the conditions for return and determine whether the
 1412 circumstances that caused the out-of-home placement and issues
 1413 subsequently identified have been remedied to the extent that
 1414 the return of the child to the home with an in-home safety plan
 1415 prepared or approved by the department will not be detrimental
 1416 to the child's safety, well-being, and physical, mental, and
 1417 emotional health.
 1418 (5)(3) In cases where the issue before the court is whether
 1419 a child who is placed in the custody of a parent should be
 1420 reunited with the other parent upon a finding that the
 1421 circumstances that caused the out-of-home placement and issues

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1422 subsequently identified have been remedied to the extent that
 1423 the return of the child to the home of the other parent with an
 1424 in-home safety plan prepared or approved by the department will
 1425 not be detrimental to the child, the standard shall be that the
 1426 safety, well-being, and physical, mental, and emotional health
 1427 of the child would not be endangered by reunification and that
 1428 reunification would be in the best interest of the child.
 1429 (6)(4) In cases in which the issue before the court is
 1430 whether to place a child in out-of-home care after the child was
 1431 placed in the child's own home with an in-home safety plan or
 1432 the child was reunified with a parent or caregiver with an in-
 1433 home safety plan, the court must consider, at a minimum, the
 1434 following factors in making its determination whether to place
 1435 the child in out-of-home care:
 1436 (a) The circumstances that caused the child's dependency
 1437 and other subsequently identified issues.
 1438 (b) The length of time the child has been placed in the
 1439 home with an in-home safety plan.
 1440 (c) The parent's or caregiver's current level of protective
 1441 capacities.
 1442 (d) The level of increase, if any, in the parent's or
 1443 caregiver's protective capacities since the child's placement in
 1444 the home based on the length of time the child has been placed
 1445 in the home.
 1446
 1447 The court shall additionally evaluate the child's permanency
 1448 goal and change the permanency goal as needed if doing so would
 1449 be in the best interests of the child. If the court changes the
 1450 permanency goal, the case plan must be amended pursuant to s.

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39.6013(5).

Section 9. Subsections (2) and (5) of section 39.523, Florida Statutes, are amended to read:

39.523 Placement in out-of-home care.—

(2) ASSESSMENT AND PLACEMENT.—When any child is removed from a home and placed ~~in~~ into out-of-home care, a comprehensive placement assessment process shall be completed in accordance with s. 39.4022 to determine the level of care needed by the child and match the child with the most appropriate placement.

(a) The community-based care lead agency or subcontracted agency with the responsibility for assessment and placement must coordinate a multidisciplinary team staffing as established in s. 39.4022 with the necessary participants for the stated purpose of the staffing with any available individual currently involved with the child including, but not limited to, a ~~representative from the department and the case manager for the child, a therapist, attorney ad litem, guardian ad litem, teachers, coaches, Children's Medical Services, and other community providers of services to the child or stakeholders as applicable. The team may also include clergy, relatives, and fictive kin if appropriate. Team participants must gather data and information on the child which is known at the time including, but not limited to:~~

~~1. Mental, medical, behavioral health, and medication history;~~

~~2. Community ties and school placement;~~

~~3. Current placement decisions relating to any siblings;~~

~~4. Alleged type of abuse or neglect including sexual abuse and trafficking history; and~~

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~~5. The child's age, maturity, strengths, hobbies or activities, and the child's preference for placement.~~

(b) The comprehensive placement assessment process may also include the use of an assessment instrument or tool that is best suited for the individual child.

(c) The most appropriate available out-of-home placement shall be chosen after consideration by all members of the multidisciplinary team of all of the information and data gathered, including the results and recommendations of any evaluations conducted.

(d) Placement decisions for each child in out-of-home placement shall be reviewed as often as necessary to ensure permanency for that child and address special issues related to this population of children.

(e) The department, a sheriff's office acting under s. 39.3065, a community-based care lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network.

(f) If it is determined during the comprehensive placement assessment process that residential treatment as defined in s. 39.407 would be suitable for the child, the procedures in that section must be followed.

(5) RULEMAKING.—The department shall ~~may~~ adopt rules to implement this section.

Section 10. Paragraph (e) of subsection (1) of section 39.806, Florida Statutes, is amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

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1509 (e) When a child has been adjudicated dependent, a case
 1510 plan has been filed with the court, and:
 1511 1. The child continues to be abused, neglected, or
 1512 abandoned by the parent or parents. The failure of the parent or
 1513 parents to substantially comply with the case plan for a period
 1514 of 12 months after an adjudication of the child as a dependent
 1515 child or the child's placement into shelter care, whichever
 1516 occurs first, constitutes evidence of continuing abuse, neglect,
 1517 or abandonment unless the failure to substantially comply with
 1518 the case plan was due to the parent's lack of financial
 1519 resources or to the failure of the department to make reasonable
 1520 efforts to reunify the parent and child. The 12-month period
 1521 begins to run only after the child's placement into shelter care
 1522 or the entry of a disposition order placing the custody of the
 1523 child with the department or a person other than the parent and
 1524 the court's approval of a case plan having the goal of
 1525 reunification with the parent, whichever occurs first; or
 1526 2. The parent or parents have materially breached the case
 1527 plan by their action or inaction. Time is of the essence for
 1528 permanency of children in the dependency system. In order to
 1529 prove the parent or parents have materially breached the case
 1530 plan, the court must find by clear and convincing evidence that
 1531 the parent or parents are unlikely or unable to substantially
 1532 comply with the case plan before time to comply with the case
 1533 plan expires.
 1534 3. The child has been in care for any 12 of the last 22
 1535 months and the parents have not substantially complied with the
 1536 case plan so as to permit reunification under s. 39.522(4) ~~s.~~
 1537 ~~39.522(2)~~ unless the failure to substantially comply with the

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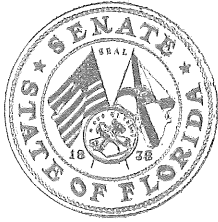
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1538 case plan was due to the parent's lack of financial resources or
 1539 to the failure of the department to make reasonable efforts to
 1540 reunify the parent and child.
 1541 Section 11. This act shall take effect October 1, 2021.

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



SENATOR JASON BRODEUR
9th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Health Policy, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Community Affairs

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

JOINT COMMITTEE:

Joint Administrative Procedures Committee

March 4, 2021

Honorable Kathleen Passidomo
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Passidomo,

I am writing to request that SB 80, Child Welfare, be placed on the agenda to be heard in the Committee on Rules.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jason Brodeur".

Jason Brodeur

Cc: John B. Phelps, Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

□ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

SB 80

Bill Number (if applicable)

Topic SB 80 Concerning child welfare

Amendment Barcode (if applicable)

Name Sara Clements

Job Title SVP at McGuirewoods

Address 115 E Park Ave

Phone 850-727-5000

Street

Tallahassee

FL

32301

City

State

Zip

Email sclements@mcguirewoods.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Foster And Adoptive Parent Association

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/2021

Meeting Date

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

SB80C1

Bill Number (if applicable)

916712

Amendment Barcode (if applicable)

Topic Child Welfare

Name Victoria Zep

Job Title Chief Policy & Research Officer

Address 317 E. Park Ave.

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 241-6309

Email victoria@fchldren.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Coalition for Children

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.

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

This information was not read
into the record by the Chair

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/11/2021

Meeting Date

SB 80

Bill Number (if applicable)

Topic Child Welfare

Amendment Barcode (if applicable)

Name Victoria Zeff

Job Title Chief Policy & Research Officer

Address 317 E. Park Ave.
Street

Phone (850) 241-6309

Tallahassee FL 32301
City State Zip

Email Victoria@flchildren.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Coalition for Children

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.

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

**This information was not read
into the record by the Chair**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/11/21

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

CS/SB800

Meeting Date

Bill Number (if applicable)

Topic

Child Welfare

Amendment Barcode (if applicable)

Name

David Sardan

Job Title

Retired Senior Concerned Citizen of Fla

Address

66 Wintersgreen Dr

Phone

352 805 6397

Street

Frutland Park

FL 34731

Email

golferdave1955@gmail.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Self & my wife

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.

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

This information was not read into the record by the Chair

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health and
Human Services, *Chair*
Appropriations, *Vice Chair*
Environment and Natural Resources
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR AARON BEAN

President Pro Tempore
4th District

March 9, 2021

Senator Kathleen Passidomo
Chair | Rules
400 Senate Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Senator Passidomo:

I am writing to request approval to be excused from the Rules Committee meeting scheduled for Thursday, March 11, 2021, due to testing positive for COVID -19.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
Senator | 4th District

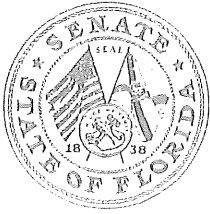
REPLY TO:

- ☐ Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- ☐ 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AUDREY GIBSON
6th District

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Military and Veterans Affairs, Space,
and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

March 10, 2021

Senator Kathleen Passidomo
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Passidomo:

I respectfully ask to be excused from this week's Rules committee meeting, due to family matters.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson".

Audrey Gibson
State Senator
Senate District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Caption: Senate Rules Committee

Case No.: -

Judge:

Type:

Started: 3/11/2021 8:20:32 AM

Ends: 3/11/2021 11:00:56 AM

Length: 02:40:25

8:20:30 AM Meeting called to order
8:20:38 AM Roll call- Quorum is present
8:21:12 AM Senators Bean and Gibson are excused from today's meeting
8:21:33 AM Chair Passidomo gives COVID instruction for public appearances in the Civic Center
8:23:09 AM Chair relays authorized rule to extend meeting if necessary. Question from Senator Farmer regarding potential extension of the hearing if time needs
8:24:24 AM Chair Passidomo in clarification of the rule
8:25:09 AM Senator Farmer in debate of explanation of the rule of extension
8:25:35 AM Chair Passidomo comments further
8:25:42 AM CS/SB 56 Community Association Assessment Notices by Senator Rodriguez
8:26:16 AM Amendment 743690 by Senator Rodriguez
8:26:34 AM Senator Rodriguez explains the amendment
8:26:36 AM No public appearance
8:26:44 AM No debate
8:26:48 AM Senator Rodriguez waives close
8:26:49 AM Barcode 743690 is adopted
8:26:57 AM Barcode 610942 by Senator Rodriguez -a technical amendment
8:27:08 AM Senator Rodriguez explains the amendment
8:27:16 AM No public appearance; no debate
8:27:27 AM Senator Rodriguez waives close
8:27:30 AM Barcode 610942 is adopted
8:27:45 AM Back on the bill as amended. No questions
8:27:54 AM No debate; no public appearance
8:28:01 AM Roll call
8:28:03 AM CS SB 56 is reported favorably
8:28:55 AM CS SB 60 County and Municipal Code Enforcement by Senator Bradley is presented
8:30:46 AM No questions
8:31:45 AM Public Appearance
8:31:48 AM David Serdar in support
8:32:21 AM No debate
8:32:33 AM Senator Bradley closes on the bill
8:32:37 AM Roll call: CS/SB 60 is reported favorably
8:33:23 AM Tab 6 CS SB 80 Child Welfare by Senator Brodeur
8:33:59 AM Senator Brodeur explains the bill
8:34:33 AM Barcode Amendment 916712 is explained.
8:35:27 AM No questions, no public appearance, no debate
8:35:35 AM Senator Brodeur waives close
8:35:42 AM Amendment Barcode 916712 is adopted
8:35:47 AM Back on the bill CS CS SB 80 as amended
8:35:52 AM Senator Brandes with question
8:36:22 AM Senator Brodeur responds
8:36:44 AM Public appearance: Sara Clements Supervisor McGuire Woods Tallahassee Florida Foster and Adoptive Parent Association waiving in support
8:37:09 AM Senator Book in debate
8:37:33 AM Senator Brodeur closes
8:37:46 AM Roll call on CS CS SB 80: bill is reported favorably
8:38:35 AM Tab 1 CS CS SB 54 Motor Vehicle Insurance by Senator Burgess
8:39:05 AM Senator Burgess explains the bill
8:41:52 AM Amendment Barcode 356652 by Senator Brandes is explained
8:42:53 AM Senator Brandes withdraws amendment
8:43:45 AM Amendment Barcode 969472 by Senator Farmer
8:44:40 AM Senator Farmer explains the amendment

8:45:05 AM No questions
 8:45:10 AM Public Appearance
 8:45:28 AM Brandon Cathey, Taxpayers Against Insurance Bad Faith of Tampa, speaks in support
 8:47:01 AM Rick Parker, Tallahassee Florida Justice Reform Institute, speaks against the amendment
 8:48:43 AM Greg Yaffa from Palm Beach Gardens, representing victims of motor vehicle negligence, in opposition
 8:50:11 AM Senator Thurston with question to Mr. Yaffa
 8:50:29 AM Mr. Yaffa responds to question regarding bad faith settlements
 8:51:16 AM Senator Powell with question, Mr. Yaffa responds
 8:51:39 AM Eric Romano, West Palm Beach Florida Justice Association President, in support
 8:51:39 AM Curry Pajcic Owner Jacksonville Florida Insurance Consumers in supportDavid Mica, Jr. Executive Vice President of Public Affairs for Florida Hospital Association
 8:55:24 AM Debate:
 8:55:47 AM Senator Thurston with question to Senator Burgess how bad faith provision will help bill
 8:56:47 AM Senator Burgess responds
 8:58:34 AM Senator Burgess speaks on the amendment
 8:58:52 AM Senator Burgess rises in opposition
 8:59:26 AM Senator Brandes gives information in opposition
 9:00:56 AM Senator Farmer closes on his amendment
 9:02:20 AM Chair calls for those in favor yea/nay
 9:04:03 AM Amendment fails
 9:04:04 AM Barcode 524236 by Senator Brandes is taken up. Senator Brandes explains
 9:04:40 AM Amendment is withdrawn
 9:04:44 AM Barcode 914868 by Senator Brandes is taken up
 9:06:53 AM Amendment is withdrawn
 9:07:05 AM Barcode 569746 by Senator Brandes Senator explains
 9:09:03 AM Amendment is withdrawn
 9:09:15 AM Back on the bill as amended
 9:09:19 AM Questions: Senator Thurston with a question
 9:10:18 AM Senator Burgess responds
 9:11:35 AM Senator Book with a question
 9:12:34 AM Senator Burgess responds
 9:13:28 AM Senator Powell with question on percentages
 9:14:00 AM Senator Burgess answers
 9:15:03 AM Follow up by Senator Powell
 9:15:53 AM Senator Burgess responds
 9:17:00 AM Public Appearance: David Serdar Fruitland Park citizen information in support of the bill
 9:17:30 AM Toni Large, Florida College of Emergency Physicians, in opposition to the bill
 9:19:18 AM Greg Yaffa Attorney Palm Beach Gardens Victims of motor vehicle negligence is against
 9:20:46 AM Senator Brandes has question for Mr. Yaffa
 9:21:14 AM Mr. Yaffa responds
 9:21:19 AM Senator Brandes with follow up question on lectures
 9:21:34 AM Mr. Yaffa responds on lectures
 9:22:13 AM Doug Bell Tallahassee for Progressive Insurance is in opposition
 9:23:51 AM Senator Powell with question for Mr. Bell on raising rates
 9:24:25 AM Mr. Bell responds
 9:25:05 AM Senator Powell responds
 9:25:13 AM Senator Brandes with a question
 9:25:25 AM Mr. Bell responds
 9:25:27 AM Rick Parker, Florida Justice Reform Institute- Tallahassee, in support
 9:26:13 AM David Mica Jr. Executive Vice President Florida Hospital Association is against
 9:26:56 AM Brandon Cathey, President Tampa Taxpayers Against Insurance Bad Faith, speaks against
 9:28:21 AM Michael Carlson, President of Personal Insurance Federation of Florida, with information
 9:29:43 AM Eric Romano President Florida Justice Association West Palm Beach speaking in support
 9:31:05 AM TIm Meenan National Association Insurance Financial Advisors for Life Health and Property Insurance in support
 9:32:05 AM No questions
 9:32:07 AM Debate on the bill
 9:32:12 AM Senator Baxley in debate
 9:33:52 AM Senator Farmer in debate
 9:39:19 AM Senator Diaz in debate
 9:39:47 AM Senator Burgess closes on bill
 9:41:59 AM Roll Call Vote

9:42:45 AM CS CS SB 54 is reported favorably
9:42:57 AM SB 72 Civil Liability for Damages Relating to COVID-19 by Senator Brandes
9:43:07 AM Will first take up the delete all Amendment 149800
9:43:19 AM Senator Brandes explains the amendment
9:45:00 AM Chair explains that amendments to the amendment 149800 will be taken up first and then questions may be asked of the final product
9:45:23 AM Senator Thurston with a question
9:45:51 AM Senator Brandes responds
9:46:16 AM Senator Brandes responds
9:46:36 AM Senator Brandes responds
9:47:35 AM Barcode 197850 AA to the delete all by Senator Powell
9:48:18 AM Senator Powell explains the amendment
9:48:22 AM Public appearance:
9:48:40 AM David Mica Jr. Executive VP Public Affairs waives against
9:48:42 AM Stephen Cain Attorney from Miami for Florida Consumers speaks in support
9:50:04 AM Debate: Senator Farmer in debate on amendment
9:50:43 AM Senator Powell waives close
9:50:52 AM Senator Brandes rises in opposition to the amendment
9:51:36 AM Amendment fails
9:51:47 AM Barcode 752206 AA by Senator Thurston is taken up and explained
9:54:29 AM Questions: none
9:54:35 AM Public appearance: Robin Khanal, Orlando, Nursing Homes and Assisted Living Facilities, speaking against the amendment
9:56:22 AM Stephen Cain, Attorney Miami for Florida Consumers in support of amendment
9:57:23 AM David Mica Jr Executive VP Public Affairs for Florida Hospital Association waives against
9:57:31 AM Toby Philpot Tallahassee for Florida Health Care Association waives against
9:57:38 AM Senator Brandes in debate against the amendment
9:59:28 AM Senator Thurston closes on the amendment
10:02:02 AM Barcode 752206 fails
10:02:17 AM Barcode 777268 by Senator Farmer is explained
10:02:34 AM No questions
10:02:49 AM Stephen Cain Attorney Florida consumer Miami in support
10:03:12 AM William Large President, Tallahassee, Florida Justice Reform Institute against
10:03:38 AM Toby Philpot for Florida Health Care Association waives against
10:03:42 AM David Mica Jr. for Florida Hospital Association waives against
10:03:54 AM Debate on AA - Senator Brandes speaks in debate
10:04:46 AM Senator Farmer closes on amendment
10:06:12 AM Barcode 777268 fails
10:06:28 AM Barcode 233752 by Senator Farmer is taken up and explained
10:06:48 AM No questions
10:06:54 AM Toby Philpot Florida Health Care Association waives against
10:07:33 AM Stephen Cain Attorney for Florida Consumers in support of amendment
10:07:56 AM Senator Brandes in debate
10:08:52 AM Senator Farmer closes on amendment
10:10:25 AM Barcode 233752 fails
10:10:44 AM Barcode 600008 by Senator Farmer is taken up and explained
10:11:03 AM No questions
10:11:06 AM Public: William Large in opposition representing Tallahassee Florida Justice Reform Institute
10:11:48 AM Stephen Cain, Attorney of Miami Florida Consumers, in support of amendment
10:12:59 AM No further public appearance
10:13:07 AM Senator Brandes in debate
10:13:46 AM Senator Farmer closes on amendment
10:16:04 AM Barcode 600008 is not adopted
10:16:19 AM Barcode 495044 by Senator Farmer is explained
10:16:45 AM No questions
10:16:51 AM Stephen Cain Attorney Miami Florida Consumers in support
10:18:09 AM Robin Khanal on behalf of Nursing Homes and Assisted Living Facilities is in opposition to the amendment
10:18:44 AM Toby Philpot Director Govt Affairs for Florida Health Care Association is against
10:19:23 AM Senator Brandes rises in opposition to the amendment
10:19:59 AM Senator Farmer closes on the amendment
10:21:35 AM Barcode 495044 is not adopted

10:21:53 AM Barcode 734552 by Senator Farmer is explained
 10:22:22 AM No questions
 10:22:25 AM Toby Philpot Florida Health Care Association waives against
 10:22:33 AM William Large, President of Florida Justice Reform Institute Tallahassee is against
 10:23:07 AM David Mica Jr. Exec VP for Florida Hospital waive against
 10:23:27 AM Senator Brandes in debate
 10:24:16 AM Senator Thurston in debate
 10:26:00 AM Senator Farmer closes on amendment
 10:28:50 AM Barcode 734552 is not adopted
 10:29:05 AM Barcode 594458 is explained by Senator Farmer
 10:29:39 AM No questions
 10:29:42 AM Willam Large, President Florida Justice Reform Institute, is opposed
 10:30:18 AM Toby Philpot, Director Govt Affairs Florida Health Care Association waives against
 10:30:23 AM Stephen Cain Attorney Miami for Florida Consumers is in support
 10:30:43 AM Senator Brandes in debate
 10:31:29 AM Senator Farmer closes on amendment
 10:32:20 AM Barcode 594458 is not adopted
 10:32:36 AM Amendment barcode 399394 by Senator Book is explained
 10:33:36 AM No questions, no public speakers
 10:33:48 AM Senator Brandes in debate
 10:34:34 AM Senator Book comments
 10:34:39 AM Amendment is withdrawn
 10:34:49 AM Amendment barcode 399590 by Senator Farmer is explained
 10:35:20 AM No questions
 10:35:24 AM Public appearance
 10:35:26 AM William Large President Florida Justice Reform Institute in opposition
 10:35:51 AM Stephen Cain, Attorney in support from Miami for Florida Consumers
 10:36:49 AM Senter Brandes in debate
 10:37:37 AM Senator Farmer closes on amendment
 10:38:30 AM Barcode 399590 is not adopted
 10:38:46 AM 509644 by Senator Farmer is explained
 10:39:20 AM No questions
 10:39:26 AM William Large, President Florida Justice Reform Institute in opposition
 10:40:16 AM Stephen Cain Attorney Miami for Florida consumers in support
 10:40:51 AM Senator Brandes in debate
 10:42:44 AM Senator Farmer closes on amendment
 10:43:21 AM Barcode 509644 is not adopted
 10:43:38 AM Back on amendment barcode 149800 Delete all by Senator Brandes
 10:43:55 AM Questions: none
 10:44:43 AM Public Appearance
 10:44:48 AM William Large President Florida Justice Reform Institute in support
 10:45:00 AM David Mica Jr. Exec VP Public Affairs in support for Florida Hospital Association;
 10:46:05 AM Brewster Brown Independent Colleges and Universities of FL waives in support
 10:46:28 AM Jared Willis General Manager Nemours Children's Hospital in support, Brewster Bevis Senior VP
 Associated Industries of Florida, waives in support
 10:46:41 AM Stephen Cain in support; Miami Attorney for Florida Consumers
 10:48:06 AM Toby Philpot FL Health Care Association waives in support
 10:48:11 AM Tim Parson Director of Govt Relations for FL Assisted Living Association waives in support
 10:48:21 AM Senator Farmer in debate
 10:48:32 AM Senator Brandes waives close on Barcode 149800 is adopted
 10:49:56 AM All those in favor: yea nay called
 10:49:56 AM Barcode 149800 is adopted
 10:49:56 AM Senator Mayfield makes motion of time certain to take vote at 11:10am. Motion is adopted
 10:50:51 AM Public appearance:
 10:50:57 AM Barbara Devane FL Now & FL Alliance for Retired Americans speaks in opposition
 10:52:47 AM Chair states debate starting in 3 minutes. Will not get to all appearance cards.
 10:52:49 AM Jason Hand, Florida Senior Living Association speaks on the bill
 10:53:21 AM Joanne Watson Administrator of Miracle Hill Nursing and Rehab Tallahassee speaks in support
 10:54:08 AM Chair Passidomo ends public speaking time
 10:54:14 AM Chair turns time to debate
 10:54:16 AM Senator Farmer in debate on PPE resources
 10:58:23 AM Comments on availability of PPE

10:58:32 AM Senator Brandes waives close
10:58:42 AM Roll Call: CS SB 72 is reported favorably
10:59:19 AM Tab 5: SB 74 COVID-19-related Claims Against Health Care Providers has been Temporarily Postponed
10:59:28 AM Any Senator wish to be put in the record for vote after.
10:59:39 AM Senator Albritton moves to be shown voting in the affirmative for the following bills
10:59:51 AM Tab2-CS/CS/SB 56; Tab3- CS/SB 60; Tab 6-CS/SB 80.
10:59:56 AM Senator Book makes motion to be recorded as voting negative on Tab4- CS/SB 72.
11:00:22 AM Chair Passidomo: there is no further business before the committee.
11:00:31 AM Senator Farmer moves to adjourn the meeting. The meeting is adjourned