

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, April 8, 2014

TIME: 10:00 —11:00 a.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 104 Judiciary / Soto (Identical CS/CS/H 755)	Family Law; Providing for consideration of time-sharing schedules or time-sharing arrangements as a factor in the adjustment of awards of child support; authorizing judges in family cases to take judicial notice of certain court records without prior notice to the parties when imminent danger to persons or property has been alleged and it is impractical to give prior notice; providing for a deferred opportunity to present evidence; creating an exception to a prohibition against using evidence other than the verified pleading or affidavit in an ex parte hearing for a temporary injunction for protection against domestic violence, repeat violence, sexual violence, dating violence, or stalking, etc. JU 04/01/2014 Fav/CS CF 04/08/2014 Favorable RC	Favorable Yeas 9 Nays 0
2	SB 1040 Detert (Similar CS/H 455)	Restitution for Juvenile Offenses; Requiring a child's parent or guardian, in addition to the child, to make restitution for damage or loss caused by the child's offense; authorizing the parent or guardian to be absolved of liability for restitution in certain circumstances; authorizing the court to order both parents or guardians liable for the child's restitution regardless of one parent having sole parental responsibility, etc. CF 04/08/2014 Favorable CJ JU	Favorable Yeas 9 Nays 0
3	SB 1424 Clemens (Similar H 923)	Regulation of Summer Camps; Requiring summer camp personnel and volunteers to display an identification badge issued by the Department of Children and Families; requiring background screening of summer camp personnel and volunteers; providing duties of the department; requiring the department to establish a fee for an identification badge that may be charged by a summer camp, etc. CF 04/08/2014 Fav/CS AP RC	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 8, 2014, 10:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1544 Braynon (Similar CS/H 829, Compare H 37)	Involuntary Examinations Under the Baker Act; Updating references to the Department of Children and Families; authorizing physician assistants and advanced registered nurse practitioners to initiate involuntary examinations under the Baker Act of persons believed to have mental illness, etc. CF 04/08/2014 Temporarily Postponed HP AP	Temporarily Postponed
5	SB 1584 Abruzzo (Similar H 1245)	Baker Act; Requiring the Department of Children and Families to create a work group to provide recommendations relating to revision of the Baker Act; requiring the work group to make recommendations on specified topics; providing for membership of the work group; providing for meetings; requiring the work group to meet by a specified date; requiring a review of draft recommendations by a specified date; requiring the work group to submit a report to specified entities and the Legislature by a specified date, etc. CF 04/08/2014 Fav/CS JU AP	Fav/CS Yeas 9 Nays 0
6	Update on Implementation of the Independent Living Program Stephen Pennypacker, Assistant Secretary for Programs, Department of Children and Families		Discussed
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 Children, Families, and Elder Affairs

BILL: CS/SB 104

INTRODUCER: Judiciary Committee and Senator Soto

SUBJECT: Family Law

DATE: April 7, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 104 allows a court to deviate from the minimum amount of support required under child support guidelines based on a court-ordered time-sharing schedule or the time-sharing schedule exercised by the parents. This will allow the court to better recognize the support of the non-custodial parent.

The bill also authorizes courts to take judicial notice in family cases of any court record in Florida or of the United States, when imminent danger is alleged. Although the exigency of the situation waives the requirement to provide a pre-hearing notice to the parties, the court must file a subsequent proper notice within two business days of the hearing. These provisions are limited to family cases in which domestic violence is an issue.

II. Present Situation:

Child Support Guidelines

Child support guidelines are contained in s. 61.30(6), F.S., for the use of the court in determining child support. Guidelines take into account the combined monthly net income of the parents and the number of minor children of parties involved in a child support proceeding. The guidelines establish the minimum amount of support required for a child. These amounts may be increased for additional obligations, such as child care and health insurance costs of the children.¹ The

¹ Sections 61.30(7) and (8), F.S.

court may also depart from the child support guidelines based on factors for deviation identified in law.² These are:

- Extraordinary medical, psychological, educational, or dental expenses.
- Independent income of a child or children.
- Documented financial support of a parent.
- Seasonal variation in income.
- The age of the child.
- Special needs of the child.
- Total available assets of the obligee, obligor, and the child.
- The impact of federal tax treatment.
- An application of the child support guidelines schedule that requires a parent to pay another person more than 55 percent of his or her gross income for a current child support obligation.
- The parenting plan, such as where a child spends a significant amount of time, but less than 20 percent of overnight stays with a parent, or the refusal of a parent to participate in a child's activities.
- Any other adjustment needed to further equity for the parties.³

The First District Court of Appeal reviewed an administrative support order that provided for a deviation from the child support guidelines.⁴ The administrative support order based its decision on one of the statutory factors for deviation from the guidelines. This factor allows deviation where a child spends less than 20 percent of overnight stays with a parent based on a parenting plan. The parents in the case, however, did not have a court-ordered parenting plan. Although Florida law would have required a formal parenting plan as part of a divorce proceeding, the couple never married. Instead, they “decided visitation among themselves.”⁵ In reversing the administrative order, the court indicated:

a parenting plan is defined in section 61.046(14) as a court-approved parenting plan with a time-sharing arrangement that can be created through mediation and later approved by a court, or approved by a court where the parties cannot agree. Thus, the plain language of the statute prohibits a trial court from deviating from the guidelines based on a verbal visitation agreement even where equity compels the deviation.^{6,7}

A court is also required to adjust the allocation of the burden of a child support award on the parents if a child spends a substantial amount of time with each parent.⁸ A child spends a substantial amount of time with a parent if a parent exercises time-sharing at least 20 percent of the overnights of the year.⁹

² Section 61.30(11)(a), F.S.

³ Section 61.30(11)(a)1. through 11., F.S.

⁴ *Dept. of Rev. v. Daly*, 74 So. 3d 165, 166 (Fla. 1st DCA 2011).

⁵ *Id.*

⁶ *Id.* at 168.

⁷ The parent's informal parenting agreement may have been an adequate basis for a court to deviate from the child support guidelines before s. 61.30, F.S., was amended in 2008. In 2008, the Legislature through s. 16, ch. 2008-61, L.O.F., replaced references to “shared parental arrangement” with “parenting plan.”

⁸ Section 61.30(11)(b), F.S.

⁹ Section 61.30(11)(b)8. F.S.

Judicial Notice

Florida's evidence code allows the court to take judicial notice¹⁰ of:

- Acts and resolutions of Congress and the Florida Legislature.
- Decisional, constitutional, and public statutory law of every of other state, territory, and jurisdiction of the U.S.
- Contents of the Federal Register.
- Records of any court of this state or of any court of record of the U.S. or any other U.S. state, territory, or jurisdiction.
- Rules of court of this state, the U.S., or any other U.S. state, territory, or jurisdiction.¹¹

Temporary Injunction Hearings

Florida law prohibits the admission of evidence other than verified pleadings or affidavits at ex parte hearings for temporary injunctions.¹² These injunctions relate to underlying allegations of domestic violence; repeat violence, sexual violence, or dating violence; and stalking. Evidence other than verified pleadings or affidavits may be admitted only if the respondent appears at the hearing or has received reasonable notice of the hearing.

III. Effect of Proposed Changes:

Section 1 amends s. 61.30, F.S., to revise the circumstances in which a court may deviate from or approve a request to deviate from the minimum amount of support required under the child support guidelines. A court may deviate from the child support guidelines based on a child's visitation with a parent as provided in a court-ordered time-sharing schedule or the time-sharing schedule exercised by the parents.

Section 2 amends s. 90.204, F.S., to authorize courts to take judicial notice in family cases of any court record in Florida, or of any court in a state, jurisdiction, or territory of the United States, when imminent danger is alleged, which precludes an opportunity to provide advance notice to the parties. If judicial notice is taken, the court must file proper notice of the matters judicially noticed within two business days. These provisions relate to family cases in which domestic violence is an issue. Family law cases include:

dissolution of marriage, annulment, support unconnected with dissolution of marriage, paternity, child support, Uniform Interstate Family Support Act, custodial care of and access to children, proceedings for temporary or concurrent custody of minor children by extended family, adoption, name change, declaratory judgment actions related to premarital, marital, or postmarital agreements, civil domestic, repeat violence, dating violence, and sexual violence injunctions, juvenile dependency, termination of parental rights, juvenile delinquency, emancipation of a minor,

¹⁰ Judicial notice is defined as "A court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact." BLACK'S LAW DICTIONARY (9th ed. 2009).

¹¹ Section 90.202, F.S.

¹² Sections 741.30(5)(b), 784.046(6)(b), and 784.0485, F.S.

CINS/FINS, truancy, and modification and enforcement of orders entered in these cases.¹³

Sections 3, 4, and 5 amends ss. 741.30, 784.046, and 784.0485, F.S., respectively, to provide a waiver to due process requirements for the admissibility of evidence at ex parte temporary injunction hearings. These hearings relate to temporary injunctions sought for domestic violence, repeat violence, sexual violence or dating violence, and stalking. This bill will allow judicial notice to be taken of records other than verified pleadings or affidavits, without providing a respondent advance notice and an opportunity to be present.

Section 6 of the bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of State Courts Administrator anticipates a potential fiscal impact resulting from the bill due to the following:

- Recognition of an informal time-sharing arrangement will impact judicial workload for administrative child support cases that are heard in the circuit court and family law cases in which the parties are pro se litigants. However, the impact is unquantifiable at this time.

¹³ Rule 2.545(d)(2.), Rules of Jud. Admin.

- The waiver of due process requirements in temporary injunction cases will affect court workload to the extent that the court is subsequently required to file notice of the matters judicially noticed. However, fiscal impact is indeterminate.¹⁴

The Department of Children and Families does not expect a fiscal impact.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.30, 90.204, 741.30, 784.046, and 784.0485.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Judiciary on April 1, 2014:

The committee substitute makes a technical change which removes legislative intent language.

B. Amendments:

None.

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

¹⁴ Office of State Courts Administrator, *Judicial Impact Statement, Senate Bill 104* (Nov.18, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁵ Department of Children and Families, *Senate Bill 104 Fiscal Analysis* (Oct. 17, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

By the Committee on Judiciary; and Senator Soto

590-03523-14

2014104c1

A bill to be entitled

An act relating to family law; amending s. 61.30, F.S.; providing for consideration of time-sharing schedules or time-sharing arrangements as a factor in the adjustment of awards of child support; amending s. 90.204, F.S.; authorizing judges in family cases to take judicial notice of certain court records without prior notice to the parties when imminent danger to persons or property has been alleged and it is impractical to give prior notice; providing for a deferred opportunity to present evidence; requiring a notice of taking such judicial notice to be filed within a specified period; providing that the term "family cases" has the same meaning as provided in the Rules of Judicial Administration; amending ss. 741.30, 784.046, and 784.0485, F.S.; creating an exception to a prohibition against using evidence other than the verified pleading or affidavit in an ex parte hearing for a temporary injunction for protection against domestic violence, repeat violence, sexual violence, dating violence, or stalking; providing an effective date.

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

Section 1. Subsection (11) of section 61.30, Florida Statutes, is amended to read:
 61.30 Child support guidelines; retroactive child support.—
 (11)(a) The court may adjust the total minimum child

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support award, or either or both parents' share of the total minimum child support award, based upon the following deviation factors:

1. Extraordinary medical, psychological, educational, or dental expenses.
2. Independent income of the child, not to include moneys received by a child from supplemental security income.
3. The payment of support for a parent which has been regularly paid and for which there is a demonstrated need.
4. Seasonal variations in one or both parents' incomes or expenses.
5. The age of the child, taking into account the greater needs of older children.
6. Special needs, such as costs that may be associated with the disability of a child, that have traditionally been met within the family budget even though fulfilling those needs will cause the support to exceed the presumptive amount established by the guidelines.
7. Total available assets of the obligee, obligor, and the child.
8. The impact of the Internal Revenue Service Child & Dependent Care Tax Credit, Earned Income Tax Credit, and dependency exemption and waiver of that exemption. The court may order a parent to execute a waiver of the Internal Revenue Service dependency exemption if the paying parent is current in support payments.
9. An application of the child support guidelines schedule that requires a person to pay another person more than 55 percent of his or her gross income for a child support

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obligation for current support resulting from a single support order.

10. The particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, such as where the child spends a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child.

11. Any other adjustment that is needed to achieve an equitable result which may include, but not be limited to, a reasonable and necessary existing expense or debt. Such expense or debt may include, but is not limited to, a reasonable and necessary expense or debt that the parties jointly incurred during the marriage.

(b) Whenever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:

1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.

2. Calculate the percentage of overnight stays the child spends with each parent.

3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.

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4. The difference between the amounts calculated in subparagraph 3. shall be the monetary transfer necessary between the parents for the care of the child, subject to an adjustment for day care and health insurance expenses.

5. Pursuant to subsections (7) and (8), calculate the net amounts owed by each parent for the expenses incurred for day care and health insurance coverage for the child.

6. Adjust the support obligation owed by each parent pursuant to subparagraph 4. by crediting or debiting the amount calculated in subparagraph 5. This amount represents the child support which must be exchanged between the parents.

7. The court may deviate from the child support amount calculated pursuant to subparagraph 6. based upon the deviation factors in paragraph (a), as well as the obligee parent's low income and ability to maintain the basic necessities of the home for the child, the likelihood that either parent will actually exercise the time-sharing schedule set forth in the parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties ~~granted by the court~~, and whether all of the children are exercising the same time-sharing schedule.

8. For purposes of adjusting any award of child support under this paragraph, "substantial amount of time" means that a parent exercises time-sharing at least 20 percent of the overnights of the year.

(c) A parent's failure to regularly exercise the time-sharing schedule set forth in the parenting plan, a court-ordered or agreed time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties not caused by

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the other parent which resulted in the adjustment of the amount of child support pursuant to subparagraph (a)10. or paragraph (b) shall be deemed a substantial change of circumstances for purposes of modifying the child support award. A modification pursuant to this paragraph is retroactive to the date the noncustodial parent first failed to regularly exercise the court-ordered or agreed time-sharing schedule.

Section 2. Subsection (4) is added to section 90.204, Florida Statutes, to read:

90.204 Determination of propriety of judicial notice and nature of matter noticed.—

(4) In family cases, the court may take judicial notice of any matter described in s. 90.202(6) when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under subsection (1) may be deferred until after judicial action has been taken. If judicial notice is taken under this subsection, the court shall, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of this subsection, the term "family cases" has the same meaning as provided in the Rules of Judicial Administration.

Section 3. Paragraph (b) of subsection (5) of section 741.30, Florida Statutes, is amended to read:

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

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(5)

(b) Except as provided in s. 90.204, in a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, no evidence other than verified pleadings or affidavits shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. When the only ground for denial is no appearance of an immediate and present danger of domestic violence, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

Section 4. Paragraph (b) of subsection (6) of section 784.046, Florida Statutes, is amended to read:

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

(6)

(b) Except as provided in s. 90.204, in a hearing ex parte for the purpose of obtaining such temporary injunction, no evidence other than the verified pleading or affidavit shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing.

Section 5. Paragraph (b) of subsection (5) of section 784.0485, Florida Statutes, is amended to read:

784.0485 Stalking; injunction; powers and duties of court

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175 and clerk; petition; notice and hearing; temporary injunction;
176 issuance of injunction; statewide verification system;
177 enforcement.—

178 (5)

179 (b) Except as provided in s. 90.204, in a hearing ex parte
180 for the purpose of obtaining such ex parte temporary injunction,
181 evidence other than verified pleadings or affidavits may not be
182 used as evidence, unless the respondent appears at the hearing
183 or has received reasonable notice of the hearing. A denial of a
184 petition for an ex parte injunction shall be by written order
185 noting the legal grounds for denial. If the only ground for
186 denial is no appearance of an immediate and present danger of
187 stalking, the court shall set a full hearing on the petition for
188 injunction with notice at the earliest possible time. This
189 paragraph does not affect a petitioner's right to promptly amend
190 any petition, or otherwise be heard in person on any petition
191 consistent with the Florida Rules of Civil Procedure.

192 Section 6. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Family Law/Judicial Notice Bill Number 104
(if applicable)

Name Eric Maclure Amendment Barcode _____
(if applicable)

Job Title Deputy State Courts Administrator

Address 500 South Dural St. Phone 850-488-3733

Tallahassee FL 32399 E-mail macluree@flcourts.org
City State Zip

Speaking: ☒ For ☐ Against ☐ Information Judicial Notice

Representing State Courts 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.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1040

INTRODUCER: Senator Detert

SUBJECT: Restitution for Juvenile Offenses

DATE: April 7, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sanford	Hendon	CF	Favorable
2. _____	_____	CJ	_____
3. _____	_____	JU	_____

I. Summary:

SB 1040 expands the authority of the court to order restitution when a child is found to have committed a delinquent act, regardless of whether the child is adjudicated delinquent or adjudication is withheld.

It requires, rather than authorizes, the child and the child's parent or legal guardian, to pay restitution when the court has determined that restitution is appropriate. It authorizes the court to:

- Set up a payment plan if the child and the parents or legal guardians are unable to pay the restitution in one lump-sum payment;
- Absolve the parent or guardian of any liability for restitution if after a hearing, the court finds that the current offense is the child's first referral and the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts or the victim entitled to restitution is the child's parent or legal guardian; and
- Order both of the child's parents or guardians liable for restitution, regardless of whether one parent or guardian has sole custody of the child.

The bill clarifies that the Department of Children and Families, a foster parent with whom the child is placed, or the community-based care lead agency supervising the placement of the child is not considered a guardian responsible for the delinquent acts of a child who is found to be delinquent.

The bill has an indeterminate fiscal impact and has an effective date of July 1, 2014.

II. Present Situation:

Section 985.437, F.S., authorizes, but does not require, a court with jurisdiction over a child who has been adjudicated delinquent to order the child to pay restitution to the victim for any

damage¹ or loss caused by the child's offense² in a reasonable amount or manner.³ Similarly, s. 985.35, F.S., authorizes the court to place a child found to have committed a violation of law in a probation program.⁴ The probation program may include restitution in money or in kind.⁵ The court determines the amount and manner of restitution that is reasonable.⁶

To enter an order of restitution, a court must first conduct a restitution hearing addressing the child's ability to pay and the amount of restitution to which the victim is entitled.⁷ A restitution hearing is not required if the child previously entered into an agreement to pay⁸ or has waived his or her right to attend a restitution hearing.⁹ When restitution is ordered by the court, the amount of restitution may not exceed an amount the child or his parents or guardian could reasonably be expected to pay.¹⁰

Restitution may be satisfied by monetary payments, with a promissory note cosigned by the child's parent or guardian, or by performing community service.¹¹ However, a parent or guardian may be absolved of any liability for restitution in their child's criminal case if, after a hearing, the court finds that the parent or guardian has made "diligent and good faith efforts to prevent the child from engaging in delinquent acts."¹² This provision is not limited to first offenses by the child.

The clerk of the circuit court receives and dispenses restitution payments and must notify the court if restitution is not made. The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied or until the court orders otherwise.¹³

¹ "Any damage" has been interpreted by Florida's courts to include damage for pain and suffering, *C.W. v. State*, 655 So.2d 87 (Fla. 1995).

² The damage or loss must be directly or indirectly related to the child's offense or criminal episode, *L.R.L. v. State*, 9 So.3d 714 (Fla. 2d DCA 2009).

³ If restitution is ordered, it becomes a condition or probation, or if the child is committed to a residential commitment program, part of community-based sanctions upon release from the program, s. 985.437(1), F.S.

⁴ Section 985.35(4) and (5), F.S.

⁵ Section 985.437(2), F.S.

⁶ *Id.*

⁷ *J.G. v. State*, 978 So.2d 270 (Fla. 4th DCA 2008). If a court intends to establish an amount of restitution based solely on evidence adduced at a hearing of a charge of delinquency, the juvenile must be given notice.

⁸ *T.P.H. v. State*, 739 So.2d 1180 (Fla. 4th DCA 1999).

⁹ *T.L. v. State*, 967 So.2d 421 (Fla. 1st DCA 2007).

¹⁰ Section 985.437(2), F.S.

¹¹ *Id.* Similar to the process for juveniles, a parent or guardian cannot be ordered to pay restitution arising from offenses committed by their minor child without the court providing the parent with meaningful notice and an opportunity to be heard or without making a determination of the parents' ability to pay. See *S.B.L. v. State*, 737 So.2d 1131 (Fla. 1st DCA 1999; *A.T. v. State*, 706 So.2d 109 (Fla. 2d DCA 1998); and *M.H. v. State*, 698 So.2d 395 (Fla. 4th DCA 1997).

¹² Section 985.437(4), F.S.

¹³ Section 985.437(5), F.S.

If a child or parent fails to pay court-ordered restitution, a civil lien may be placed upon the real property of the child or parent.¹⁴ The court may transfer a restitution order to a collection court or a private collection agent to collect unpaid restitution.¹⁵

Current law does not specifically exempt the Department of Children and Families, a foster parent, or a community-based care organization supervising a child from paying restitution when a court requires the child's parent or legal guardian to be responsible for restitution against the child.

III. Effect of Proposed Changes:

Section 1 amends s. 985.35, F.S., to clarify that an order of restitution made in a delinquency case is to be paid by the child and the child's parent or guardian.

Section 2 amends s. 985.437, F.S., to provide that an order of restitution may be made in a juvenile case, regardless of whether adjudication of delinquency is made or withheld. It requires that, if an order of restitution is entered, the court shall (rather than may, as currently) order the child and the child's parent to make the restitution. It expands the responsibility for payment of restitution to the parent or legal guardian of the child. It provides that if a court orders restitution, and the child and the child's parent or legal guardian are unable to pay the restitution in one lump-sum payment, the court may set up a payment plan that reflects their ability to pay.

The bill absolves the parent or guardian of liability for restitution if:

- After a hearing, the court finds that it is the child's first referral to the delinquency system and the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts; or
- The victim is entitled to restitution as a result of damage or loss caused by the child's offense is that child's parent or guardian.

The bill authorizes the court to order both of the child's parents or guardians liable for the restitution, regardless of whether one parent has sole parental responsibility for the child.

The bill specifies that the Department of Children and Families, a foster parent with whom the child is placed, or the community-based care lead agency supervising the placement of the child pursuant to a contract with the Department of Children and Families is not considered a guardian responsible for restitution for the delinquent acts of a child who is found to be dependent.

Section 3 amends . s. 985.513, F.S., to remove duplicative language.

Section 4 provides an effective date of July 1, 2014.

¹⁴ Section 985.0301(h), F.S., provides that the terms of restitution orders in juvenile criminal cases are subject to s. 775.089, F.S. That section provides that a restitution order may be enforced in the same manner as a judgment on a civil lien.

¹⁵ Section 985.045, F.S., provides that this is also allowed in a case where the circuit court has retained jurisdiction over the child and the child's parent or legal guardian.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Parents and legal guardians of children who have been adjudicated delinquent will be liable for restitution for damages caused by the child's offense. Therefore, a victim of a child's offense may be more likely to receive restitution.

C. Government Sector Impact:

The bill requires, rather than authorizes, the court to order a child and the child's parent or legal guardian to pay restitution after the court has determined that an order of restitution is appropriate. To order restitution, the court must hold a restitution hearing. The bill may increase the number of restitution hearings, resulting in a workload increase for the court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.35, 985.437, and 985.513.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Detert

28-01250-14

20141040__

1 A bill to be entitled
 2 An act relating to restitution for juvenile offenses;
 3 amending s. 985.35, F.S.; conforming provisions to
 4 changes made by the act; amending s. 985.437, F.S.;
 5 requiring a child's parent or guardian, in addition to
 6 the child, to make restitution for damage or loss
 7 caused by the child's offense; providing for payment
 8 plans in certain circumstances; authorizing the parent
 9 or guardian to be absolved of liability for
 10 restitution in certain circumstances; authorizing the
 11 court to order both parents or guardians liable for
 12 the child's restitution regardless of one parent
 13 having sole parental responsibility; specifying that
 14 the Department of Children and Families, foster
 15 parents, and specified agencies contracted with the
 16 department are not guardians for purposes of
 17 restitution; amending s. 985.513, F.S.; removing
 18 duplicative provisions authorizing the court to
 19 require a parent or guardian to be responsible for any
 20 restitution ordered against the child; providing an
 21 effective date.
 22
 23 Be It Enacted by the Legislature of the State of Florida:
 24
 25 Section 1. Paragraph (a) of subsection (4) of section
 26 985.35, Florida Statutes, is amended to read:
 27 985.35 Adjudicatory hearings; withheld adjudications;
 28 orders of adjudication.—
 29 (4) If the court finds that the child named in the petition

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

28-01250-14

20141040__

30 has committed a delinquent act or violation of law, it may, in
 31 its discretion, enter an order stating the facts upon which its
 32 finding is based but withholding adjudication of delinquency.
 33 (a) Upon withholding adjudication of delinquency, the court
 34 may place the child in a probation program under the supervision
 35 of the department or under the supervision of any other person
 36 or agency specifically authorized and appointed by the court.
 37 The court may, as a condition of the program, impose as a
 38 penalty component restitution in money or in kind to be made by
 39 the child and the child's parent or guardian as provided in s.
 40 985.437, community service, a curfew, urine monitoring,
 41 revocation or suspension of the driver ~~driver's~~ license of the
 42 child, or other nonresidential punishment appropriate to the
 43 offense, and may impose as a rehabilitative component a
 44 requirement of participation in substance abuse treatment, or
 45 school or other educational program attendance.
 46 Section 2. Present subsection (5) of section 985.437,
 47 Florida Statutes, is renumbered as subsection (7), subsections
 48 (1), (2), and (4) are amended, and new subsections (5) and (6)
 49 are added to that section, to read:
 50 985.437 Restitution.—
 51 (1) Regardless of whether adjudication is imposed or
 52 withheld, the court that has jurisdiction over a ~~an~~ adjudicated
 53 ~~delinquent~~ child may, by an order stating the facts upon which a
 54 determination of a sanction and rehabilitative program was made
 55 at the disposition hearing, order the child and the child's
 56 parent or guardian to make restitution in the manner provided in
 57 this section. This order shall be part of the child's probation
 58 program to be implemented by the department or, in the case of a

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28-01250-14

20141040__

committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment.

(2) If the court orders restitution, the court shall may order the child and the child's parent or guardian to make restitution in money, through a promissory note ~~assigned by the child's parent or guardian~~, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. If the child and the child's parent or guardian are unable to pay the restitution in one lump-sum payment, the court may set up a payment plan that reflects their ability to pay the restitution amount.

(4) The parent or guardian may be absolved of liability for restitution under this section if:

(a) After a hearing, the court finds that it is the child's first referral to the delinquency system and ~~A finding by the court, after a hearing,~~ that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts; or

(b) The victim entitled to restitution as a result of damage or loss caused by the child's offense is that child's parent or guardian absolves the parent or guardian of liability for restitution under this section.

(5) The court may order both parents or guardians liable for restitution associated with the child's care, notwithstanding instances when one parent or guardian has sole

28-01250-14

20141040__

parental responsibility.

(6) For purposes of this section, the Department of Children and Families, a foster parent with whom the child is placed, or the community-based care lead agency supervising the placement of the child pursuant to a contract with the Department of Children and Families is not considered a guardian responsible for restitution for the delinquent acts of a child who is found to be dependent as defined in s. 39.01(15).

Section 3. Subsection (1) of section 985.513, Florida Statutes, is amended to read:

985.513 Powers of the court over parent or guardian at disposition.-

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, ~~+~~

~~(a)~~ order the child's parent or guardian, together with the child, to render community service in a public service program or to participate in a community work project. In addition to the sanctions imposed on the child, the court may order the child's parent or guardian to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts.

~~(b) Order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court may also require the child's parent or legal guardian to be responsible for any restitution ordered against the child, as provided under s. 985.437. The court shall~~

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117 ~~determine a reasonable amount or manner of restitution, and~~
118 ~~payment shall be made to the clerk of the circuit court as~~
119 ~~provided in s. 985.437.~~ The court may retain jurisdiction, as
120 provided under s. 985.0301, over the child and the child's
121 parent or legal guardian whom the court has ordered to pay
122 restitution until the restitution order is satisfied or the
123 court orders otherwise.

124 Section 4. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: March 4, 2014

I respectfully request that **SB 1040**, relating to Restitution for Juvenile Offenses, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy Detert", is written over a horizontal line.

Senator Nancy C. Detert
Florida Senate, District 28

RECEIVED

MAR 05 2014

Senate Committee
Children and Families

File signed original with committee office

S-020 (03/2004)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1424

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Clemens

SUBJECT: Regulation of Summer Camps

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanford	Hendon	CF	Fav/CS
2.			AP	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1424 amends s. 409.175, F.S., to clarify the existing requirement that owners, operators, employees, and volunteers working in summer day camps or summer 24-hour camps providing care for children must pass a background screening, using the level 2 standards for screening set forth in ch. 435, F.S.

The bill requires the Department of Children and Families (DCF or the department) to create an online registry of persons who have met the background screening requirements, using information supplied by owners and operators of the camps. The registry is to be placed on the department's internet website and to be available to the public.

The bill authorizes the department to adopt rules to implement its provisions.

The bill has an insignificant fiscal impact on the state and has an effective date of July 1, 2014.

II. Present Situation:

Section 409.175, F.S., currently provides definitions for "operator," "personnel," "screening," and "summer day camp."

Current law requires that all summer camp personnel, including owners, operators, employees, and volunteers, have Level 2 background screening, but this requirement is difficult to find, as it

is reached through reading two paragraphs of the definitions section of the law.¹ The department is not authorized to license summer camp programs, but must enforce background screening compliance to ensure that all summer camp staff is properly background screened. Summer camp personnel must be rescreened annually if there is a 90-day break in employment.

Chapter 435, F.S., governs background screening standards and requirements for employment:

- **Level 1 screening standards** – Employees required by law to be screened pursuant to Level 1 standards must undergo background screening which includes, but need not be limited to, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), and a check of the Dru Sjodin National Sex Offender Public Website, and may include local criminal records checks through local law enforcement agencies.²
- **Level 2 screening standards** – Employees required by law to be screened pursuant to Level 2 standards must undergo a security background investigation which includes, but need not be limited to, fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.³
- **Disqualifying offenses** – Level 1 and Level 2 screenings must ensure that no person has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any of an expansive list of specified offenses.⁴
- **Exemptions from disqualification** – The head of the appropriate agency may grant to any employee otherwise disqualified from employment an exemption from disqualification under a number of specified circumstances.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 409.175, F.S., to add a new subsection (18), explicitly stating the current requirement that owners, operators, employees, and volunteers working in summer day camps or summer 24-hour camps providing care for children must pass a background screening, using the level 2 standards for screening set forth in chapter 435, F.S. It requires DCF to create an online registry of persons who have met screening requirements, using information supplied by the owners and operators of the camps. The registry is to be placed on the department's internet website and is to be available to the public.

The bill also authorizes DCF to adopt rules to implement this new subsection.

Section 2 sets an effective date of July 1, 2014.

¹ Section 409.175(2)(i) and (k), F.S.

² Section 435.03, F.S.

³ Section 435.04, F.S.

⁴ *Id.*

⁵ Section 435.07, F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Owners and operators of summer day camps and summer 24-hour camps can choose to provide information to DCF for inclusion on the registry. If they do so, they may incur some slight administrative expense. The existence of the registry may speed up hiring decisions in some cases, resulting in savings to the owners and operators.

C. Government Sector Impact

Developing the registry and placing it on the department's internet website will likely have an insignificant fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 409.175 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on April 8, 2014:

The Committee Substitute:

- Removes provisions relating to the development and distribution of badges to persons who have passed background screening requirements for employment in summer day camps and summer 24-hour camps.
- Adds a new subsection to s. 409.175, F.S., clarifying the existing requirement that the owners, operators, employees, and volunteers working in summer day camps or summer 24-hour camps providing care for children successfully complete level 2 background screening.
- Requires DCF to create an online registry of persons who have met the background screening requirements and to make this information public through the use of its departmental internet website.
- Authorizes DCS to adopt rules to implement the provisions of the bill.

- B. **Amendments:**

None.



392978

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Subsection 18 of section 409.175, F.S., is created to read:

(18) Owners, operators, employees, and volunteers working
in summer day camps or summer 24-hour camps providing care for
children must pass a background screening, using the level 2
standards for screening set forth in chapter 435, Florida
Statutes. In order to facilitate employment decisions and to



392978

provide information to parents and others about summer camps,
the department shall create an online registry of persons who
have met these requirements, using the information supplied by
owners and operators of the camps. This registry shall be placed
on the department's internet website and shall be available to
the public. The department is authorized to adopt rules to
implement this subsection.

===== 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 the regulation of summer camps; amending s.
409.175, F.S., requiring the Department of Children and Families
to create an on-line registry of persons who have passed the
background screening requirements for employment in summer
camps; authorizing the Department of Children and Families to
adopt rules; providing an effective date.

By Senator Clemens

27-01255-14

20141424__

A bill to be entitled

An act relating to the regulation of summer camps; creating s. 402.3053, F.S.; defining terms; requiring summer camp personnel and volunteers to display an identification badge issued by the Department of Children and Families; requiring background screening of summer camp personnel and volunteers; providing duties of the department; requiring the department to establish a fee for an identification badge that may be charged by a summer camp; providing an effective date.

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

Section 1. Section 402.3053, Florida Statutes, is created to read:

402.3053 Regulation of summer camps.—

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

(a) "Operator" means an onsite person ultimately responsible for the overall operation of a summer day camp or summer 24-hour camp, regardless of whether the operator is the owner or administrator of the camp.

(b) "Personnel" means the owners, operators, employees, and volunteers working in a summer day camp or summer 24-hour camp who may be employed by or perform volunteer work for a person, corporation, or agency that operates a summer day camp or summer 24-hour camp.

(c) "Screening" means the act of assessing the background of personnel and includes, but is not limited to, employment

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27-01255-14

20141424__

history checks as provided in chapter 435 using the level 2 standards for screening provided in that chapter.

(d) "Summer camp" includes:

1. "Summer day camp," which means recreational, educational, and other enrichment programs operated during summer vacations for children who are 5 years of age or older on or before September 1.

2. "Summer 24-hour camp," which means recreational, educational, and other enrichment programs that are not exclusively educational and that are operated on a 24-hour basis during summer vacation for children who are 5 years of age or older on or before September 1.

(2)(a) The department shall create a uniform, statewide identification badge to be worn by summer camp personnel signifying that the person has met the level 2 screening requirements of chapter 435. The department shall issue the identification badge, which must bear a photograph of the person. An identification badge shall be issued if the person:

1. Is a resident and citizen of the United States or a permanent resident alien of the United States as determined by the United States Citizenship and Immigration Services.

2. Meets the level 2 background screening requirements under chapter 435.

(b) The identification badge must be visible at all times that the employee or volunteer is on summer camp grounds.

(c) The identification badge shall be valid for 5 years or until the person terminates employment or is terminated or until the volunteer ceases working at the summer camp. Within 48 hours after termination or ceasing to volunteer, the person shall

Page 2 of 3

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27-01255-14

20141424__

59 return the identification badge to the operator of the summer
60 camp.

61 (d) The department shall determine a uniform cost that a
62 summer camp may charge for the identification badge, which shall
63 be borne by the recipient of the badge.

64 Section 2. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Transportation

SENATOR JEFF CLEMENS

27th District

March 10, 2014

Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs
520 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Sobel:

I respectfully request that SB 1424 – Regulation of Summer Camps be added to the agenda for the next Committee on Children, Families, and Elder Affairs meeting.

SB 1424 will require background screening and use of an identification badge issued by the Department of Children and Families for all summer camp personnel and volunteers.

Please feel free to contact me with any questions. Thank you, in advance, for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Clemens", written over a horizontal line.

Senator Jeff Clemens
Florida Senate District 27

RECEIVED

MAR 11 2014

Senate Committee
Children and Families

REPLY TO:

- ☐ 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- ☐ 226 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

speaking on the amendment

Meeting Date _____

Topic _____ Bill Number 1421
Name JACK CORI Amendment Barcode 392978 (if applicable)
Job Title _____ (if applicable)
Address 110 F. Cady Ave Phone 850 893-0933
Fort FL 32501 E-mail _____
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing Boys & Girls Club
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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14
Meeting Date

Topic SUMMER CAMPS Bill Number 1424
Name PAULA MCCLENSE Amendment Barcode _____ (if applicable)
Job Title TEACHER (if applicable)
Address 9125 DEMERY DR Phone 561 718 0633
PBB FL 33410 E-mail P9125@PBBFLA.NET
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
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.

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____ Bill Number 1424 (if applicable)

Name JACK CORY Amendment Barcode _____ (if applicable)

Job Title _____

Address 110 E. Colby Ave Phone 850-893-0995
Street

Tallah Fla E-mail _____
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing Boys & Girls Club

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 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1544

INTRODUCER: Senator Braynon

SUBJECT: Involuntary Examinations Under the Baker Act

DATE: April 7, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Pre-meeting
2.			HP	
3.			AP	

I. Summary:

SB 1544 adds physician assistants and advanced registered nurse practitioners to the list of medical professionals who may execute a certificate for involuntary examination of a person.

The bill provides an effective date of July 1, 2014, and the fiscal impact is unknown.

II. Present Situation:

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities which provide for the examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities which provide the examination and short-term treatment of persons who meet the criteria under The Baker Act.² Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.³

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness and because of the illness:⁴

¹ Chapter 71-131, s. 1, Laws of Florida

² Section 394.455(26), F.S.

³ Section 394.455(32), F.S.

⁴ Section 394.463(1), F.S.

- The person has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for themselves that an examination is needed; and
- The person is likely to suffer from self-neglect, substantial harm to themselves, or be a danger to themselves or others.

An involuntary examination may be initiated by a circuit court or a law enforcement officer.⁵ A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.

In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁶

- A physician licensed under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under Part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and two years of post-master's clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.⁷
- A clinical social worker licensed under ch. 491, F.S.⁸

In 2011, there were 150,466 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary exams (49.21 percent) followed by mental health professionals and physicians (48.73 percent) and then *ex parte* orders by judges (2.06 percent).⁹

Physician Assistants

Sections 458.347(7) and 459.022(7), F.S., govern the licensure of physician assistants (PAs) in Florida. PAs are licensed by the Department of Health (DOH) and are regulated by the Florida Council on Physician Assistants (Council) and either the Florida Board of Medicine (Board of Medicine) for PAs licensed under ch. 458, F.S., or the Florida Board of Osteopathic Medicine

⁵ Section 394.463(2)(a), F.S.

⁶ *Id.*

⁷ Section 491.003(8) Marriage and Family Therapists use practice methods of a psychological nature to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions.

⁸ Section 491.003(3), F.S. Clinical Social Workers are required by law to have experience in providing psychotherapy and counseling.

⁹ Department of Children and Families, *Florida's Baker Act: 2013 Fact Sheet*, available at <http://myflfamilies.com/service-programs/mental-health/baker-act-manual> (last visited April 3, 2014).

(Osteopathic Board) for PAs licensed under ch. 459, F.S. Currently, there are 5,874 active licensed PAs in Florida.¹⁰

PAs may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship. A supervising physician may only delegate tasks and procedures to the physician assistant that are within the supervising physician's scope of practice.¹¹ The supervising physician is responsible and liable for any and all acts of the PA and may not supervise more than four PAs at any time.¹²

PAs are regulated through the respective physician practice acts.¹³ Each of the medical practice acts has a corresponding board (i.e., the Board of Medicine and Osteopathic Board). The duty of a Board and its members is to make disciplinary decisions concerning whether a doctor or PA was practicing medicine within the confines of their practice act.¹⁴

To become licensed as a PA in Florida, an applicant must demonstrate to the Council:¹⁵ passage of the National Commission on Certification of Physician Assistant exam; completion of the application; completion of a PA training program; a sworn, notarized statement of felony convictions; a sworn statement of denial or revocation of licensure in any state; letters of recommendation from physicians;¹⁶ payment of a licensure fee; and completion of a two hour course on the prevention of medical errors, error reduction and prevention, and patient safety.¹⁷ Licensure renewal occurs biennially.¹⁸

In 2008, Attorney General Bill McCollum issued an opinion stating that:

A physician assistant licensed pursuant to Chapter 458 or 459, F.S., may refer a patient for involuntary evaluation pursuant to section 394.463, F.S., provided that the physician assistant has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks are within the supervising physician's scope of practice.¹⁹

However, PAs are not required by law to have experience in the diagnosis and treatment of mental and nervous disorders.

¹⁰ Florida Department of Health, *Medical Quality Assurance Annual Report 2012-2013*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited April 3, 2014).

¹¹ Rule 64B8-30.012(1), F.A.C., and Rule 64B15-6.010(1), F.A.C.

¹² Section 458.347(3), F.S., and s. 459.022(3), F.S.

¹³ Chapters 458 and 459, F.S.

¹⁴ Section 458.347(12), F.S., and s. 459.022(12), F.S.

¹⁵ Section 458.347(7), F.S. and s 459.022(7), F.S.

¹⁶ Rule 64B8-30.003(1), F.A.C., and Rule 64B15-6.003(1), F.A.C.

¹⁷ Rule 64B8-30.003(3), F.A.C., and Rule 64B15-6.003(4), F.A.C.

¹⁸ Section 458.347(7)(c), F.S. Rule 64B8-30.019, F.A.C., establishes the initial licensure and renewal fee schedules. Section 459.022(7)(b), F.S. Rule 64B15-6.013, F.A.C., establishes the initial licensure and renewal fee schedule.

¹⁹ See, 08-31, Fla. Op. Att'y Gen. (2008) available at <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/agopinion.pdf> (last visited April 3, 2014).

Advanced Registered Nurse Practitioners (ARNPs)

Part I of ch. 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by DOH and are regulated by the Board of Nursing. Licensure requirements to practice advanced and specialized nursing include completion of education requirements,²⁰ demonstration of passage of a department approved examination, a clean criminal background screening, and payment of applicable fees.²¹ Renewal is biennial and contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice advanced and specialized nursing may be certified as an ARNP under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Completion of a post basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, such as a registered nurse anesthetist or nurse midwife; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.²² All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.²³ ARNPs may carry out treatments as specified in statute, including:²⁴

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2), F.S.,²⁵ and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above allowed acts, ARNPs may also perform other acts as authorized by statute and within his or her specialty.²⁶ Further, if it is within the ARNP's established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.²⁷

There are 15,420 active, licensed ARNPs in Florida.²⁸

²⁰ Rule 64B-4.003, F.A.C., provides that an Advance Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

²¹ Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement

²² Section 464.012(2), F.S.

²³ Section 464.012(3), F.S.

²⁴ *Id.*

²⁵ Section 464.003(2), F.S., defines "Advanced or Specialized Nursing Practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

²⁶ Section 464.012(4), F.S.

²⁷ Section 464.012(4)(c)5, F.S.

²⁸ Florida Department of Health, *Medical Quality Assurance Annual Report 2012-2013*, available at <http://floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited April 3, 2014).

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., to add definitions of PAs and ARNPs to the terms associated with the provision of services and care under the Florida Mental Health Act.

Section 2 amends s. 394.463, F.S., to add that a PA or an ARNP may execute a certificate stating that a person who the ARNP or PA has examined within the preceding 48 hours appears to meet the criteria for involuntary examination for mental illness.

Section 3 amends s. 39.407, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 4 amends s. 394.495, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 5 amends s. 394.496, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 6 amends s. 394.9085, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 7 amends s. 409.972, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 8 amends s. 744.704, F.S., to make necessary conforming changes due to the statutory changes made by the bill.

Section 9 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The addition of advanced registered nurse practitioners and physician assistants to the list of medical professionals who may execute a certificate for involuntary examination of a person may increase the number of involuntary examinations initiated in the state.

C. Government Sector Impact:

An increase in the number of involuntary examinations initiated in the state for people who do not have the ability to pay for the care may impact the funding of receiving facilities and bed availability.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.463, 39.407, 394.495, 394.496, 394.9085, 409.972, and 744.704.

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.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 22 - 357
and insert:

(2) "Clinical psychologist" means a psychologist as defined
in s. 490.003(7) with 3 years of postdoctoral experience in the
practice of clinical psychology, inclusive of the experience
required for licensure, or a psychologist employed by a facility
operated by the United States Department of Veterans Affairs



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that qualifies as a receiving or treatment facility under this part.

(3) "Clinical record" means all parts of the record required to be maintained and includes all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by a facility which pertains to the patient's hospitalization or treatment.

(4) "Clinical social worker" means a person licensed as a clinical social worker under chapter 491.

(5) "Community facility" means any community service provider contracting with the department to furnish substance abuse or mental health services under part IV of this chapter.

(6) "Community mental health center or clinic" means a publicly funded, not-for-profit center which contracts with the department for the provision of inpatient, outpatient, day treatment, or emergency services.

(7) "Court," unless otherwise specified, means the circuit court.

(8) "Department" means the Department of Children and Families ~~Family Services~~.

~~(10)-(9)~~ (10) "Express and informed consent" means consent voluntarily given in writing, by a competent person, after sufficient explanation and disclosure of the subject matter involved to enable the person to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

~~(11)-(10)~~ (11) "Facility" means any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment,



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39 training, or hospitalization of persons who appear to have a
40 mental illness or have been diagnosed as having a mental
41 illness. The term ~~"Facility"~~ does not include any program or
42 entity licensed pursuant to chapter 400 or chapter 429.

43 (12)~~(11)~~ "Guardian" means the natural guardian of a minor,
44 or a person appointed by a court to act on behalf of a ward's
45 person if the ward is a minor or has been adjudicated
46 incapacitated.

47 (13)~~(12)~~ "Guardian advocate" means a person appointed by a
48 court to make decisions regarding mental health treatment on
49 behalf of a patient who has been found incompetent to consent to
50 treatment pursuant to this part. The guardian advocate may be
51 granted specific additional powers by written order of the
52 court, as provided in this part.

53 (14)~~(13)~~ "Hospital" means a facility as defined in s.
54 395.002 and licensed under chapter 395 and part II of chapter
55 408.

56 (15)~~(14)~~ "Incapacitated" means that a person has been
57 adjudicated incapacitated pursuant to part V of chapter 744 and
58 a guardian of the person has been appointed.

59 (16)~~(15)~~ "Incompetent to consent to treatment" means that a
60 person's judgment is so affected by his or her mental illness
61 that the person lacks the capacity to make a well-reasoned,
62 willful, and knowing decision concerning his or her medical or
63 mental health treatment.

64 (19)~~(16)~~ "Law enforcement officer" means a law enforcement
65 officer as defined in s. 943.10.

66 (22)~~(17)~~ "Mental health overlay program" means a mobile
67 service which provides an independent examination for voluntary



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admissions and a range of supplemental onsite services to persons with a mental illness in a residential setting such as a nursing home, assisted living facility, adult family-care home, or nonresidential setting such as an adult day care center. Independent examinations provided pursuant to this part through a mental health overlay program must only be provided under contract with the department for this service or be attached to a public receiving facility that is also a community mental health center.

(23)~~(18)~~ "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

(24)~~(19)~~ "Mobile crisis response service" means a nonresidential crisis service attached to a public receiving facility and available 24 hours a day, 7 days a week, through which immediate intensive assessments and interventions, including screening for admission into a receiving facility, take place for the purpose of identifying appropriate treatment services.

(25)~~(20)~~ "Patient" means any person who is held or accepted for mental health treatment.

(26)~~(21)~~ "Physician" means a medical practitioner licensed under chapter 458 or chapter 459 who has experience in the



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diagnosis and treatment of mental and nervous disorders or a physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility under this part.

(27) "Physician assistant" means a physician assistant licensed under chapter 458 or chapter 459 who has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks as are within the supervising physician's scope of practice.

(28)~~(22)~~ "Private facility" means any hospital or facility operated by a for-profit or not-for-profit corporation or association that provides mental health services and is not a public facility.

(29)~~(23)~~ "Psychiatric nurse" means a registered nurse licensed under part I of chapter 464 who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.

(30)~~(24)~~ "Psychiatrist" means a medical practitioner licensed under chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency.

(31)~~(25)~~ "Public facility" means any facility that has contracted with the department to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.

(32)~~(26)~~ "Receiving facility" means any public or private facility designated by the department to receive and hold involuntary patients under emergency conditions or for



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psychiatric evaluation and to provide short-term treatment. The term does not include a county jail.

~~(33)(27)~~ "Representative" means a person selected to receive notice of proceedings during the time a patient is held in or admitted to a receiving or treatment facility.

~~(34)(28)~~ (a) "Restraint" means a physical device, method, or drug used to control behavior. A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to the individual's body so that he or she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body.

(b) A drug used as a restraint is a medication used to control the person's behavior or to restrict his or her freedom of movement and is not part of the standard treatment regimen of a person with a diagnosed mental illness who is a client of the department. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding when necessary for routine physical examinations and tests; or for purposes of orthopedic, surgical, or other similar medical treatment; when used to provide support for the achievement of functional body position or proper balance; or when used to protect a person from falling out of bed.

~~(35)(29)~~ "Seclusion" means the physical segregation of a person in any fashion or involuntary isolation of a person in a room or area from which the person is prevented from leaving.



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The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For purposes of this chapter, the term does not mean isolation due to a person's medical condition or symptoms.

(36)~~(30)~~ "Secretary" means the Secretary of Children and Families ~~Family Services~~.

(38)~~(31)~~ "Transfer evaluation" means the process, as approved by the appropriate district office of the department, whereby a person who is being considered for placement in a state treatment facility is first evaluated for appropriateness of admission to the facility by a community-based public receiving facility or by a community mental health center or clinic if the public receiving facility is not a community mental health center or clinic.

(39)~~(32)~~ "Treatment facility" means any state-owned, state-operated, or state-supported hospital, center, or clinic designated by the department for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the department when rendering such services to a person pursuant to the provisions of this part. Patients treated in facilities of the United States Government shall be solely those whose care is the responsibility of the United States Department of Veterans Affairs.

(37)~~(33)~~ "Service provider" means any public or private receiving facility, an entity under contract with the Department of Children and Families ~~Family Services~~ to provide mental



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health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatric nurse as defined in subsection (29) ~~(23)~~, or a community mental health center or clinic as defined in this part.

(17) ~~(34)~~ "Involuntary examination" means an examination performed under s. 394.463 to determine if an individual qualifies for involuntary inpatient treatment under s. 394.467(1) or involuntary outpatient treatment under s. 394.4655(1).

(18) ~~(35)~~ "Involuntary placement" means either involuntary outpatient treatment pursuant to s. 394.4655 or involuntary inpatient treatment pursuant to s. 394.467.

(20) ~~(36)~~ "Marriage and family therapist" means a person licensed as a marriage and family therapist under chapter 491.

(21) ~~(37)~~ "Mental health counselor" means a person licensed as a mental health counselor under chapter 491.

(9) ~~(38)~~ "Electronic means" means a form of telecommunication that requires all parties to maintain visual as well as audio communication.

Section 2. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex



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parte order for involuntary examination must be based on sworn testimony, written or oral. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination. The order of the court shall be made a part of the patient's clinical record. No fee shall be charged for the filing of an order under this subsection. Any receiving facility accepting the patient based on this order must send a copy of the order to the Agency for Health Care Administration on the next working day. The order shall be valid only until executed or, if not executed, for the period specified in the order itself. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the nearest receiving facility for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient's clinical record. Any receiving facility accepting the patient based on this report must send a copy of the report to the Agency for Health Care Administration on the next working day.

3. A physician, physician assistant, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate



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242 stating that he or she has examined a person within the
243 preceding 48 hours and finds that the person appears to meet the
244 criteria for involuntary examination and stating the
245 observations upon which that conclusion is based. If other less
246 restrictive means are not available, such as voluntary
247 appearance for outpatient evaluation, a law enforcement officer
248 shall take the person named in the certificate into custody and
249 deliver him or her to the nearest receiving facility for
250 involuntary examination. The law enforcement officer shall
251 execute a written report detailing the circumstances under which
252 the person was taken into custody. The report and certificate
253 shall be made a part of the patient's clinical record. Any
254 receiving facility accepting the patient based on this
255 certificate must send a copy of the certificate to the Agency
256 for Health Care Administration on the next working day.

257 Section 3. Paragraph (a) of subsection (3) of section
258 39.407, Florida Statutes, is amended to read:

259 39.407 Medical, psychiatric, and psychological examination
260 and treatment of child; physical, mental, or substance abuse
261 examination of person with or requesting child custody.—

262 (3)(a)1. Except as otherwise provided in subparagraph (b)1.
263 or paragraph (e), before the department provides psychotropic
264 medications to a child in its custody, the prescribing physician
265 shall attempt to obtain express and informed consent, as defined
266 in s. 394.455~~(9)~~ and as described in s. 394.459(3)(a), from the
267 child's parent or legal guardian. The department must take steps
268 necessary to facilitate the inclusion of the parent in the
269 child's consultation with the physician. However, if the
270 parental rights of the parent have been terminated, the parent's



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location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician all pertinent medical information known to the department concerning that child.

Section 4. Paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(2), (4), (26), (29), or (30) ~~(21), (23), or (24)~~;

(c) A person who is under the direct supervision of a professional as defined in s. 394.455(2), (4), (26), (29), or (30) ~~(21), (23), or (24)~~ or a professional licensed under



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chapter 491.

The department shall adopt by rule statewide standards for mental health assessments, which must be based on current relevant professional and accreditation standards.

Section 5. Subsection (6) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(6) A professional as defined in s. 394.455(2), (4), (26), (29), or (30) ~~(21), (23), or (24)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 6. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "receiving facility," "addictions receiving facility," and "detoxification services," ~~"addictions receiving facility," and "receiving facility"~~ have the same meanings as ~~those~~ provided in ss. 394.455(32), 397.311(18)(a)1., and 397.311(18)(a)4., ~~397.311(18)(a)1., and 394.455(26),~~ respectively.

Section 7. Paragraph (b) of subsection (2) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(2) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment



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facilities operated through the Department of Juvenile Justice
or mental health treatment facilities as defined in s.
394.455(39) ~~by s. 394.455(32).~~

Section 8. Subsection (7) of section 744.704, Florida
Statutes, is amended to read:

744.704 Powers and duties.—

(7) A public guardian shall not commit a ward to a mental
health treatment facility, as defined in ~~s.~~ 394.455(39)

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

And the title is amended as follows:

Delete lines 6 - 7

and insert:

394.463, F.S.; authorizing physician assistants to
initiate

By Senator Braynon

36-01038A-14

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A bill to be entitled

An act relating to involuntary examinations under the Baker Act; reordering and amending s. 394.455, F.S.; providing definitions; updating references to the Department of Children and Families; amending s. 394.463, F.S.; authorizing physician assistants and advanced registered nurse practitioners to initiate involuntary examinations under the Baker Act of persons believed to have mental illness; amending ss. 39.407, 394.495, 394.496, 394.9085, 409.972, and 744.704, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 394.455, Florida Statutes, is reordered and amended to read:

394.455 Definitions.—As used in this part, ~~unless the context clearly requires otherwise~~, the term:

(1) "Administrator" means the chief administrative officer of a receiving or treatment facility or his or her designee.

(2) "Advanced registered nurse practitioner" means a practitioner licensed under part I of chapter 464 who is authorized to perform the functions listed in s. 464.012(4)(c).

(3)(2) "Clinical psychologist" means a psychologist as defined in s. 490.003(7) with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans

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

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Affairs that qualifies as a receiving or treatment facility under this part.

(4)(3) "Clinical record" means all parts of the record required to be maintained and includes all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by a facility which pertains to the patient's hospitalization or treatment.

(5)(4) "Clinical social worker" means a person licensed as a clinical social worker under chapter 491.

(6)(5) "Community facility" means any community service provider contracting with the department to furnish substance abuse or mental health services under part IV of this chapter.

(7)(6) "Community mental health center or clinic" means a publicly funded, not-for-profit center which contracts with the department for the provision of inpatient, outpatient, day treatment, or emergency services.

(8)(7) "Court," unless otherwise specified, means the circuit court.

(9)(8) "Department" means the Department of Children and Families ~~Family Services~~.

(11)(9) "Express and informed consent" means consent voluntarily given in writing, by a competent person, after sufficient explanation and disclosure of the subject matter involved to enable the person to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(12)(10) "Facility" means any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment,

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59 training, or hospitalization of persons who appear to have a
60 mental illness or have been diagnosed as having a mental
61 illness. ~~The term "Facility"~~ does not include any program or
62 entity licensed pursuant to chapter 400 or chapter 429.

63 ~~(13)-(11)~~ "Guardian" means the natural guardian of a minor,
64 or a person appointed by a court to act on behalf of a ward's
65 person if the ward is a minor or has been adjudicated
66 incapacitated.

67 ~~(14)-(12)~~ "Guardian advocate" means a person appointed by a
68 court to make decisions regarding mental health treatment on
69 behalf of a patient who has been found incompetent to consent to
70 treatment pursuant to this part. The guardian advocate may be
71 granted specific additional powers by written order of the
72 court, as provided in this part.

73 ~~(15)-(13)~~ "Hospital" means a facility as defined in s.
74 395.002 and licensed under chapter 395 and part II of chapter
75 408.

76 ~~(16)-(14)~~ "Incapacitated" means that a person has been
77 adjudicated incapacitated pursuant to part V of chapter 744 and
78 a guardian of the person has been appointed.

79 ~~(17)-(15)~~ "Incompetent to consent to treatment" means that a
80 person's judgment is so affected by his or her mental illness
81 that the person lacks the capacity to make a well-reasoned,
82 willful, and knowing decision concerning his or her medical or
83 mental health treatment.

84 ~~(20)-(16)~~ "Law enforcement officer" means a law enforcement
85 officer as defined in s. 943.10.

86 ~~(23)-(17)~~ "Mental health overlay program" means a mobile
87 service which provides an independent examination for voluntary

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88 admissions and a range of supplemental onsite services to
89 persons with a mental illness in a residential setting such as a
90 nursing home, assisted living facility, adult family-care home,
91 or nonresidential setting such as an adult day care center.
92 Independent examinations provided pursuant to this part through
93 a mental health overlay program must only be provided under
94 contract with the department for this service or be attached to
95 a public receiving facility that is also a community mental
96 health center.

97 ~~(24)-(18)~~ "Mental illness" means an impairment of the mental
98 or emotional processes that exercise conscious control of one's
99 actions or of the ability to perceive or understand reality,
100 which impairment substantially interferes with the person's
101 ability to meet the ordinary demands of living. For the purposes
102 of this part, the term does not include a developmental
103 disability as defined in chapter 393, intoxication, or
104 conditions manifested only by antisocial behavior or substance
105 abuse impairment.

106 ~~(25)-(19)~~ "Mobile crisis response service" means a
107 nonresidential crisis service attached to a public receiving
108 facility and available 24 hours a day, 7 days a week, through
109 which immediate intensive assessments and interventions,
110 including screening for admission into a receiving facility,
111 take place for the purpose of identifying appropriate treatment
112 services.

113 ~~(26)-(20)~~ "Patient" means any person who is held or accepted
114 for mental health treatment.

115 ~~(27)-(21)~~ "Physician" means a medical practitioner licensed
116 under chapter 458 or chapter 459 who has experience in the

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diagnosis and treatment of mental and nervous disorders or a physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility under this part.

(28) "Physician assistant" means a physician assistant licensed under chapter 458 or chapter 459 who has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks as are within the supervising physician's scope of practice.

(29)~~(22)~~ "Private facility" means any hospital or facility operated by a for-profit or not-for-profit corporation or association that provides mental health services and is not a public facility.

(30)~~(23)~~ "Psychiatric nurse" means a registered nurse licensed under part I of chapter 464 who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.

(31)~~(24)~~ "Psychiatrist" means a medical practitioner licensed under chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency.

(32)~~(25)~~ "Public facility" means any facility that has contracted with the department to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.

(33)~~(26)~~ "Receiving facility" means any public or private facility designated by the department to receive and hold involuntary patients under emergency conditions or for

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psychiatric evaluation and to provide short-term treatment. The term does not include a county jail.

(34)~~(27)~~ "Representative" means a person selected to receive notice of proceedings during the time a patient is held in or admitted to a receiving or treatment facility.

(35)~~(28)~~ (a) "Restraint" means a physical device, method, or drug used to control behavior. A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to the individual's body so that he or she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body.

(b) A drug used as a restraint is a medication used to control the person's behavior or to restrict his or her freedom of movement and is not part of the standard treatment regimen of a person with a diagnosed mental illness who is a client of the department. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding when necessary for routine physical examinations and tests; or for purposes of orthopedic, surgical, or other similar medical treatment; when used to provide support for the achievement of functional body position or proper balance; or when used to protect a person from falling out of bed.

(36)~~(29)~~ "Seclusion" means the physical segregation of a person in any fashion or involuntary isolation of a person in a room or area from which the person is prevented from leaving.

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The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For purposes of this chapter, the term does not mean isolation due to a person's medical condition or symptoms.

~~(37)-(30)~~ "Secretary" means the Secretary of Children and Families ~~Family Services~~.

~~(39)-(31)~~ "Transfer evaluation" means the process, as approved by the appropriate district office of the department, whereby a person who is being considered for placement in a state treatment facility is first evaluated for appropriateness of admission to the facility by a community-based public receiving facility or by a community mental health center or clinic if the public receiving facility is not a community mental health center or clinic.

~~(40)-(32)~~ "Treatment facility" means any state-owned, state-operated, or state-supported hospital, center, or clinic designated by the department for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the department when rendering such services to a person pursuant to the provisions of this part. Patients treated in facilities of the United States Government shall be solely those whose care is the responsibility of the United States Department of Veterans Affairs.

~~(38)-(33)~~ "Service provider" means any public or private receiving facility, an entity under contract with the Department of Children and Families ~~Family Services~~ to provide mental

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health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatric nurse as defined in subsection ~~(30)~~ ~~(23)~~, or a community mental health center or clinic as defined in this part.

~~(18)-(34)~~ "Involuntary examination" means an examination performed under s. 394.463 to determine if an individual qualifies for involuntary inpatient treatment under s. 394.467(1) or involuntary outpatient treatment under s. 394.4655(1).

~~(19)-(35)~~ "Involuntary placement" means either involuntary outpatient treatment pursuant to s. 394.4655 or involuntary inpatient treatment pursuant to s. 394.467.

~~(21)-(36)~~ "Marriage and family therapist" means a person licensed as a marriage and family therapist under chapter 491.

~~(22)-(37)~~ "Mental health counselor" means a person licensed as a mental health counselor under chapter 491.

~~(10)-(38)~~ "Electronic means" means a form of telecommunication that requires all parties to maintain visual as well as audio communication.

Section 2. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex

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 233 parte order for involuntary examination must be based on sworn
 234 testimony, written or oral. If other less restrictive means are
 235 not available, such as voluntary appearance for outpatient
 236 evaluation, a law enforcement officer, or other designated agent
 237 of the court, shall take the person into custody and deliver him
 238 or her to the nearest receiving facility for involuntary
 239 examination. The order of the court shall be made a part of the
 240 patient's clinical record. No fee shall be charged for the
 241 filing of an order under this subsection. Any receiving facility
 242 accepting the patient based on this order must send a copy of
 243 the order to the Agency for Health Care Administration on the
 244 next working day. The order shall be valid only until executed
 245 or, if not executed, for the period specified in the order
 246 itself. If no time limit is specified in the order, the order
 247 shall be valid for 7 days after the date that the order was
 248 signed.

249 2. A law enforcement officer shall take a person who
 250 appears to meet the criteria for involuntary examination into
 251 custody and deliver the person or have him or her delivered to
 252 the nearest receiving facility for examination. The officer
 253 shall execute a written report detailing the circumstances under
 254 which the person was taken into custody, and the report shall be
 255 made a part of the patient's clinical record. Any receiving
 256 facility accepting the patient based on this report must send a
 257 copy of the report to the Agency for Health Care Administration
 258 on the next working day.

259 3. A physician, physician assistant, clinical psychologist,
 260 psychiatric nurse, mental health counselor, marriage and family
 261 therapist, ~~or~~ clinical social worker, or advanced registered

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 262 nurse practitioner may execute a certificate stating that he or
 263 she has examined a person within the preceding 48 hours and
 264 finds that the person appears to meet the criteria for
 265 involuntary examination and stating the observations upon which
 266 that conclusion is based. If other less restrictive means are
 267 not available, such as voluntary appearance for outpatient
 268 evaluation, a law enforcement officer shall take the person
 269 named in the certificate into custody and deliver him or her to
 270 the nearest receiving facility for involuntary examination. The
 271 law enforcement officer shall execute a written report detailing
 272 the circumstances under which the person was taken into custody.
 273 The report and certificate shall be made a part of the patient's
 274 clinical record. Any receiving facility accepting the patient
 275 based on this certificate must send a copy of the certificate to
 276 the Agency for Health Care Administration on the next working
 277 day.

278 Section 3. Paragraph (a) of subsection (3) of section
 279 39.407, Florida Statutes, is amended to read:

280 39.407 Medical, psychiatric, and psychological examination
 281 and treatment of child; physical, mental, or substance abuse
 282 examination of person with or requesting child custody.—

283 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
 284 or paragraph (e), before the department provides psychotropic
 285 medications to a child in its custody, the prescribing physician
 286 shall attempt to obtain express and informed consent, as defined
 287 in s. 394.455 ~~394.455(9)~~ and as described in s. 394.459(3) (a),
 288 from the child's parent or legal guardian. The department must
 289 take steps necessary to facilitate the inclusion of the parent
 290 in the child's consultation with the physician. However, if the

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parental rights of the parent have been terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician all pertinent medical information known to the department concerning that child.

Section 4. Paragraphs (a) and (c) of subsection (3) of section 394.495, Florida Statutes, are amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(3), (5), (27), (30), or (31) ~~394.455(2), (4), (21), (23), or (24)~~;

(c) A person who is under the direct supervision of a professional as defined in s. 394.455(3), (5), (27), (30), or

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~~(31) 394.455(2), (4), (21), (23), or (24)~~ or a professional licensed under chapter 491.

The department shall adopt by rule statewide standards for mental health assessments, which must be based on current relevant professional and accreditation standards.

Section 5. Subsection (6) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(6) A professional as defined in s. 394.455(3), (5), (27), (30), or (31) ~~394.455(2), (4), (21), (23), or (24)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 6. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "receiving facility," "addictions receiving facility," and "detoxification services," ~~"addictions receiving facility," and "receiving facility"~~ have the same meanings as ~~those~~ provided in ss. 394.455(33), 397.311(18)(a)1., and 397.311(18)(a)4., ~~397.311(18)(a)1., and 394.455(26),~~ respectively.

Section 7. Paragraph (b) of subsection (2) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(2) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

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(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or mental health treatment facilities as defined by s. 394.455(40) ~~394.455(32)~~.

Section 8. Subsection (7) of section 744.704, Florida Statutes, is amended to read:

744.704 Powers and duties.—

(7) A public guardian shall not commit a ward to a mental health treatment facility, as defined in s. 394.455(40) ~~394.455(32)~~, without an involuntary placement proceeding as provided by law.

Section 9. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Health Policy

SENATOR OSCAR BRAYNON II

Democratic Whip
36th District

March 6, 2014

Senator Eleanor Sobel, Chair
Children, Families and Elder Affairs
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Sobel:

This letter is to request that **Senate Bill # 1544**, relating to *Involuntary Examinations under the Baker Act* be placed on the agenda of the next scheduled meeting of the committee.

SB 1544 Updating references to the Department of Children and Families; authorizing physician assistants and advanced registered nurse practitioners to initiate involuntary examinations under the Baker Act of persons believed to have mental illness, etc.

Thank you for consideration of this request.

Sincerely,

Senator Braynon
District 36

cc. Claude Hendon, Staff Director,
Lynn Wells, Committee Administrative Assistant, **Room 520K**

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MAR 03 2014

Senate Committee
Children and Families

REPLY TO:

- ☐ 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
- ☐ 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

didn't speak

4/8/14

Meeting Date

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

Topic Baker ActBill Number 1544Name Alisa LaPorteAmendment Barcode 200818
(if applicable)

Job Title _____

Address PO Box 1344Phone 443-1319

Street

City

TLH

State

Zip

32302E-mail Alisa@
GOtopSail.comSpeaking: ☐ For ☒ Against ☐ InformationRepresenting Florida Nurses AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

didn't speak

4/8/14

Meeting Date

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

Topic Involuntary ExaminationBill Number 1544Name Chris FloydAmendment Barcode 200818
(if applicable)Job Title ConsultantAddress 515 Danube AvePhone 813-624-5117

Street

City

Tampa

State

Zip

FL 33606E-mail Chris@CLFconsulting.comSpeaking: ☐ For ☒ Against ☐ InformationRepresenting Fla. Association of Nurse PractitionersAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1584

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Abruzzo

SUBJECT: Baker Act

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			JU	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1584 directs the Department of Children and Families (DCF) to create a work group to evaluate methods to improve the operational effectiveness of the Florida Mental Health Act (The Baker Act). The bill identifies the members of the workgroup and provides that a report be provided to the Secretary of DCF, the Secretary of the Agency for Health Care Administration, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2014.

The bill shall take effect upon becoming law and there is no fiscal impact.

II. Present Situation:

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities which provides an examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities providing examination and short-term treatment of persons who meet the criteria under The Baker Act.² Subsequent to examination at a receiving

¹ Chapter 71-131, s. 1, Laws of Florida

² Section 394.455(26), F.S.

facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.³

Section 394.463(1), F.S., provides that a person may be taken to a receiving facility for involuntary examination if the person is believed to be mentally ill and because of that mental illness: the person has refused voluntary examination or cannot determine for himself or herself whether examination is necessary; and, without care or treatment, the person is either likely to suffer from self-neglect, cause substantial harm to himself or herself, or be a danger to himself or herself or others.⁴

An involuntary examination may be initiated by a circuit court or a law enforcement officer.⁵ A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.

In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁶

- A physician licensed under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under Part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and two years of post-master's clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.⁷
- A clinical social worker licensed under ch. 491, F.S.⁸

³ Section 394.455(32), F.S.

⁴ Section 394.463(1), F.S.

⁵ Section 394.463(2)(a), F.S.

⁶ *Id.*

⁷ Section 491.003(8) Marriage and Family Therapists use practice methods of a psychological nature to evaluate, assess, diagnose, treat and prevent emotional and mental disorders or dysfunctions.

⁸ Section 491.003(3), F.S. Clinical Social Workers are required by law to have experience in providing psychotherapy and counseling.

In 2011, there were 150,466 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary exams (49.21 percent) followed by mental health professionals and physicians (48.73 percent) and then *ex parte* orders by judges (2.06 percent).⁹

III. Effect of Proposed Changes:

Section 1 directs DCF to convene a workgroup to evaluate methods to improve the operational effectiveness of Part I of ch. 394, F.S., the Florida Mental Health Act and recommend changes to existing laws, rules, and agency policies needed to implement the workgroup recommendations.

This section also provides that the workgroup should consist of 20 members from various stakeholder groups. Members of the workgroup shall be appointed by June 1, 2014, and the first meeting of the workgroup shall take place before July 1, 2014. The draft of its recommendations shall be reviewed by the group by September 1, 2014. A final report shall be provided to the Secretary of the Department of Children and Families, the Secretary of the Agency for Health Care Administration, the President of the Senate and the Speaker of the House of Representatives by November 1, 2014. The report must include the workgroup's findings and recommended statutory and administrative rule changes.

Section 2 provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁹ Department of Children and Families, *Florida's Baker Act: 2013 Fact Sheet*, available at <http://myflfamilies.com/service-programs/mental-health/baker-act-manual> (last visited April 3, 2014).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on April 8, 2014:

The Committee Substitute:

- Provides that two advanced registered nurse practitioners who are nationally certified in mental health are appointed to the workgroup. One shall be appointed by the Florida Association of Nurse Practitioners and one shall be appointed by the Florida Nurse Practitioner Network.
- Adds to the workgroup a psychologist licensed under ch. 490, F.S., appointed by the Florida Psychological Association.
- Adds to the workgroup a psychiatrist with experience in the Baker Act, appointed by the Florida Psychiatric Society.

B. Amendments:

None.



910360

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/08/2014	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 71 and 72
insert:

(o) A psychologist licensed under chapter 490, Florida Statutes, appointed by the Florida Psychological Association.

(p) A psychiatrist with experience in the Baker Act, appointed by the Florida Psychiatric Society.



745036

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2014	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (910360)

Delete lines 69 - 71
and insert:

(n) Two advanced registered nurse practitioners who are nationally certified in mental health, one appointed by the Florida Association of Nurse Practitioners and one appointed by the Florida Nurse Practitioner Network.

(o) A psychologist licensed under chapter 490, Florida Statutes, appointed by the Florida Psychological Association.



745036

11 (p) A psychiatrist with experience in the Baker Act,
12 appointed by the Florida Psychiatric Society.

By Senator Abruzzo

25-00495E-14

20141584__

A bill to be entitled

An act relating to the Baker Act; requiring the Department of Children and Families to create a work group to provide recommendations relating to revision of the Baker Act; requiring the work group to make recommendations on specified topics; providing for membership of the work group; providing for meetings; requiring the work group to meet by a specified date; requiring a review of draft recommendations by a specified date; requiring the work group to submit a report to specified entities and the Legislature by a specified date; providing an effective date.

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

Section 1. Work group to improve operational effectiveness of the Baker Act.—The Department of Children and Families shall create a work group to evaluate methods to improve the operational effectiveness of the Baker Act and recommend changes to existing laws, rules, and agency policies needed to implement the work group's recommendations.

(1) At a minimum, the work group shall evaluate and make recommendations on the following:

(a) The timeframe for initial assessment, including whether the timeframe should be lengthened.

(b) The use of advanced registered nurse practitioners to rescind Baker Act commitments.

(c) The use of telemedicine for patient evaluation, case management, and ongoing care and the recommendation by the

25-00495E-14

20141584__

courts on the use of telemedicine to improve management of patient care and to reduce costs of transportation and public safety.

(d) The 7-day requirement for followup care and its applicability to outpatient providers.

(e) Other areas deemed by the work group to improve the operational effectiveness of the act.

(2) The work group shall consist of the following stakeholders:

(a) A representative of the Department of Children and Families, appointed by the department, who shall serve as chair.

(b) Two representatives of public receiving facilities and two representatives of specialty hospitals, appointed by the Florida Hospital Association.

(c) Two representatives of crisis stabilization units, appointed by the Department of Children and Families.

(d) A representative of law enforcement agencies, appointed by the Florida Sheriffs Association.

(e) A member of the judiciary who regularly evaluates Baker Act cases, appointed by the Florida Supreme Court.

(f) A public defender, appointed by the Florida Public Defender Association.

(g) A state attorney, appointed by the Florida Prosecuting Attorneys Association.

(h) A physician who provides care in a Baker Act receiving facility, appointed by the Florida Medical Association.

(i) A physician who regularly screens patients who meet the Baker Act criteria, appointed by the Florida College of Emergency Physicians.

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20141584

59 (j) A representative from a managing entity, appointed by
60 the Department of Children and Families.

61 (k) A representative of the Agency for Health Care
62 Administration, appointed by the agency.

63 (l) Two representatives of the Florida Council for
64 Community Mental Health, appointed by the council.

65 (m) An advanced registered nurse practitioner who works in
66 a Baker Act receiving facility and who treats patients who meet
67 the Baker Act criteria, appointed by the Florida Nurses
68 Association.

69 (n) Two advanced registered nurse practitioners who are
70 nationally certified in mental health, appointed by the Florida
71 Association of Nurse Practitioners.

72 (3) The work group shall meet in Tallahassee and shall
73 determine the frequency of its meetings. Individual work group
74 members are responsible for their travel expenses.

75 (4) Members of the work group shall be appointed by June 1,
76 2014, and the first meeting of the work group shall take place
77 before July 1, 2014. The work group shall review a draft of its
78 recommendations before September 1, 2014. By November 1, 2014,
79 the work group shall provide a final report to the Secretary of
80 Children and Families, the Secretary of the Agency for Health
81 Care Administration, the President of the Senate, and the
82 Speaker of the House of Representatives. The report must include
83 the work group's findings and recommended statutory and
84 administrative rule changes.

85 Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 12th, 2014

The Honorable Eleanor Sobel
The Florida Senate
520 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Madam Chair Sobel:

I respectfully request that Senate Bill 1584, relating to the Baker Act, be placed on the Children, Families, and Elder Affairs Committee agenda. This legislation will create a work group to provide recommendations relating to revisions of the Baker Act.

Thank you for your consideration. Please let me know if I can provide further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Abruzzo".

Senator Joseph Abruzzo

cc: Claude Hendon, Staff Director

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MAR 12 2014

Senate Committee
Children and Families

REPLY TO:

- ☐ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- ☐ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Baker ActBill Number 1584Name Aimee Diaz LyonAmendment Barcode 745036
(if applicable)

Job Title _____

Address 215 South Monroe StreetPhone 850-205-9006Street
Tallahassee FL 32301
City State ZipE-mail aimee.diazlyon@meklaw.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting Florida Psychiatric SocietyAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Baker Act Task ForceBill Number 1584
(if applicable)Name Alisa LaPolitAmendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1344Phone 443-1319Street
TLH 32302
City State ZipE-mail Alisa@
Go4opsail.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting Florida Nurses AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/20/11)

speaking on the amendment

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Baker Act Bill Number 1584
Name Chris Floyd Amendment Barcode _____
Job Title consultant (if applicable)
Address 515 Danube Ave Phone 813-624-5117
Street Tampa FL 33606 E-mail Chris@CLFconsulting.com
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing Fla Association of Nurse Practitioners
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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic _____ Bill Number SB1584
Name Rich Rasmussen Amendment Barcode _____
Job Title V.P. (if applicable)
Address 306 East College Ave Phone 850-222-9800
Street Tall FL 32301 E-mail Rich@FNA.org
City State Zip
Speaking: ☐ For ☐ Against ☐ Information
Representing Waive in Support of Bill
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)



Update on Implementation of the Independent Living Program

April 8, 2014

Brief History and Background

Privatization of Service Delivery

- Community-Based Care (1998)

Federal Law

- The Chafee Foster Care Independence Act (1999)

State Law

- Road to Independence Act (2002)
- Nancy C. Detert Common Sense and Compassion Independent Living Act (2013)



FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES
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Youth in Foster Care: “Invest in us”

“I wish for something I cannot buy. To not feel alienated. To know I’m not alone in this world.” – Cole

“I’m going to be out there on my own...Quite frankly, I’m scared, but hopefully, things will turn out great for me...This bill is a catalyst for kids like me. It allows us to grow as human beings. It allows us a chance to grow into better members of society.” – M.G.

“My high school English teacher asked me, ‘Where will you live?’ I have no idea...Invest in us, and help us achieve the dreams we all have.” - Otto



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MYFLFAMILIES.COM



“It will be great for our youth to receive support after age 18. It will lessen the likelihood of them becoming homeless and help them grow into successful adults.”

-Laurie, Case Manager,
Eckerd Community Alternatives



“Most 18-year-olds are not ready to be on their own. But if they do decide to leave care and things get tough, they can still come back and have a home!”

-Kimberly,
Foster Parent



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OF CHILDREN AND FAMILIES
MYFLFAMILIES.COM

Implementation of New Law – Enrollment January-February 2014

- 164** Young Adults in Extended Foster Care
- 602** Young Adults enrolled in college/university, receiving Postsecondary Education Services and Support



Percentage of Young Adults Entering Extended Foster Care Within 30 Days of Turning 18 January-February 2014



Data Sources: Florida Department of Children and Families, Office of Child Child Welfare, Child Welfare Services Trend Report and 4-3-14 Ad-hoc survey of CBC service providers Note: CBC of Central Florida and Families First Network are excluded from this data.



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Implementation of New Law - Policy

Florida Administrative Code

- Proposed 65C-41 (Extended Foster Care)
 - Workshops – September, October 2013
 - Public Comments
 - Submission to JAPC/OFARR
- Proposed 65C-42 (Postsecondary Education Services and Support)



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Implementation of New Law - Training

3 Quality Parenting Initiative videos on the new law:

- Independent Living

<http://centervideo.forest.usf.edu/qpi/iltraining/iltraining.html>

- Options for Youth 18+

<http://centervideo.forest.usf.edu/qpi/optsforyouth/optsforyouth.html>

- Life Skills

<http://centervideo.forest.usf.edu/qpi/lifeskillsfp/lifeskillsfp.html>



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Implementation of New Law - Training

Life Skills Training delivered:

Nutrition

- <http://centervideo.forest.usf.edu/qpi/nutrition/nutrition.html>

College Preparation

- <http://centervideo.forest.usf.edu/qpi/collegeadmissions/collegeadmissions.html>

Additional topics to be covered:

- Health care
- Employment
- Transportation



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- On-campus support on 8 of 11 state university campuses and 10 of 18 state college campuses
- Monthly Florida Reach conference call
- Monthly newsletter



**FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES**
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Implementation of New Law - Performance

Innovative practices

- Oasis Center - Palm Beach County
- FLITE Center - Broward County
- Tutoring grant - Duval County
- Recruitment of housing providers
- Community partnerships - Volusia, Flagler and Putnam counties
- GED Fast Track program - Orange, Osceola and Seminole counties
- Expansion grant - Marion County
- Community Living for At-Risk Student Success (CLASS) - Sarasota County



Let me tell you about...

- D.S. (Family Support Services of North Florida)
- Cassie (Big Bend CBC)
- C.M. (Partnership for Strong Families)
- Melissa (Family Integrity Program)
- Luella (Sarasota Family Y/Safe Children Coalition)
- Brandon (ChildNet)
- Vanessa (ChildNet)



Implementation of New Law - Opportunities

- Services for young adults with disabilities
- Rule Promulgation
- Statutory language
- Recruitment of additional foster homes and housing options



FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES
MYFLFAMILIES.COM

DCF.IndependentLiving@dcf.state.fl.us

www.myflfamilies.com/myfuture

QPIFlorida.com



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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)

4/8/14
Meeting DateTopic Extended Foster Care - Independent LivingBill Number _____
(if applicable)Name Emilio BenitezAmendment Barcode _____
(if applicable)Job Title President/CEO ChildNet, Inc.Address 313 N. St. Rd 7Phone 954-461-9249Plantation FL 33317
City State ZipE-mail EBENITEZ@CHILDNET.USpeaking: ☒ For ☐ Against ☒ InformationRepresenting ChildNetAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Prep to IndependenceBill Number _____
(if applicable)Name Ashley StubbinsAmendment Barcode _____
(if applicable)Job Title StudentAddress 1914 Mary AvePhone (813) 786-8530Tampa FL 33612
City State ZipE-mail Astubbins84@yahoo.comSpeaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Independent
Living

Meeting Date

Topic Extended Foster Care
Name Georgina Rodriguez
Job Title Florida Youth SHINE

Bill Number _____ (if applicable)

Amendment Barcode _____ (if applicable)

Address _____
Street _____
City _____ State _____ Zip _____

Phone _____

E-mail rodriguezg1991@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Independent
Living

4/8/14
Meeting Date

Topic Extended Foster Care
Name Christian Aguilar
Job Title Florida Youth Shine

Bill Number _____ (if applicable)

Amendment Barcode _____ (if applicable)

Address 14541 SW 58th Terr
Street _____
City Miami State FL Zip 33147

Phone 786-519-1733

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN
16th District

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation
Select Committee on Indian River Lagoon
and Lake Okeechobee Basin

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

April 7, 2014

The Honorable Eleanor Sobel, Chair
Senate Committee on Children, Families, and Elder Affairs
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RECEIVED

APR 07 2014

**Senate Committee
Children and Families**

Dear Chairwoman Sobel:

I respectfully request an excused absence for the Committee on Children, Families, and Elder Affairs meeting on Tuesday, April 8, 2014 at 10:00 am. Please contact me or my Legislative Assistants Rick Kendust or Selene Bruns if you have any questions.

Thank you for your consideration.

Sincerely,

Thad Altman

cc: Chris Clark, Senate President Chief of Staff, 409 The Capitol
Claude Hendon, Committee Staff Director, 520 Knott Building
Lynn Wells, Committee Administrative Assistant, 520 Knott Building

TA/svb

REPLY TO:

- ☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- ☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

**DCF Child Care Licensing / Florida Afterschool Standards (FAN) and Boys & Girls Clubs Standards
2013**

DCF Child Care Licensing	Florida Afterschool Standards (FAN)	Boys & Girls Clubs
Licensing Standards The Department shall establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility. The standards shall be designed to address the following areas: • The health, sanitation, safety, and adequate physical surrounding for all children in childcare. • The health and nutrition of all children in childcare. • The child development needs of all children in child care.	Standards- Administration and Organization • The program has a written mission statement that sets forth its philosophy and goals. • The program involves children and youth, families and staff to plan and implement suitable activities, which are consistent with the program's philosophy. • The program has established written goals that are measurable, aligned with the mission statement, and directed to achieve sustainability. • The program has established written family, staff and volunteer policies and procedures. • The program has established sound financial and business practices to ensure continued and sustained program operations. • The program collects written feedback through surveys, parent conferences, or other forms of communications. • The program has implemented a written evaluation system to determine whether mission and goals are being achieved. • The program has developed relationships	Standards-Administration and Organization • BGC has a written mission statement that sets forth its philosophy and goals. (BGC Mission Statement) • BGC involves children and youth, families and staff to plan and implement suitable activities, which are consistent with the program's philosophy. (BGCA/BGC Youth Program Model) • BGC has established written goals that are measurable, aligned with the mission statement, and directed to achieve sustainability. (BGCA/BGC Youth Program Model) • BGCBBC has established written staff and volunteer policies and procedures. (BGC Employee & Volunteer Handbooks) • BGC has established sound financial and business practices to ensure continued and sustained program operations. BGC has a Standard Operating Procedures Manual and annual Audited Financial Statements) • BGC collects written feedback through parent conferences, or other forms of

	with community and business leaders that ensure program engagement and sustainability.	communications. (BGC has parent orientations, surveys, fliers/mailings, monthly newsletters & family activities) • BGC has implemented a written evaluation system to determine whether mission and goals are being achieved. (BGCA developed a system of QA/QI assessment tools to evaluate its affiliates. Standard of Operational Effectiveness (SOE) is an all-embracing evaluative tool which is conducted every three years; Commitment to Quality (CTQ) assesses Clubs' operations and the Annual Report (ARS) is a quantitative assessment tool, both are completed annually. BGCBC also developed a Monthly Club Visit Form to review Clubs' operations. • BGC has relationships with community and business leaders that ensure program engagement and sustainability. (BGC has ongoing relationships with grantors, business and community leaders who visit the Clubs to observe programs)
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Personnel • Good moral character based on screening shall be conducted, using Level II standards of screening. • Minimum training requirements for child care personnel (credentials include a child development associate credential which is the successful completion of a 40 hour introductory course) and additional continuing education training). • The Department shall evaluate or contract for an evaluation for the general purpose of determining the status of means to improve staff training requirements and testing requirements and testing procedures. The evaluation shall be completed every two years and shall include, but not limited to, determining the availability, quality, scope, and sources of current staff training, determining the need for specialty training, and determining ways to increase in-service training and ways to increase the accessibility, quality and cost-effectiveness of current	Personnel- Program Management and Staff • The program has a system of documenting children and youth's daily arrival and departure. Policies shall include written departure authorization from parent(s) or guardian(s) and release of children and youth only to authorized persons. • Children and youth are supervised at all times. The Florida Afterschool Network (FAN) recognizes that staff to child ratios varies according to ages, abilities, and type and complexity of activities. FAN recommends the program has an overall direct service staff to child ratio that does not exceed one (1) adult for every twenty (20) children and youth at any time. • FAN recognizes the importance of well trained, knowledgeable staff when working with children and youth. FAN recommends the program establishes and implements an overall training plan based upon competencies and position classification. The training plan shall ensure staff participates in a minimum of fifteen (15) hours of relevant training per year. The program has written job	Personnel- Program Management and Staff • BGC has a system of documenting children and youth's daily arrival and departure. Policies shall include written departure authorization from parent(s) or guardian(s) and release of children and youth only to authorized persons. (BGC Safe Passage Policy) • Children and youth are supervised at all times. BGCA/BGC recognizes that staff to child ratios varies according to ages, abilities, and type and complexity of activities. BGCA/BGC recommends the program has an overall direct service staff to child ratio that does not exceed one (1) adult for every twenty (20) children and youth at any time. (BGCA/BGC Safe Space Practice) • BGCA/BGCBC recognizes the importance of well trained, knowledgeable staff when working with children and youth. Full-Time staff minimum qualification is a Bachelor Degree. BGCA/BGC establishes and implements an overall training plan based upon competencies and position classification. The training plan shall
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and proposed staff training. • Child care personnel shall be required to complete 0.5 continuing education unit of training or 5 hours of equivalent training, as determined by the Department. • Minimum standards for childcare ratios (for children 5 years of age and older, there must be one child care personnel for every 25 children).	descriptions, personnel policies, program policies, and a parent handbook. The program provides annual written evaluations for all staff. • The program has written documentation that all staff have received and been cleared through Level II screening as defined in s.435.04, Florida Statutes, and drug testing. The program has written documentation that all volunteers have received and been cleared through Level II screening as defined in s.435.04 Florida Statutes. • The program conducts monthly staff meetings with agendas and documented staff attendance.	ensure staff participates in relevant trainings per year. BGC has written job descriptions, personnel policies, program policies, and a parent handbook. BGC provides annual written evaluations for all staff. (BGC provides staff training for Full & Part staff annually via BGCA and in Broward County thru CSC). • BGC has written documentation that all staff have received and been cleared through Level II screening as defined in s.435.04, Florida Statutes, and drug testing. BGC has written documentation that all volunteers have received and been cleared through Level II screening as defined in s.435.04 Florida Statutes. • BGC conducts monthly staff meetings with agendas and documented staff attendance as well as Monthly Club visits.
Plan of Activities • Minimum standards shall ensure that each child care facility has and implemented a written plan	Plan of Activities-Communication and Interaction • Staff engages with all children and youth in positive and respectful ways through	Plan of Activities-Communication and Interaction • BGC staff engages with all children and youth in positive and respectful ways

for the daily supervision of varied activities and active and quiet play opportunities appropriate to the age of the child. • The Department shall establish by rule hours of operation, such as during rest period and transitional periods when applicable. • Minimum standards for child care discipline shall ensure constructive discipline practices are used for children in care.	listening, acceptance, and appreciation. Children and youth have opportunities to develop a sense of belonging. • As role models for children and youth, staff, engage other staff in an appropriate and professional manner. • Staff responds appropriately to the individual needs of children and youth, recognizing their special interests, feelings, abilities, and cultures. Staff understand, celebrate, and reflect diversity. • Staff communicates and reinforces clear limits and rules. Positive techniques are used to guide the behavior of children and youth by setting appropriate limits and encouraging children and youth to resolve their own conflicts. • Staff interacts with children and youth using various approaches to help them learn to think for themselves, develop problem solving skills, and improve language skills through frequent conversation. • Staff provides opportunities for children and youth, and families to interact with	through listening, acceptance, and appreciation. Children and youth have opportunities to develop a sense of belonging. BGCA/BGC Youth Program Model) • As role models for children and youth, BGC staff engages in an appropriate and professional manner. • BGC staff responds appropriately to the individual needs of children and youth, recognizing their special interests, feelings, abilities, and cultures. BGC staff understands, celebrates, and reflects diversity. • BGC staff communicates and reinforces clear limits and rules. Positive techniques are used to guide the behavior of children and youth by setting appropriate limits and encouraging children and youth to resolve their own conflicts. (BGC Members' Responsibilities) • BGC staff interacts with children and youth using various approaches to help them learn to think for themselves, develop problem solving skills, and
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	each other in positive ways. • Program administration communicates appropriately with all supervisory and direct service staff.	improve language skills through frequent conversation. • BGC staff provides opportunities for children and youth, and families to interact with each other in positive ways. (BGC Parent Handbook) • BGCBC administration communicates appropriately with all supervisory and direct service staff. (BGC Club Operations, Monthly Staff Meetings & Monthly Club Visits)
Program Structure and Activities Same as Plan of Activities	Program Structure and Activities • The program offers developmentally appropriate activities that reflect the mission and goals of the program. • The program posts a daily schedule that is flexible, enabling children and youth to transition smoothly from one activity to another. • The program provides a variety of indoor and outdoor activities for children and youth to choose from, which provides social, recreational, and educational opportunities. • The programs offers enrichment opportunities in core academic areas as	Program Structure and Activities • BGC offers developmentally appropriate activities that reflect the mission and goals of the program. (BGCA/BGC Youth Program Model) • BGCBC posts a daily schedule that is flexible, enabling children and youth to transition smoothly from one activity to another. (BGCA/BGC Club Operations) • BGC provides a variety of indoor and outdoor activities for children and youth to choose from, which provides social, recreational, and educational opportunities. (BGCA/BGC Club Operations)

	well as in cultural arts and technology • The program offers scheduled time in an appropriate environment for academic support or homework assistance. • The program provides planned daily recreation, sports, or fitness activities. • The program includes a sufficient amount of materials and equipment that are developmentally appropriate, accessible, and in good working order. • The program makes reasonable accommodations to the program environment and schedule so that children and youth with special needs may participate. • When on field trips, all precautions are taken to ensure the safety of children and youth including additional staff supervision as necessary. The program has written policies and procedures to transport children safely; it complies with all legal requirements for vehicles and drivers.	• BGC programs offer enrichment opportunities in core academic areas as well as in cultural arts and technology. (BGCA/BGC Club Operations) • BGC offers scheduled time in an appropriate environment for academic support or homework assistance. (BGCA/BGC Club Operations) • BGCBC provides planned daily recreation, sports, or fitness activities. (BGCA/BGC Club Operations) • BGCBC includes a sufficient amount of materials and equipment that are developmentally appropriate, accessible, and in good working order. (BGCA/BGC Club Operations) • BGC makes reasonable accommodations to the program environment and schedule so that children and youth with special needs may participate. (BGCA/BGCBC Club Membership) • When on field trips, all precautions are taken to ensure the safety of children and youth including additional staff supervision as necessary. BGCBC has written policies and procedures to
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Nutritional Practices • Minimum standards shall include requirements for the provision of meals or snacks of a quality and quantity to ensure that the nutritional needs of the child are met. • Minimum standards shall include requirements for preadmissions and periodic health examinations, requirements of immunizations and requirements for maintaining emergency information and health records on all children. • During the months of August and September of each year, each child care facility shall provide parents of children enrolled in the facility detailed information regarding the causes symptoms, and transmission of the influenza virus.	Nutritional Practices- Health, Safety and Nutrition • The program has written health, safety, and nutrition policies available to families. • The program has a written and accessible emergency management plan, which includes up-to-date contract information. • The program has staff certified in CPR and First Aid available and accessible to the children and youth at all times. • The program shall have a written medical policy, which include at a minimum, a plan to ensure medication is provided in the original container, maintained in appropriate storage, and dispensed as prescribed by a physician with parent(s) written authorization. • Children and youth are separated at the first sign of illness and supervised by staff who takes proper health precautions. Parents are notified when appropriate. • The program implements daily safety inspections and has procedures in place	transport children safely; it complies with all legal requirements for vehicles and drivers (BGCA/BGC Club Operations & Safe Space Practice) Nutritional Practices-Health, Safety and Nutrition • BGC has written health, safety, and nutrition policies available to families. (BGCA/BGC Youth Program Model) • BGC has a written and accessible emergency management plan, which includes up-to-date contract information. (BGC Emergency Handbook, updated annually and approved by the Board Chairman) • BGC has staff certified in CPR and First Aid available and accessible to the children and youth at all times. BGC Club Operations Practice) • BGCA/BGC does not dispense medication to members. (BGC Club Operations Practice) • Children and youth are separated at the first sign of illness and supervised by staff who takes proper health precautions. Parents are notified when appropriate. (BGC Club Operations
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	for dealing with hazardous conditions and equipment. Hazards are remedied in an appropriate time. • Staff model, teach, and promote proper health, nutrition, safety, and hygiene practices. Frequent hand washing is encouraged, especially after using the bathroom and immediately prior to snacks and meals. • The program encourages healthy food options. Drinking water is readily available at all times.	Practice) • BGC implements daily safety inspections and has procedures in place for dealing with hazardous conditions and equipment. Hazards are remedied in an appropriate time. Health Inspectors from the Department of Health monitor each Club (12 total) for health and safety compliance during the summer for the Summer Food Service (twice) and during the school year for the Snack & Supper Program (quarterly). In addition, monitors from the Summer Food and Snack & Supper Program also monitor the programs for health & safety compliance • BGC staff model, teach, and promote proper health, nutrition, safety, and hygiene practices. Frequent hand washing is encouraged, especially after using the bathroom and immediately prior to snacks and meals. (BGC Club Operations Practice via the Department of Health annual trainings) • BGC encourages healthy food options. Drinking water is readily available at all times. (BGC Club Operations and DOE
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		& DOH Programs)
Program Environment The child care that holds a valid license on October 1, 1992 must have a minimum of 20 square feet of usable floor space for each child and a minimum of 45 square feet of usable outdoor play area for each child. For those child care facilities without a valid license before October 1, 1992, they must have a minimum of 35 square feet of usable floor space for each child and 45 square feet of usable space for outdoor play.	Program Environment - The program environment provides dedicated usable space for all activities during hours of operation. - The space is arranged so the variety of social, recreational, and educational activities can go on at the time without much disruption. - There is adequate and convenient storage for equipment, materials, and personal possessions of children and youth and staff.	Program Environment - BGC environment provides dedicated usable space for all activities during hours of operation. (BGCA/BGC Safe Space Practice; also, BGCA audited BGC during the summer of 2013 for Safety Compliance) - BGC Club space is arranged so the variety of social, recreational, and educational activities can go on at the time without much disruption. (BGCA/BGC Safe Space Practice) - There is adequate and convenient storage at BGC Clubs for equipment, materials, and personal possessions of children and youth and staff. (BGCA/BGC Safe Space Practice)
Family and Community Involvement Not specified in Licensing Standards	Family and Community Involvement - The program develops, implements, and maintains a current plan for family involvement. The plan includes regularly scheduled activities, so parents may participate as appropriate. - Family participation is welcomed within	Family and Community Involvement BGC develops, implements, and maintains a current plan for family involvement. The plan includes regularly scheduled activities, so parents may participate as appropriate. (BGCA/BGC Parent Handbook)

	established visitation guidelines. The program supports families by connecting them with community resources through information sharing. • The program provides newsletters, notes, and/or bulletin boards to share and communicate information.	• Family participation is welcomed within established visitation guidelines. BGC supports families by connecting them with community resources through information sharing. BGC provide community information (211) for families). • BGC provides newsletters, notes, and/or bulletin boards to share and communicate information.
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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)

4/8/14
Meeting Date

Topic CHILD ABUSE & SERVICES CHILD WELFARE

Bill Number SB-1666
(if applicable)

Name FABIO A. NARANJO

Amendment Barcode _____
(if applicable)

Job Title PROFESSOR

Address 11300 NE 2ND AVENUE

Phone (305) 899-3939

MIAMI SHORES, FL 3
City State Zip

E-mail fnaranjo@barry.ed

Speaking: ☒ For ☐ Against ☐ Information

Representing BARRY UNIVERSITY

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Children, Families, and Elder Affairs

Type:
Judge:

Started: 4/8/2014 10:02:00 AM
Ends: 4/8/2014 11:00:18 AM **Length:** 00:58:19

10:02:01 AM Meeting called to order
10:02:10 AM Roll call
10:02:42 AM Chair Sobel's opening comments and excuses Sen. Altman from today's meeting
10:02:55 AM Chair Sobel motion to TP Tab 4 - SB 1544, Involuntary Examinations Under the Baker Act
10:03:14 AM Chair Sobel welcomes Social Workers
10:03:53 AM Testimony by Fabio A. Naranjo, Barry University/Social Work Dept.
10:05:34 AM (Tab 1) - CS/SB 104 - Family Law
10:05:52 AM Sen. Soto explains the bill
10:06:39 AM Chair Sobel asks for questions/testimony
10:06:47 AM Eric Maclure, State Courts System, waives in support
10:07:08 AM Sen. Soto closes on bill
10:07:17 AM Roll call on CS/SB 104
10:07:33 AM Show bill passing
10:07:39 AM (Tab 5) SB 1584 - Baker Act
10:08:00 AM Sen. Abruzzo explains the bill
10:08:13 AM Substitute AM Barcode 745036 is explained by Sen. Abruzzo
10:08:50 AM Chair Sobel asks for questions, testimony
10:08:59 AM Aimee Diaz Lyon, FL. Psychiatric Society, waives in support
10:09:19 AM AM Barcode 745036 is adopted
10:09:38 AM Sen. Abruzzo closes on the bill
10:10:13 AM Sen. Hays moves the bill as a Committee Substitute
10:10:23 AM Roll call on SB 1584
10:10:34 AM Show bill passing
10:10:37 AM Sen. Dean makes motion to be recorded voting favorably on CS/SB 104
10:11:03 AM (Tab 2) SB 1040 - Restitution for Juvenile Offenses
10:11:21 AM Sen. Detert explains the bill
10:12:15 AM Question by Sen. Thompson
10:12:34 AM Sen. Detert responds
10:12:56 AM Question by Sen. Hays
10:13:13 AM Sen. Detert responds
10:13:38 AM Follow-up question by Sen. Hays
10:14:03 AM Sen. Detert responds
10:14:16 AM Chair Sobel comments
10:15:07 AM Sen. Detert responds
10:15:20 AM Chair Sobel asks for debate
10:15:25 AM Sen. Detert waives close
10:15:29 AM Roll call on SB 1040
10:15:44 AM Show bill passing
10:15:54 AM (Tab 3) SB 1424 - Regulation of Summer Camps
10:16:09 AM Sen. Clemens explains the bill
10:17:05 AM Strike-all AM Barcode 392978 is introduced and explained by Sen. Clemens
10:17:59 AM Chair Sobel asks for questions, testimony
10:18:17 AM Testimony by Jack Cory, Boys and Girls Club
10:20:42 AM Question by Sen. Detert
10:21:38 AM Mr. Cory responds
10:21:42 AM Question by Sen. Detert
10:22:00 AM Sen. Clemens responds
10:22:13 AM Follow-up question by Sen. Detert
10:22:20 AM Sen. Clemens responds
10:23:41 AM Sen. Braynon comments in debate
10:24:39 AM Sen. Dean comments in debate
10:25:50 AM Sen. Clemens responds

10:26:55 AM	Sen. Hays comments
10:28:23 AM	Sen. Detert comments in debate
10:30:18 AM	Sen. Diaz de la Portilla comments
10:30:53 AM	AM Barcode 392978 is adopted
10:31:52 AM	Paula McCleave, Teacher, waives in support
10:32:52 AM	Testimony by Jack Cory, Boys and Girls Club
10:34:04 AM	Sen. Clemens closes on the bill
10:35:40 AM	Sen. Grimsley moves the bill as a committee substitute
10:35:48 AM	Roll call on SB 1424
10:36:01 AM	Show bill passing
10:36:07 AM	Sen. Diaz de la Portilla makes motion to be recorded voting favorably on CS/SB 104, SB 1584, and SB 1040
10:36:20 AM	(Tab 6) Update on Implementation of the Independent Living Program
10:36:56 AM	Presentation by Stephen Pennypacker, Assistant Secretary for Programs, Department of Children and Families
10:43:03 AM	Question by Chair Sobel
10:43:10 AM	Mr. Pennypacker responds
10:43:45 AM	Follow-up question by Chair Sobel
10:43:52 AM	Mr. Pennypacker responds
10:45:11 AM	Question by Sen. Detert
10:45:48 AM	Mr. Pennypacker responds
10:46:44 AM	Follow-up question by Sen. Detert
10:47:03 AM	Mr. Pennypacker responds
10:48:50 AM	Question by Chair Sobel
10:49:50 AM	Mr. Pennypacker responds
10:54:09 AM	Testimony by Christian Aguilar, Florida Youth Shine
10:57:30 AM	Testimony by Georgina Rodriguez, Florida Youth SHINE
10:59:46 AM	Sen. Hays moves to rise