

SB 1666 by CF (CO-INTRODUCERS) Sobel; (Compare to H 0431) Child Abuse and Child Welfare Services

915192	D	S	RCS	AHS, Sobel	Delete everything after	04/06 12:32 PM
879306	AA	S	RS	AHS, Grimsley	Delete L.743:	04/06 12:32 PM
456776	SA	S L	RCS	AHS, Grimsley	Delete L.743:	04/06 12:32 PM
575546	AA	S	RCS	AHS, Grimsley	Delete L.886:	04/06 12:32 PM
251198	AA	S	RCS	AHS, Grimsley	btw L.1482 - 1483:	04/06 12:32 PM
960672	AA	S L	RCS	AHS, Grimsley	Delete L.221 - 236:	04/06 12:32 PM
241332	AA	S L	RCS	AHS, Grimsley	Delete L.2132 - 2136:	04/06 12:32 PM

SB 1668 by CF (CO-INTRODUCERS) Detert, Lee; (Compare to H 1221) Child Welfare

SB 1670 by CF (CO-INTRODUCERS) Grimsley; (Compare to H 7169) Medically Complex Children

SB 734 by Sobel (CO-INTRODUCERS) Abruzzo; (Similar to CS/CS/H 0511) Cancer Control and Research

657682	D	S	RCS	AHS, Sobel	Delete everything after	04/06 12:37 PM
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CS/SB 1122 by HP, Bean (CO-INTRODUCERS) Gibson, Bradley, Galvano; (Similar to CS/CS/H 1131) Emergency Allergy Treatment

434510	A	S L	RCS	AHS, Bean	Delete L.145 - 170:	04/06 12:41 PM
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CS/CS/SB 268 by CF, HP, Grimsley (CO-INTRODUCERS) Diaz de la Portilla; (Similar to CS/CS/H 0287) Certificates of Need

CS/SB 694 by GO, Garcia (CO-INTRODUCERS) Flores; (Identical to CS/H 0437) Diabetes Advisory Council

CS/SB 662 by RI, HP; (Similar to CS/H 7077) Nonresident Sterile Compounding Permits

CS/SB 1082 by CF, Legg; (Similar to H 0935) Adult Day Care Centers

CS/SB 782 by GO, Brandes; (Similar to CS/H 1231) Government Data Practices

975000	A	S	RCS	AHS, Benacquisto	Delete L.160 - 163:	04/06 12:52 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND
HUMAN SERVICES
Senator Grimsley, Chair
Senator Flores, Vice Chair

MEETING DATE: Wednesday, April 2, 2014
TIME: 1:00 —3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Grimsley, Chair; Senator Flores, Vice Chair; Senators Bean, Benacquisto, Galvano, Garcia, Gibson, Lee, Montford, Richter, Smith, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1666 Children, Families, and Elder Affairs (Compare H 431, H 7169, S 1302)	Child Abuse and Child Welfare Services; Requiring the secretary of the Department of Children and Families to appoint an Assistant Secretary for Child Welfare; providing requirements for such position; providing education requirements for child protective investigators and child protective investigation supervisors; establishing a tuition exemption program and a student loan forgiveness program for child protective investigators and supervisors; establishing the Florida Institute for Child Welfare; repealing provisions relating to the Florida Child Welfare Student Loan Forgiveness Program; repealing provisions relating to partnerships to develop child protective investigation workers, etc. AHS 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 1
2	SB 1668 Children, Families, and Elder Affairs (Compare H 1221, H 1345, H 7169, CS/S 744, S 770, S 960)	Child Welfare; Requiring the Department of Children and Families to conduct specified investigations using critical incident rapid response teams; authorizing access to specified records in the event of the death of a child which was reported to the department's child abuse hotline; requiring the department to make a reasonable effort to keep siblings together when they are placed in out-of-home care under certain circumstances; requiring a petition for the termination of parental rights to be signed under oath stating the petitioner's good faith in filing the petition, etc. AHS 04/02/2014 Temporarily Postponed AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on Health and Human Services
Wednesday, April 2, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1670 Children, Families, and Elder Affairs (Compare H 7169, CS/S 1254, S 2512)	Medically Complex Children; Providing requirements for a child protection team that evaluates a report of medical neglect and assesses the health care needs of a medically complex child; revising provisions relating to the cost of services; requiring the Department of Children and Families to work with the Department of Health and the Agency for Health Care Administration to care for medically complex children; allowing the Department of Children and Families to place children in a medical foster home; requiring Medicaid managed care plans to provide specified information on children under the care of the Department of Children and Families, etc. AHS 04/02/2014 Temporarily Postponed AP	Temporarily Postponed
4	SB 734 Sobel (Similar CS/CS/H 511)	Cancer Control and Research; Revising the membership of the Florida Cancer Control and Research Advisory Council; requiring a statewide research plan; deleting the duties of the council, Board of Governors, and State Surgeon General relating to the awarding of grants and contracts for cancer-related programs; deleting council duties relating to the development of written summaries of treatment alternatives; deleting financial aid provisions and the Florida Cancer Control and Research Fund, etc. HP 03/11/2014 Favorable AHS 04/02/2014 Fav/CS AP	Fav/CS Yeas 13 Nays 0
5	CS/SB 1122 Health Policy / Bean (Similar CS/CS/H 1131)	Emergency Allergy Treatment; Expanding provisions to apply to all emergency allergy reactions, rather than to insect bites only; authorizing certain health care practitioners to prescribe epinephrine auto-injectors to an authorized entity; authorizing such entities to maintain a supply of epinephrine auto-injectors; authorizing certified individuals to use epinephrine auto-injectors; authorizing uncertified individuals to use epinephrine auto-injectors under certain circumstances; providing immunity from liability, etc. HP 03/11/2014 Fav/CS AHS 04/02/2014 Fav/CS AP	Fav/CS Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on Health and Human Services
Wednesday, April 2, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/CS/SB 268 Children, Families, and Elder Affairs / Health Policy / Grimsley (Similar CS/CS/H 287)	Certificates of Need; Decreasing the subdistrict average occupancy rate that the Agency for Health Care Administration is required to maintain as a goal of its nursing-home-bed-need methodology; providing that, under certain circumstances, replacement of a nursing home and relocation of a portion of a nursing home's licensed beds to another facility, or to establish a new facility, is a health-care-related project subject to expedited review; repealing provisions relating to the moratorium on the approval of certificates of need for additional community nursing home beds, etc. HP 01/08/2014 Fav/CS CF 03/18/2014 Fav/CS AHS 04/02/2014 Favorable AP	Favorable Yeas 13 Nays 0
7	CS/SB 694 Governmental Oversight and Accountability / Garcia (Identical CS/H 437)	Diabetes Advisory Council; Requiring the council, in conjunction with the Department of Health, the Agency for Health Care Administration, and the Department of Management Services, to develop plans to manage, treat, and prevent diabetes; requiring a report to the Governor and Legislature; providing for contents of the report, etc. HP 02/18/2014 Favorable GO 03/13/2014 Fav/CS AHS 04/02/2014 Favorable AP	Favorable Yeas 13 Nays 0
8	CS/SB 662 Regulated Industries / Health Policy (Similar H 7077)	Nonresident Sterile Compounding Permits; Expanding penalties to apply to injury to a nonhuman animal; deleting a requirement that the Board of Pharmacy refer regulatory issues affecting a nonresident pharmacy to the state where the pharmacy is located; requiring registered nonresident pharmacies and outsourcing facilities to obtain a permit in order to ship, mail, deliver, or dispense compounded sterile products into this state; authorizing the department to inspect nonresident pharmacies and nonresident sterile compounding permittees, etc. RI 03/13/2014 Fav/CS AHS 04/02/2014 Favorable AP	Favorable Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on Health and Human Services
Wednesday, April 2, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 1082 Children, Families, and Elder Affairs / Legg (Similar H 935)	Adult Day Care Centers; Providing for operation of an adult day care center in a temporary location under certain conditions; authorizing the Agency for Health Care Administration to grant a conditional license to certain centers that relocate; revising a ground for agency action against the owner of a center or its operator or employee; authorizing the agency to issue a conditional license to a center that temporarily relocates; requiring a center to notify the agency before proceeding with building alterations under certain circumstances, etc. CF 03/18/2014 Fav/CS AHS 04/02/2014 Temporarily Postponed AP	Temporarily Postponed
10	CS/SB 782 Governmental Oversight and Accountability / Brandes (Similar CS/H 1231)	Government Data Practices; Requiring the Division of Library and Information Services of the Department of State to adopt rules providing procedures for an agency to establish schedules for the physical destruction or other disposal of records containing personal identification information; requiring an agency that collects and maintains personal identification information to post a privacy policy on the agency's website; requiring the Agency for Health Care Administration to provide specified data on assisted living facilities by a certain date, etc. GO 03/20/2014 Fav/CS AHS 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0

Other Related Meeting Documents



915192

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
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Appropriations Subcommittee on Health and Human Services (Sobel)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (3) through (5) of section
20.19, Florida Statutes, are renumbered as subsections (4)
through (6), respectively, subsection (2) and present subsection
(4) are amended, and a new subsection (3) is added to that
section, to read:

20.19 Department of Children and Families.—There is created



915192

11 a Department of Children and Families.

12 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—

13 (a) The head of the department is the Secretary of Children
14 and Families. The secretary is appointed by the Governor,
15 subject to confirmation by the Senate. The secretary serves at
16 the pleasure of the Governor.

17 (b) The secretary shall appoint a deputy secretary who
18 shall act in the absence of the secretary. The deputy secretary
19 is directly responsible to the secretary, performs such duties
20 as are assigned by the secretary, and serves at the pleasure of
21 the secretary.

22 (3) ASSISTANT SECRETARIES.—

23 (a) Child welfare.—

24 1. The secretary shall appoint an Assistant Secretary for
25 Child Welfare to lead the department in carrying out its duties
26 and responsibilities for child protection and child welfare. The
27 assistant secretary shall serve at the pleasure of the
28 secretary.

29 2. The assistant secretary must have at least 7 years of
30 experience working in organizations that deliver child
31 protective or child welfare services.

32 (b) Substance abuse and mental health.—

33 ~~(e)~~1. The secretary shall appoint an Assistant Secretary
34 for Substance Abuse and Mental Health. The assistant secretary
35 shall serve at the pleasure of the secretary and must have
36 expertise in both areas of responsibility.

37 2. The secretary shall appoint a Director for Substance
38 Abuse and Mental Health who has the requisite expertise and
39 experience to head the state's Substance Abuse and Mental Health



915192

40 Program Office.

41 ~~(5)~~~~(4)~~ COMMUNITY ALLIANCES.—

42 (a) The department shall, in consultation with local
43 communities, establish a community alliance ~~or similar group of~~
44 ~~the stakeholders, community leaders, client representatives and~~
45 ~~fundors of human services~~ in each county to provide a focal
46 point for community participation and feedback into governance
47 ~~of~~ community-based services. An alliance may cover more than one
48 county when such arrangement is determined to provide for more
49 effective representation. The community alliance shall represent
50 the diversity of the community.

51 (b) The duties of the community alliance include, but are
52 not limited to:

53 1. Providing independent and community-focused assessment
54 of child protection and child welfare services and the local
55 system of community-based care as described in s. 409.998.

56 ~~2.1.~~ Joint planning for resource utilization in the
57 community, including resources appropriated to the department
58 and any funds that local funding sources choose to provide.

59 ~~3.2.~~ Needs assessment and establishment of community
60 priorities for service delivery.

61 ~~4.3.~~ Determining community outcome goals to supplement
62 state-required outcomes.

63 ~~5.4.~~ Serving as a catalyst for community resource
64 development.

65 ~~6.5.~~ Providing for community education and advocacy on
66 issues related to delivery of services.

67 ~~7.6.~~ Promoting prevention and early intervention services.

68 (c) The department shall ensure, to the greatest extent



915192

69 possible, that the formation of each community alliance builds
70 on the strengths of the existing community human services
71 infrastructure.

72 (d) The initial membership of the community alliance in a
73 county shall be composed of the following:

- 74 1. A representative from the department.
- 75 2. A representative from county government.
- 76 3. A representative from the school district.
- 77 4. A representative from the county United Way.
- 78 5. A representative from the county sheriff's office.
- 79 6. A representative from the circuit court corresponding to
80 the county.
- 81 7. A representative from the county children's board, if
82 one exists.

83
84 This paragraph is repealed on July 1, 2015.

85 (e) No later than July 1, 2015, the alliance shall ensure
86 its membership and member selection process meets the following
87 requirements:

88 1. The total number of voting members shall be at least
89 nine and no more than 25 individuals. The alliance may establish
90 committees, task forces, and other advisory groups to create
91 opportunities for participation for community representatives
92 who are not voting members of the alliance.

93 2. The voting members of the alliance shall include
94 individuals with a variety of backgrounds and experience. At
95 least one member must be from a family who has received
96 community services. At least one person shall have experience in
97 each of the following areas:



915192

- 98 a. Community service organizations;
- 99 b. Education;
- 100 c. Law enforcement;
- 101 d. Local government;
- 102 e. Legal services;
- 103 f. The judiciary;
- 104 g. Philanthropic organizations; and
- 105 h. Children's service organizations.

106 3. The alliance shall include two ex officio, nonvoting
107 members, one of whom is designated by the secretary to represent
108 the department and one of whom is designated by the community-
109 based care lead agency.

110 4. The recruitment and selection of alliance members shall
111 be an open and transparent process that allows for individuals
112 and organizations to nominate potential candidates.

113 (f) The community alliance shall adopt or amend bylaws to
114 comply with paragraph (e).

115 (g) The department shall appoint a statewide advisory
116 committee to assist alliances to comply with this subsection.
117 The advisory committee shall consist of a representative of the
118 department designated by the secretary, the chief child
119 advocate, a representative designated by the Florida Coalition
120 of Children, and two persons currently serving on an alliance.

121 ~~(e) At any time after the initial meeting of the community~~
122 ~~alliance, the community alliance shall adopt bylaws and may~~
123 ~~increase the membership of the alliance to include the state~~
124 ~~attorney for the judicial circuit in which the community~~
125 ~~alliance is located, or his or her designee, the public defender~~
126 ~~for the judicial circuit in which the community alliance is~~



915192

127 ~~located, or his or her designee, and other individuals and~~
128 ~~organizations who represent funding organizations, are community~~
129 ~~leaders, have knowledge of community-based service issues, or~~
130 ~~otherwise represent perspectives that will enable them to~~
131 ~~accomplish the duties listed in paragraph (b), if, in the~~
132 ~~judgment of the alliance, such change is necessary to adequately~~
133 ~~represent the diversity of the population within the community~~
134 ~~alliance service circuits.~~

135 (h) ~~(f)~~ A member of the community alliance, other than a
136 member specified in paragraph (d), may not receive payment for
137 contractual services from the department or a community-based
138 care lead agency.

139 (i) ~~(g)~~ Members of the community alliances shall serve
140 without compensation, but are entitled to receive reimbursement
141 for per diem and travel expenses, as provided in s. 112.061.
142 Payment may also be authorized for preapproved child care
143 expenses or lost wages for members who are consumers of the
144 department's services and for preapproved child care expenses
145 for other members who demonstrate hardship.

146 (j) ~~(h)~~ Members of a community alliance are subject to the
147 provisions of part III of chapter 112, the Code of Ethics for
148 Public Officers and Employees.

149 (k) ~~(i)~~ Actions taken by a community alliance must be
150 consistent with department policy and state and federal laws,
151 rules, and regulations.

152 (l) ~~(j)~~ Alliance members shall annually submit a disclosure
153 statement of services interests to the department's inspector
154 general. Any member who has an interest in a matter under
155 consideration by the alliance must abstain from voting on that



915192

156 matter.

157 ~~(m)-(k)~~ All alliance meetings are open to the public
158 pursuant to s. 286.011 and the public records provision of s.
159 119.07(1).

160 Section 2. Paragraphs (b), (c), (g), and (k) of subsection
161 (1) of section 39.001, Florida Statutes, are amended, paragraphs
162 (o) and (p) are added to that subsection, present paragraphs (f)
163 through (h) of subsection (3) are redesignated as paragraphs (g)
164 through (i), respectively, and a new paragraph (f) is added to
165 that subsection, present subsections (4) through (11) are
166 renumbered as subsections (5) through (12), respectively, and a
167 new subsection (4) is added to that section, and paragraph (c)
168 of present subsection (8) and paragraph (b) of present
169 subsection (10) of that section are amended, to read:

170 39.001 Purposes and intent; personnel standards and
171 screening.—

172 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

173 (b) To recognize that most families desire to be competent
174 caregivers and providers for their children and that children
175 achieve their greatest potential when families are able to
176 support and nurture the growth and development of their
177 children. Therefore, the Legislature finds that policies and
178 procedures that provide for prevention and intervention through
179 the department's child protection system should be based on the
180 following principles:

181 1. The health and safety of the children served shall be of
182 paramount concern.

183 2. The prevention and intervention should engage families
184 in constructive, supportive, and nonadversarial relationships.



915192

185 3. The prevention and intervention should intrude as little
186 as possible into the life of the family, be focused on clearly
187 defined objectives, and take the most parsimonious path to
188 remedy a family's problems, keeping the safety of the child or
189 children as the paramount concern.

190 4. The prevention and intervention should be based upon
191 outcome evaluation results that demonstrate success in
192 protecting children and supporting families.

193 (c) To provide a child protection system that reflects a
194 partnership between the department, other agencies, the courts,
195 law enforcement agencies, service providers, and local
196 communities.

197 (g) To ensure that the parent or legal custodian from whose
198 custody the child has been taken assists the department to the
199 fullest extent possible in locating relatives suitable to serve
200 as caregivers for the child and provides all medical and
201 educational information, or consent for access thereto, needed
202 to help the child.

203 (k) To make every possible effort, if ~~when~~ two or more
204 children who are in the care or under the supervision of the
205 department are siblings, to place the siblings in the same home;
206 and in the event of permanent placement of the siblings, to
207 place them in the same adoptive home or, if the siblings are
208 separated while under the care or supervision of the department
209 or in a permanent placement, to keep them in contact with each
210 other.

211 (o) To preserve and strengthen families who are caring for
212 medically complex children.

213 (p) To provide protective investigations that are conducted



915192

214 by trained persons in a complete and fair manner, that are
215 promptly concluded, and that consider the purposes of this
216 subsection and the general protections provided by law relating
217 to child welfare.

218 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
219 the Legislature that the children of this state be provided with
220 the following protections:

221 (f) Access to sufficient home and community-based support
222 for medically complex children to allow them to remain in the
223 least restrictive and most nurturing environment, which includes
224 sufficient services in an amount and scope comparable to those
225 services the child would receive in out-of-home care placement.

226 (4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department
227 shall maintain a program of family-centered services and
228 supports for medically complex children. The purpose of the
229 program is to prevent abuse and neglect of medically complex
230 children while enhancing the capacity of families to provide for
231 their children's needs. Program services must include outreach,
232 early intervention, and the provision of home and community-
233 based services, such as care coordination, respite care, and
234 direct home care. The department shall work with the Agency for
235 Health Care Administration and the Department of Health to
236 provide such services.

237 (9)-(8) OFFICE OF ADOPTION AND CHILD PROTECTION.—

238 (c) The office is authorized and directed to:

239 1. Oversee the preparation and implementation of the state
240 plan established under subsection (10) ~~(9)~~ and revise and update
241 the state plan as necessary.

242 2. Provide for or make available continuing professional



915192

243 education and training in the prevention of child abuse and
244 neglect.

245 3. Work to secure funding in the form of appropriations,
246 gifts, and grants from the state, the Federal Government, and
247 other public and private sources in order to ensure that
248 sufficient funds are available for the promotion of adoption,
249 support of adoptive families, and child abuse prevention
250 efforts.

251 4. Make recommendations pertaining to agreements or
252 contracts for the establishment and development of:

253 a. Programs and services for the promotion of adoption,
254 support of adoptive families, and prevention of child abuse and
255 neglect.

256 b. Training programs for the prevention of child abuse and
257 neglect.

258 c. Multidisciplinary and discipline-specific training
259 programs for professionals with responsibilities affecting
260 children, young adults, and families.

261 d. Efforts to promote adoption.

262 e. Postadoptive services to support adoptive families.

263 5. Monitor, evaluate, and review the development and
264 quality of local and statewide services and programs for the
265 promotion of adoption, support of adoptive families, and
266 prevention of child abuse and neglect and shall publish and
267 distribute an annual report of its findings on or before January
268 1 of each year to the Governor, the Speaker of the House of
269 Representatives, the President of the Senate, the head of each
270 state agency affected by the report, and the appropriate
271 substantive committees of the Legislature. The report shall



915192

272 include:

273 a. A summary of the activities of the office.

274 b. A summary of the adoption data collected and reported to
275 the federal Adoption and Foster Care Analysis and Reporting
276 System (AFCARS) and the federal Administration for Children and
277 Families.

278 c. A summary of the child abuse prevention data collected
279 and reported to the National Child Abuse and Neglect Data System
280 (NCANDS) and the federal Administration for Children and
281 Families.

282 d. A summary detailing the timeliness of the adoption
283 process for children adopted from within the child welfare
284 system.

285 e. Recommendations, by state agency, for the further
286 development and improvement of services and programs for the
287 promotion of adoption, support of adoptive families, and
288 prevention of child abuse and neglect.

289 f. Budget requests, adoption promotion and support needs,
290 and child abuse prevention program needs by state agency.

291 6. Work with the direct-support organization established
292 under s. 39.0011 to receive financial assistance.

293 (11)~~(10)~~ FUNDING AND SUBSEQUENT PLANS.—

294 (b) The office and the other agencies and organizations
295 listed in paragraph (10) (a) ~~(9) (a)~~ shall readdress the state
296 plan and make necessary revisions every 5 years, at a minimum.
297 Such revisions shall be submitted to the Speaker of the House of
298 Representatives and the President of the Senate no later than
299 June 30 of each year divisible by 5. At least biennially, the
300 office shall review the state plan and make any necessary



915192

301 revisions based on changing needs and program evaluation
302 results. An annual progress report shall be submitted to update
303 the state plan in the years between the 5-year intervals. In
304 order to avoid duplication of effort, these required plans may
305 be made a part of or merged with other plans required by either
306 the state or Federal Government, so long as the portions of the
307 other state or Federal Government plan that constitute the state
308 plan for the promotion of adoption, support of adoptive
309 families, and prevention of child abuse, abandonment, and
310 neglect are clearly identified as such and are provided to the
311 Speaker of the House of Representatives and the President of the
312 Senate as required under this section ~~above~~.

313 Section 3. Present subsections (59) through (65) are
314 redesignated as subsections (60) through (66), respectively,
315 present subsections (67) through (69) are redesignated as
316 subsections (68) through (70), respectively, present subsections
317 (70) through (76) are redesignated as subsections (72) through
318 (78), respectively, new subsections (31), (41), (59), (67), and
319 (71) are added to that section, and subsections (7), (14), (18),
320 (22), (26), and (27) and present subsections (28) through (41),
321 (59), and (65) of that section are amended, to read:

322 39.01 Definitions.—When used in this chapter, unless the
323 context otherwise requires:

324 (7) ~~“Alleged juvenile sexual offender” means:~~

325 ~~(a) A child 12 years of age or younger who is alleged to~~
326 ~~have committed a violation of chapter 794, chapter 796, chapter~~
327 ~~800, s. 827.071, or s. 847.0133; or~~

328 ~~(b) A child who is alleged to have committed any violation~~
329 ~~of law or delinquent act involving juvenile sexual abuse.~~



915192

330 "Juvenile sexual abuse" means any sexual behavior which occurs
331 without consent, without equality, or as a result of coercion.
332 For purposes of this subsection ~~paragraph~~, the following
333 definitions apply:

334 (a)1. "Coercion" means the exploitation of authority or the
335 use of bribes, threats of force, or intimidation to gain
336 cooperation or compliance.

337 (b)2. "Equality" means two participants operating with the
338 same level of power in a relationship, neither being controlled
339 nor coerced by the other.

340 (c)3. "Consent" means an agreement, including all of the
341 following:

342 1.a. Understanding what is proposed based on age, maturity,
343 developmental level, functioning, and experience.

344 2.b. Knowledge of societal standards for what is being
345 proposed.

346 3.c. Awareness of potential consequences and alternatives.

347 4.d. Assumption that agreement or disagreement will be
348 accepted equally.

349 5.e. Voluntary decision.

350 6.f. Mental competence.

351

352 Juvenile sexual ~~offender~~ behavior ranges from noncontact sexual
353 behavior such as making obscene phone calls, exhibitionism,
354 voyeurism, and the showing or taking of lewd photographs to
355 varying degrees of direct sexual contact, such as frottage,
356 fondling, digital penetration, rape, fellatio, sodomy, and
357 various other sexually aggressive acts.

358 (14) "Child who has exhibited inappropriate sexual



915192

359 behavior" means a child ~~who is 12 years of age or younger and~~
360 who has been found by the department or the court to have
361 committed an inappropriate sexual act.

362 (18) "Comprehensive assessment" or "assessment" means the
363 gathering of information for the evaluation of a child's and
364 caregiver's physical, psychiatric, psychological, or mental
365 health; developmental delays or challenges; and, educational,
366 vocational, and social condition and family environment as they
367 relate to the child's and caregiver's need for rehabilitative
368 and treatment services, including substance abuse treatment
369 services, mental health services, developmental services,
370 literacy services, medical services, family services, and other
371 specialized services, as appropriate.

372 (22) "Diligent efforts by a parent" means a course of
373 conduct which results in a meaningful change in the behavior of
374 a parent that reduces ~~reduction in~~ risk to the child in the
375 child's home to the extent that ~~would allow~~ the child may ~~to~~ be
376 safely placed permanently back in the home as set forth in the
377 case plan.

378 ~~(26) "District" means any one of the 15 service districts~~
379 ~~of the department established pursuant to s. 20.19.~~

380 ~~(27) "District administrator" means the chief operating~~
381 ~~officer of each service district of the department as defined in~~
382 ~~s. 20.19(5) and, where appropriate, includes any district~~
383 ~~administrator whose service district falls within the boundaries~~
384 ~~of a judicial circuit.~~

385 ~~(26)~~ ~~(28)~~ "Expedited termination of parental rights" means
386 proceedings wherein a case plan with the goal of reunification
387 is not being offered.



915192

388 ~~(27)-(29)~~ "False report" means a report of abuse, neglect,
389 or abandonment of a child to the central abuse hotline, which
390 report is maliciously made for the purpose of:

- 391 (a) Harassing, embarrassing, or harming another person;
392 (b) Personal financial gain for the reporting person;
393 (c) Acquiring custody of a child; or
394 (d) Personal benefit for the reporting person in any other
395 private dispute involving a child.

396

397 The term "false report" does not include a report of abuse,
398 neglect, or abandonment of a child made in good faith to the
399 central abuse hotline.

400 ~~(28)-(30)~~ "Family" means a collective body of persons,
401 consisting of a child and a parent, legal custodian, or adult
402 relative, in which:

- 403 (a) The persons reside in the same house or living unit; or
404 (b) The parent, legal custodian, or adult relative has a
405 legal responsibility by blood, marriage, or court order to
406 support or care for the child.

407 ~~(29)-(31)~~ "Foster care" means care provided a child in a
408 foster family or boarding home, group home, agency boarding
409 home, child care institution, or any combination thereof.

410 ~~(30)-(32)~~ "Harm" to a child's health or welfare can occur
411 when any person:

- 412 (a) Inflicts or allows to be inflicted upon the child
413 physical, mental, or emotional injury. In determining whether
414 harm has occurred, the following factors must be considered in
415 evaluating any physical, mental, or emotional injury to a child:
416 the age of the child; any prior history of injuries to the



915192

417 child; the location of the injury on the body of the child; the
418 multiplicity of the injury; and the type of trauma inflicted.

419 Such injury includes, but is not limited to:

420 1. Willful acts that produce the following specific
421 injuries:

422 a. Sprains, dislocations, or cartilage damage.

423 b. Bone or skull fractures.

424 c. Brain or spinal cord damage.

425 d. Intracranial hemorrhage or injury to other internal
426 organs.

427 e. Asphyxiation, suffocation, or drowning.

428 f. Injury resulting from the use of a deadly weapon.

429 g. Burns or scalding.

430 h. Cuts, lacerations, punctures, or bites.

431 i. Permanent or temporary disfigurement.

432 j. Permanent or temporary loss or impairment of a body part
433 or function.

434
435 As used in this subparagraph, the term "willful" refers to the
436 intent to perform an action, not to the intent to achieve a
437 result or to cause an injury.

438 2. Purposely giving a child poison, alcohol, drugs, or
439 other substances that substantially affect the child's behavior,
440 motor coordination, or judgment or that result in sickness or
441 internal injury. For the purposes of this subparagraph, the term
442 "drugs" means prescription drugs not prescribed for the child or
443 not administered as prescribed, and controlled substances as
444 outlined in Schedule I or Schedule II of s. 893.03.

445 3. Leaving a child without adult supervision or arrangement



915192

446 appropriate for the child's age or mental or physical condition,
447 so that the child is unable to care for the child's own needs or
448 another's basic needs or is unable to exercise good judgment in
449 responding to any kind of physical or emotional crisis.

450 4. Inappropriate or excessively harsh disciplinary action
451 that is likely to result in physical injury, mental injury as
452 defined in this section, or emotional injury. The significance
453 of any injury must be evaluated in light of the following
454 factors: the age of the child; any prior history of injuries to
455 the child; the location of the injury on the body of the child;
456 the multiplicity of the injury; and the type of trauma
457 inflicted. Corporal discipline may be considered excessive or
458 abusive when it results in any of the following or other similar
459 injuries:

- 460 a. Sprains, dislocations, or cartilage damage.
- 461 b. Bone or skull fractures.
- 462 c. Brain or spinal cord damage.
- 463 d. Intracranial hemorrhage or injury to other internal
464 organs.
- 465 e. Asphyxiation, suffocation, or drowning.
- 466 f. Injury resulting from the use of a deadly weapon.
- 467 g. Burns or scalding.
- 468 h. Cuts, lacerations, punctures, or bites.
- 469 i. Permanent or temporary disfigurement.
- 470 j. Permanent or temporary loss or impairment of a body part
471 or function.
- 472 k. Significant bruises or welts.

473 (b) Commits, or allows to be committed, sexual battery, as
474 defined in chapter 794, or lewd or lascivious acts, as defined



915192

475 in chapter 800, against the child.

476 (c) Allows, encourages, or forces the sexual exploitation
477 of a child, which includes allowing, encouraging, or forcing a
478 child to:

- 479 1. Solicit for or engage in prostitution; or
480 2. Engage in a sexual performance, as defined by chapter
481 827.

482 (d) Exploits a child, or allows a child to be exploited, as
483 provided in s. 450.151.

484 (e) Abandons the child. Within the context of the
485 definition of "harm," the term "abandoned the child" or
486 "abandonment of the child" means a situation in which the parent
487 or legal custodian of a child or, in the absence of a parent or
488 legal custodian, the caregiver, while being able, has made no
489 significant contribution to the child's care and maintenance or
490 has failed to establish or maintain a substantial and positive
491 relationship with the child, or both. For purposes of this
492 paragraph, "establish or maintain a substantial and positive
493 relationship" includes, but is not limited to, frequent and
494 regular contact with the child through frequent and regular
495 visitation or frequent and regular communication to or with the
496 child, and the exercise of parental rights and responsibilities.
497 Marginal efforts and incidental or token visits or
498 communications are not sufficient to establish or maintain a
499 substantial and positive relationship with a child. The term
500 "abandoned" does not include a surrendered newborn infant as
501 described in s. 383.50, a child in need of services as defined
502 in chapter 984, or a family in need of services as defined in
503 chapter 984. The incarceration, repeated incarceration, or



915192

504 extended incarceration of a parent, legal custodian, or
505 caregiver responsible for a child's welfare may support a
506 finding of abandonment.

507 (f) Neglects the child. Within the context of the
508 definition of "harm," the term "neglects the child" means that
509 the parent or other person responsible for the child's welfare
510 fails to supply the child with adequate food, clothing, shelter,
511 or health care, although financially able to do so or although
512 offered financial or other means to do so. However, a parent or
513 legal custodian who, by reason of the legitimate practice of
514 religious beliefs, does not provide specified medical treatment
515 for a child may not be considered abusive or neglectful for that
516 reason alone, but such an exception does not:

517 1. Eliminate the requirement that such a case be reported
518 to the department;

519 2. Prevent the department from investigating such a case;
520 or

521 3. Preclude a court from ordering, when the health of the
522 child requires it, the provision of medical services by a
523 physician, as defined in this section, or treatment by a duly
524 accredited practitioner who relies solely on spiritual means for
525 healing in accordance with the tenets and practices of a well-
526 recognized church or religious organization.

527 (g) Exposes a child to a controlled substance or alcohol.
528 Exposure to a controlled substance or alcohol is established by:

529 1. A test, administered at birth, which indicated that the
530 child's blood, urine, or meconium contained any amount of
531 alcohol or a controlled substance or metabolites of such
532 substances, the presence of which was not the result of medical



915192

533 treatment administered to the mother or the newborn infant; or
534 2. Evidence of extensive, abusive, and chronic use of a
535 controlled substance or alcohol by a parent when the child is
536 demonstrably adversely affected by such usage.

537
538 As used in this paragraph, the term "controlled substance" means
539 prescription drugs not prescribed for the parent or not
540 administered as prescribed and controlled substances as outlined
541 in Schedule I or Schedule II of s. 893.03.

542 (h) Uses mechanical devices, unreasonable restraints, or
543 extended periods of isolation to control a child.

544 (i) Engages in violent behavior that demonstrates a wanton
545 disregard for the presence of a child and could reasonably
546 result in serious injury to the child.

547 (j) Negligently fails to protect a child in his or her care
548 from inflicted physical, mental, or sexual injury caused by the
549 acts of another.

550 (k) Has allowed a child's sibling to die as a result of
551 abuse, abandonment, or neglect.

552 (l) Makes the child unavailable for the purpose of impeding
553 or avoiding a protective investigation unless the court
554 determines that the parent, legal custodian, or caregiver was
555 fleeing from a situation involving domestic violence.

556 (31) "Impending danger" means a situation in which family
557 behaviors, attitudes, motives, emotions, or situations pose a
558 threat that may not be currently active but that can be
559 anticipated to become active and to have severe effects on a
560 child at any time.

561 (32)-(33) "Institutional child abuse or neglect" means



915192

562 situations of known or suspected child abuse or neglect in which
563 the person allegedly perpetrating the child abuse or neglect is
564 an employee of a private school, public or private day care
565 center, residential home, institution, facility, or agency or
566 any other person at such institution responsible for the child's
567 care as defined in subsection (47).

568 (33)~~(34)~~ "Judge" means the circuit judge exercising
569 jurisdiction pursuant to this chapter.

570 (34)~~(35)~~ "Legal custody" means a legal status created by a
571 court which vests in a custodian of the person or guardian,
572 whether an agency or an individual, the right to have physical
573 custody of the child and the right and duty to protect, nurture,
574 guide, and discipline the child and to provide him or her with
575 food, shelter, education, and ordinary medical, dental,
576 psychiatric, and psychological care.

577 (35)~~(36)~~ "Licensed child-caring agency" means a person,
578 society, association, or agency licensed by the department to
579 care for, receive, and board children.

580 (36)~~(37)~~ "Licensed child-placing agency" means a person,
581 society, association, or institution licensed by the department
582 to care for, receive, or board children and to place children in
583 a licensed child-caring institution or a foster or adoptive
584 home.

585 (37)~~(38)~~ "Licensed health care professional" means a
586 physician licensed under chapter 458, an osteopathic physician
587 licensed under chapter 459, a nurse licensed under part I of
588 chapter 464, a physician assistant licensed under chapter 458 or
589 chapter 459, or a dentist licensed under chapter 466.

590 (38)~~(39)~~ "Likely to injure oneself" means that, as



915192

591 evidenced by violent or other actively self-destructive
592 behavior, it is more likely than not that within a 24-hour
593 period the child will attempt to commit suicide or inflict
594 serious bodily harm on himself or herself.

595 ~~(39)-(40)~~ "Likely to injure others" means that it is more
596 likely than not that within a 24-hour period the child will
597 inflict serious and unjustified bodily harm on another person.

598 ~~(40)-(41)~~ "Mediation" means a process whereby a neutral
599 third person called a mediator acts to encourage and facilitate
600 the resolution of a dispute between two or more parties. It is
601 an informal and nonadversarial process with the objective of
602 helping the disputing parties reach a mutually acceptable and
603 voluntary agreement. The role of the mediator includes, but is
604 not limited to, assisting the parties in identifying issues,
605 fostering joint problem solving, and exploring settlement
606 alternatives.

607 (41) "Medical neglect" means the failure to provide or the
608 failure to allow needed care as recommended by a health care
609 practitioner for a physical injury, illness, medical condition,
610 or impairment, or the failure to seek timely and appropriate
611 medical care for a serious health problem that a reasonable
612 person would have recognized as requiring professional medical
613 attention. Medical neglect does not occur if the parent or legal
614 guardian of the child has made reasonable attempts to obtain
615 necessary health care services or the immediate health condition
616 giving rise to the allegation of neglect is a known and expected
617 complication of the child's diagnosis or treatment and:

618 (a) The recommended care offers limited net benefit to the
619 child and the morbidity or other side effects of the treatment



915192

620 may be considered to be greater than the anticipated benefit; or

621 (b) The parent or legal guardian received conflicting
622 medical recommendations for treatment from multiple
623 practitioners and did not follow all recommendations.

624 (59) "Present danger" means a significant and clearly
625 observable family condition that is occurring at the current
626 moment and is already endangering or threatening to endanger the
627 child. Present danger threats are conspicuous and require that
628 an immediate protective action be taken to ensure the child's
629 safety.

630 (60)~~(59)~~ "Preventive services" means social services and
631 other supportive and rehabilitative services provided to the
632 parent or legal custodian of the child and to the child for the
633 purpose of averting the removal of the child from the home or
634 disruption of a family which will or could result in the
635 placement of a child in foster care. Social services and other
636 supportive and rehabilitative services shall promote the child's
637 developmental needs and need for physical, mental, and emotional
638 health and a safe, stable, living environment;~~;~~ shall promote
639 family autonomy;~~;~~ and shall strengthen family life, whenever
640 possible.

641 (66)~~(65)~~ "Reunification services" means social services and
642 other supportive and rehabilitative services provided to the
643 parent of the child, to the child, and, where appropriate, to
644 the relative placement, nonrelative placement, or foster parents
645 of the child, for the purpose of enabling a child who has been
646 placed in out-of-home care to safely return to his or her parent
647 at the earliest possible time. The health and safety of the
648 child shall be the paramount goal of social services and other



915192

649 supportive and rehabilitative services. The services shall
650 promote the child's need for physical, developmental, mental,
651 and emotional health and a safe, stable, living environment;
652 shall promote family autonomy; and shall strengthen family
653 life, whenever possible.

654 (67) "Safety plan" means a plan created to control present
655 or impending danger using the least intrusive means appropriate
656 to protect a child when a parent, caregiver, or legal custodian
657 is unavailable, unwilling, or unable to do so.

658 (71) "Sibling" means:

659 (a) A child who shares a birth parent or legal parent with
660 one or more other children; or

661 (b) A child who has lived together in a family with one or
662 more other children whom he or she identifies as siblings.

663 Section 4. Subsection (12) is added to section 39.013,
664 Florida Statutes, to read:

665 39.013 Procedures and jurisdiction; right to counsel.-

666 (12) The department shall be represented by counsel in each
667 dependency proceeding. Through its attorneys, the department
668 shall make recommendations to the court on issues before the
669 court and may support its recommendations through testimony and
670 other evidence by its own employees, employees of sheriff's
671 offices providing child protection services, employees of its
672 contractors, employees of its contractor's subcontractors, or
673 from any other relevant source.

674 Section 5. Paragraph (c) of subsection (2) of section
675 39.201, Florida Statutes, is amended to read:

676 39.201 Mandatory reports of child abuse, abandonment, or
677 neglect; mandatory reports of death; central abuse hotline.-



915192

678 (2)
679 (c) Reports involving ~~a known or suspected~~ juvenile sexual
680 abuse offender or a child who has exhibited inappropriate sexual
681 behavior shall be made and received by the department. An
682 alleged incident of juvenile sexual abuse involving a child who
683 is in the custody of or protective supervision of the department
684 shall be reported to the department's central abuse hotline.

685 ~~1. The department shall determine the age of the alleged~~
686 ~~offender, if known.~~

687 ~~2. If the alleged offender is 12 years of age or younger,~~
688 The central abuse hotline shall immediately electronically
689 transfer the report or call to the county sheriff's office. The
690 department shall conduct an assessment and assist the family in
691 receiving appropriate services pursuant to s. 39.307, and send a
692 written report of the allegation to the appropriate county
693 sheriff's office within 48 hours after the initial report is
694 made to the central abuse hotline.

695 2. The department shall ensure that the facts and results
696 of any investigation of child sexual abuse involving a child in
697 the custody of or under the protective supervision of the
698 department are made known to the court at the next hearing or
699 included in the next report to the court concerning the child.

700 ~~3. If the alleged offender is 13 years of age or older, the~~
701 ~~central abuse hotline shall immediately electronically transfer~~
702 ~~the report or call to the appropriate county sheriff's office~~
703 ~~and send a written report to the appropriate county sheriff's~~
704 ~~office within 48 hours after the initial report to the central~~
705 ~~abuse hotline.~~

706 Section 6. Section 39.2015, Florida Statutes, is created to



915192

707 read:

708 39.2015 Critical incident rapid response team.—

709 (1) The department shall conduct an immediate investigation
710 of certain incidents involving children using critical incident
711 rapid response teams as provided in subsection (2). The purpose
712 of such investigation is to identify root causes and rapidly
713 determine the need to change policies and practices related to
714 child protection and child welfare.

715 (2) An immediate onsite investigation conducted by a
716 critical incident rapid response team is required for all child
717 deaths reported to the department if the child or another child
718 in his or her family was the subject of a verified report of
719 suspected abuse or neglect during the previous 12 months. The
720 secretary may direct an immediate investigation for other cases
721 involving serious injury to a child.

722 (3) Each investigation shall be conducted by a team of at
723 least five professionals with expertise in child protection,
724 child welfare, and organizational management. The team may
725 consist of employees of the department, community-based care
726 lead agencies, and other provider organizations; faculty from
727 the institute consisting of public and private universities
728 offering degrees in social work established pursuant to s.
729 1004.615; or any other person with the required expertise. The
730 majority of the team must reside in judicial circuits outside
731 the location of the incident. The secretary shall appoint a team
732 leader for each group assigned to an investigation.

733 (4) An investigation shall be initiated as soon as
734 possible, but not later than 2 business days after the case is
735 reported to the department. A preliminary report on each case



915192

736 shall be provided to the secretary no later than 30 days after
737 the investigation begins.

738 (5) Each member of the team is authorized to access all
739 information in the case file.

740 (6) All employees of the department or other state agencies
741 and all personnel from contracted provider organizations must
742 cooperate with the investigation by participating in interviews
743 and timely responding to any requests for information.

744 (7) The secretary shall develop cooperative agreements with
745 other entities and organizations as necessary to facilitate the
746 work of the team.

747 (8) The members of the team may be reimbursed by the
748 department for per diem, mileage, and other reasonable expenses
749 as provided in s. 112.061. The department may also reimburse the
750 team member's employer for the associated salary and benefits
751 during the time the team member is fulfilling the duties
752 required under this section.

753 (9) Upon completion of the investigation, the department
754 shall make the team's final report available on its website.

755 (10) The secretary, in conjunction with the institute
756 established pursuant to s. 1004.615, shall develop guidelines
757 for investigations conducted by critical incident rapid response
758 teams and provide training to team members. Such guidelines must
759 direct the teams in the conduct of a root-cause analysis that
760 identifies, classifies, and attributes responsibility for both
761 direct and latent causes for the death or other incident,
762 including organizational factors, preconditions, and specific
763 acts or omissions resulting from either error or a violation of
764 procedures.



915192

765 (11) The secretary shall appoint an advisory committee made
766 up of experts in child protection and child welfare to conduct
767 an independent review of investigative reports from the critical
768 incident rapid response teams and make recommendations to
769 improve policies and practices related to child protection and
770 child welfare services. By October 1 of each year, the advisory
771 committee shall submit a report to the secretary that includes
772 findings and recommendations. The secretary shall submit the
773 report to the Governor, the President of the Senate, and the
774 Speaker of the House of Representatives.

775 Section 7. Section 39.2022, Florida Statutes, is created to
776 read:

777 39.2022 Public disclosure of reported child deaths.-

778 (1) It is the intent of the Legislature to provide prompt
779 disclosure of the basic facts of all deaths of children from
780 birth through 18 years of age which occur in this state and
781 which are reported to the department's central abuse hotline.
782 Disclosure shall be posted on the department's public website.
783 This section does not limit the public access to records under
784 any other provision of law.

785 (2) Notwithstanding s. 39.202, if a child death is reported
786 to the central abuse hotline, the department shall post on its
787 website all of the following:

788 (a) The initials, age, race, and gender of the child.

789 (b) The date of the child's death.

790 (c) Any allegations of the cause of death or the
791 preliminary cause of death, and the verified cause of death, if
792 known.

793 (d) The county and placement of the child at the time of



915192

794 the incident leading to the child's death, if applicable.

795 (e) The name of the community-based care lead agency, case
796 management agency, or out-of-home licensing agency involved with
797 the child, family, or licensed caregiver, if applicable.

798 (f) The relationship of the person adjudicated guilty of
799 any criminal offense related to the child's death.

800 (g) Whether the child has been the subject of any prior
801 verified reports to the department's central abuse hotline.

802 Section 8. Subsections (9) and (14) of section 39.301,
803 Florida Statutes, are amended to read:

804 39.301 Initiation of protective investigations.-

805 (9) (a) For each report received from the central abuse
806 hotline and accepted for investigation, the department or the
807 sheriff providing child protective investigative services under
808 s. 39.3065, shall perform the following child protective
809 investigation activities to determine child safety:

810 1. Conduct a review of all relevant, available information
811 specific to the child and family and alleged maltreatment;
812 family child welfare history; local, state, and federal criminal
813 records checks; and requests for law enforcement assistance
814 provided by the abuse hotline. Based on a review of available
815 information, including the allegations in the current report, a
816 determination shall be made as to whether immediate consultation
817 should occur with law enforcement, the child protection team, a
818 domestic violence shelter or advocate, or a substance abuse or
819 mental health professional. Such consultations should include
820 discussion as to whether a joint response is necessary and
821 feasible. A determination shall be made as to whether the person
822 making the report should be contacted before the face-to-face



915192

823 interviews with the child and family members.

824 2. Conduct face-to-face interviews with the child; other
825 siblings, if any; and the parents, legal custodians, or
826 caregivers.

827 3. Assess the child's residence, including a determination
828 of the composition of the family and household, including the
829 name, address, date of birth, social security number, sex, and
830 race of each child named in the report; any siblings or other
831 children in the same household or in the care of the same
832 adults; the parents, legal custodians, or caregivers; and any
833 other adults in the same household.

834 4. Determine whether there is any indication that any child
835 in the family or household has been abused, abandoned, or
836 neglected; the nature and extent of present or prior injuries,
837 abuse, or neglect, and any evidence thereof; and a determination
838 as to the person or persons apparently responsible for the
839 abuse, abandonment, or neglect, including the name, address,
840 date of birth, social security number, sex, and race of each
841 such person.

842 5. Complete assessment of immediate child safety for each
843 child based on available records, interviews, and observations
844 with all persons named in subparagraph 2. and appropriate
845 collateral contacts, which may include other professionals. The
846 department's child protection investigators are hereby
847 designated a criminal justice agency for the purpose of
848 accessing criminal justice information to be used for enforcing
849 this state's laws concerning the crimes of child abuse,
850 abandonment, and neglect. This information shall be used solely
851 for purposes supporting the detection, apprehension,



915192

852 prosecution, pretrial release, posttrial release, or
853 rehabilitation of criminal offenders or persons accused of the
854 crimes of child abuse, abandonment, or neglect and may not be
855 further disseminated or used for any other purpose.

856 6. Document the present and impending dangers to each child
857 based on the identification of inadequate protective capacity
858 through utilization of a standardized safety assessment
859 instrument. If present or impending danger is identified, the
860 child protective investigator must implement a safety plan or
861 take the child into custody. If present danger is identified and
862 the child is not removed, the child protective investigator
863 shall create and implement a safety plan before leaving the home
864 or the location where there is present danger. If impending
865 danger is identified, the child protective investigator shall
866 create and implement a safety plan as soon as necessary to
867 protect the safety of the child. The child protective
868 investigator may modify the safety plan if he or she identifies
869 additional impending danger.

870 a. If the child protective investigator implements a safety
871 plan, the plan must be specific, sufficient, feasible, and
872 sustainable in response to the realities of the present or
873 impending danger. A safety plan may be an in-home plan or an
874 out-of-home plan, or a combination of both. A safety plan may
875 not rely solely on promissory commitments by the parent,
876 caregiver, or legal custodian who is currently not able to
877 protect the child or on services that are not available or will
878 not result in the safety of the child. A safety plan may not be
879 implemented if for any reason the parents, guardian, or legal
880 custodian lacks the capacity or ability to comply with the plan.



915192

881 If the department is not able to develop a plan that is
882 specific, sufficient, feasible, and sustainable, the department
883 shall file a shelter petition. A child protective investigator
884 shall implement separate safety plans for the perpetrator of
885 domestic violence and the parent who is a victim of domestic
886 violence as defined in s. 741.28. The safety plan for the parent
887 who is a victim of domestic violence may not be shared with the
888 perpetrator. If any party to a safety plan fails to comply with
889 the safety plan resulting in the child being unsafe, the
890 department shall file a shelter petition.

891 b. The child protective investigator shall collaborate with
892 the community-based care lead agency in the development of the
893 safety plan as necessary to ensure that the safety plan is
894 specific, sufficient, feasible, and sustainable. The child
895 protective investigator shall identify services necessary for
896 the successful implementation of the safety plan. The child
897 protective investigator and the community-based care lead agency
898 shall mobilize service resources to assist all parties in
899 complying with the safety plan. The community-based care lead
900 agency shall prioritize safety plan services to families who
901 have multiple risk factors, including, but not limited to, two
902 or more of the following:

903 (I) The parent or legal custodian is of young age;

904 (II) The parent or legal custodian, or an adult currently
905 living in or frequently visiting the home, has a history of
906 substance abuse, mental illness, or domestic violence;

907 (III) The parent or legal custodian, or an adult currently
908 living in or frequently visiting the home, has been previously
909 found to have physically or sexually abused a child;



915192

910 (IV) The parent or legal custodian or an adult currently
911 living in or frequently visiting the home has been the subject
912 of multiple allegations by reputable reports of abuse or
913 neglect;

914 (V) The child is physically or developmentally disabled; or

915 (VI) The child is 3 years of age or younger.

916 c. The child protective investigator shall monitor the
917 implementation of the plan to ensure the child's safety until
918 the case is transferred to the lead agency at which time the
919 lead agency shall monitor the implementation.

920 ~~(b) Upon completion of the immediate safety assessment, the~~
921 ~~department shall determine the additional activities necessary~~
922 ~~to assess impending dangers, if any, and close the~~
923 ~~investigation.~~

924 (b)(e) For each report received from the central abuse
925 hotline, the department or the sheriff providing child
926 protective investigative services under s. 39.3065, shall
927 determine the protective, treatment, and ameliorative services
928 necessary to safeguard and ensure the child's safety and well-
929 being and development, and cause the delivery of those services
930 through the early intervention of the department or its agent.
931 As applicable, child protective investigators must inform
932 parents and caregivers how and when to use the injunction
933 process under s. 741.30 to remove a perpetrator of domestic
934 violence from the home as an intervention to protect the child.

935 1. If the department or the sheriff providing child
936 protective investigative services determines that the interests
937 of the child and the public will be best served by providing the
938 child care or other treatment voluntarily accepted by the child



915192

939 and the parents or legal custodians, the parent or legal
940 custodian and child may be referred for such care, case
941 management, or other community resources.

942 2. If the department or the sheriff providing child
943 protective investigative services determines that the child is
944 in need of protection and supervision, the department may file a
945 petition for dependency.

946 3. If a petition for dependency is not being filed by the
947 department, the person or agency originating the report shall be
948 advised of the right to file a petition pursuant to this part.

949 4. At the close of an investigation, the department or the
950 sheriff providing child protective services shall provide to the
951 person who is alleged to have caused the abuse, neglect, or
952 abandonment and the parent or legal custodian a summary of
953 findings from the investigation and provide information about
954 their right to access confidential reports in accordance with s.
955 39.202.

956 (14) (a) If the department or its agent determines that a
957 child requires immediate or long-term protection through:

958 ~~1. medical or other health care;~~ or

959 ~~2. homemaker care, day care, protective supervision, or~~
960 other services to stabilize the home environment, including
961 intensive family preservation services through the Intensive
962 Crisis Counseling Program, such services shall first be offered
963 for voluntary acceptance unless:

964 1. There are high-risk factors that may impact the ability
965 of the parents or legal custodians to exercise judgment. Such
966 factors may include the parents' or legal custodians' young age
967 or history of substance abuse, mental illness, or domestic



915192

968 violence; or

969 2. There is a high likelihood of lack of compliance with
970 voluntary services, and such noncompliance would result in the
971 child being unsafe.

972 (b) The parents or legal custodians shall be informed of
973 the right to refuse services, as well as the responsibility of
974 the department to protect the child regardless of the acceptance
975 or refusal of services. If the services are refused, a
976 collateral contact shall include a relative, if the protective
977 investigator has knowledge of and the ability to contact a
978 relative. If the services are refused and the department deems
979 that the child's need for protection ~~se~~ requires services, the
980 department shall take the child into protective custody or
981 petition the court as provided in this chapter. At any time
982 after the commencement of a protective investigation, a relative
983 may submit in writing to the protective investigator or case
984 manager a request to receive notification of all proceedings and
985 hearings in accordance with s. 39.502. The request shall include
986 the relative's name, address, and phone number and the
987 relative's relationship to the child. The protective
988 investigator or case manager shall forward such request to the
989 attorney for the department. The failure to provide notice to
990 either a relative who requests it pursuant to this subsection or
991 to a relative who is providing out-of-home care for a child may
992 not result in any previous action of the court at any stage or
993 proceeding in dependency or termination of parental rights under
994 any part of this chapter being set aside, reversed, modified, or
995 in any way changed absent a finding by the court that a change
996 is required in the child's best interests.



915192

997 (c) The department, in consultation with the judiciary,
998 shall adopt by rule:

999 1. Criteria that are factors requiring that the department
1000 take the child into custody, petition the court as provided in
1001 this chapter, or, if the child is not taken into custody or a
1002 petition is not filed with the court, conduct an administrative
1003 review. Such factors must include, but are not limited to,
1004 noncompliance with a safety plan or the case plan developed by
1005 the department, and the family under this chapter, and prior
1006 abuse reports with findings that involve the child, the child's
1007 sibling, or the child's caregiver.

1008 2. Requirements that if after an administrative review the
1009 department determines not to take the child into custody or
1010 petition the court, the department shall document the reason for
1011 its decision in writing and include it in the investigative
1012 file. For all cases that were accepted by the local law
1013 enforcement agency for criminal investigation pursuant to
1014 subsection (2), the department must include in the file written
1015 documentation that the administrative review included input from
1016 law enforcement. In addition, for all cases that must be
1017 referred to child protection teams pursuant to s. 39.303(2) and
1018 (3), the file must include written documentation that the
1019 administrative review included the results of the team's
1020 evaluation. Factors that must be included in the development of
1021 the rule include noncompliance with the case plan developed by
1022 the department, or its agent, and the family under this chapter
1023 and prior abuse reports with findings that involve the child or
1024 caregiver.

1025 Section 9. Section 39.303, Florida Statutes, is amended to



915192

1026 read:

1027 39.303 Child protection teams; services; eligible cases.—
1028 The Children's Medical Services Program in the Department of
1029 Health shall develop, maintain, and coordinate the services of
1030 one or more multidisciplinary child protection teams in each of
1031 the service districts of the Department of Children and Families
1032 ~~Family Services~~. Such teams may be composed of appropriate
1033 representatives of school districts and appropriate health,
1034 mental health, social service, legal service, and law
1035 enforcement agencies. ~~The Legislature finds that optimal~~
1036 ~~coordination of child protection teams and sexual abuse~~
1037 ~~treatment programs requires collaboration between~~ The Department
1038 of Health and the Department of Children and Families ~~Family~~
1039 ~~Services~~. ~~The two departments~~ shall maintain an interagency
1040 agreement that establishes protocols for oversight and
1041 operations of child protection teams and sexual abuse treatment
1042 programs. The State Surgeon General and the Deputy Secretary for
1043 Children's Medical Services, in consultation with the Secretary
1044 of Children and Families ~~Family Services~~, shall maintain the
1045 responsibility for the screening, employment, and, if necessary,
1046 the termination of child protection team medical directors, at
1047 headquarters and in the 15 districts. Child protection team
1048 medical directors shall be responsible for oversight of the
1049 teams in the districts.

1050 (1) The Department of Health shall use ~~utilize~~ and convene
1051 the teams to supplement the assessment and protective
1052 supervision activities of the family safety and preservation
1053 program of the Department of Children and Families ~~Family~~
1054 ~~Services~~. ~~Nothing in~~ This section does not ~~shall be construed to~~



915192

1055 remove or reduce the duty and responsibility of any person to
1056 report pursuant to this chapter all suspected or actual cases of
1057 child abuse, abandonment, or neglect or sexual abuse of a child.
1058 The role of the teams shall be to support activities of the
1059 program and to provide services deemed by the teams to be
1060 necessary and appropriate to abused, abandoned, and neglected
1061 children upon referral. The specialized diagnostic assessment,
1062 evaluation, coordination, consultation, and other supportive
1063 services that a child protection team shall be capable of
1064 providing include, but are not limited to, the following:

1065 (a) Medical diagnosis and evaluation services, including
1066 provision or interpretation of X rays and laboratory tests, and
1067 related services, as needed, and documentation of related
1068 findings ~~relative thereto~~.

1069 (b) Telephone consultation services in emergencies and in
1070 other situations.

1071 (c) Medical evaluation related to abuse, abandonment, or
1072 neglect, as defined by policy or rule of the Department of
1073 Health.

1074 (d) Such psychological and psychiatric diagnosis and
1075 evaluation services for the child or the child's parent or
1076 parents, legal custodian or custodians, or other caregivers, or
1077 any other individual involved in a child abuse, abandonment, or
1078 neglect case, as the team may determine to be needed.

1079 (e) Expert medical, psychological, and related professional
1080 testimony in court cases.

1081 (f) Case staffings to develop treatment plans for children
1082 whose cases have been referred to the team. A child protection
1083 team may provide consultation with respect to a child who is



915192

1084 alleged or is shown to be abused, abandoned, or neglected, which
1085 consultation shall be provided at the request of a
1086 representative of the family safety and preservation program or
1087 at the request of any other professional involved with a child
1088 or the child's parent or parents, legal custodian or custodians,
1089 or other caregivers. In every such child protection team case
1090 staffing, consultation, or staff activity involving a child, a
1091 family safety and preservation program representative shall
1092 attend and participate.

1093 (g) Case service coordination and assistance, including the
1094 location of services available from other public and private
1095 agencies in the community.

1096 (h) Such training services for program and other employees
1097 of the Department of Children and Families ~~Family Services~~,
1098 employees of the Department of Health, and other medical
1099 professionals as is deemed appropriate to enable them to develop
1100 and maintain their professional skills and abilities in handling
1101 child abuse, abandonment, and neglect cases.

1102 (i) Educational and community awareness campaigns on child
1103 abuse, abandonment, and neglect in an effort to enable citizens
1104 more successfully to prevent, identify, and treat child abuse,
1105 abandonment, and neglect in the community.

1106 (j) Child protection team assessments that include, as
1107 appropriate, medical evaluations, medical consultations, family
1108 psychosocial interviews, specialized clinical interviews, or
1109 forensic interviews.

1110
1111 All medical personnel participating on a child protection team
1112 must successfully complete the required child protection team



915192

1113 training curriculum as set forth in protocols determined by the
1114 Deputy Secretary for Children's Medical Services and the
1115 Statewide Medical Director for Child Protection. A child
1116 protection team that is evaluating a report of medical neglect
1117 and assessing the health care needs of a medically complex child
1118 shall consult with a physician who has experience in treating
1119 children with the same condition.

1120 (2) The child abuse, abandonment, and neglect reports that
1121 must be referred by the department to child protection teams of
1122 the Department of Health for an assessment and other appropriate
1123 available support services as set forth in subsection (1) must
1124 include cases involving:

1125 (a) Injuries to the head, bruises to the neck or head,
1126 burns, or fractures in a child of any age.

1127 (b) Bruises anywhere on a child 5 years of age or under.

1128 (c) Any report alleging sexual abuse of a child.

1129 (d) Any sexually transmitted disease in a prepubescent
1130 child.

1131 (e) Reported malnutrition of a child and failure of a child
1132 to thrive.

1133 (f) Reported medical neglect of a child.

1134 (g) Any family in which one or more children have been
1135 pronounced dead on arrival at a hospital or other health care
1136 facility, or have been injured and later died, as a result of
1137 suspected abuse, abandonment, or neglect, when any sibling or
1138 other child remains in the home.

1139 (h) Symptoms of serious emotional problems in a child when
1140 emotional or other abuse, abandonment, or neglect is suspected.

1141 (3) All abuse and neglect cases transmitted for



915192

1142 investigation to a district by the hotline must be
1143 simultaneously transmitted to the Department of Health child
1144 protection team for review. For the purpose of determining
1145 whether face-to-face medical evaluation by a child protection
1146 team is necessary, all cases transmitted to the child protection
1147 team which meet the criteria in subsection (2) must be timely
1148 reviewed by:

1149 (a) A physician licensed under chapter 458 or chapter 459
1150 who holds board certification in pediatrics and is a member of a
1151 child protection team;

1152 (b) A physician licensed under chapter 458 or chapter 459
1153 who holds board certification in a specialty other than
1154 pediatrics, who may complete the review only when working under
1155 the direction of a physician licensed under chapter 458 or
1156 chapter 459 who holds board certification in pediatrics and is a
1157 member of a child protection team;

1158 (c) An advanced registered nurse practitioner licensed
1159 under chapter 464 who has a specialty ~~speciality~~ in pediatrics
1160 or family medicine and is a member of a child protection team;

1161 (d) A physician assistant licensed under chapter 458 or
1162 chapter 459, who may complete the review only when working under
1163 the supervision of a physician licensed under chapter 458 or
1164 chapter 459 who holds board certification in pediatrics and is a
1165 member of a child protection team; or

1166 (e) A registered nurse licensed under chapter 464, who may
1167 complete the review only when working under the direct
1168 supervision of a physician licensed under chapter 458 or chapter
1169 459 who holds certification in pediatrics and is a member of a
1170 child protection team.



915192

1171 (4) A face-to-face medical evaluation by a child protection
1172 team is not necessary when:

1173 (a) The child was examined for the alleged abuse or neglect
1174 by a physician who is not a member of the child protection team,
1175 and a consultation between the child protection team board-
1176 certified pediatrician, advanced registered nurse practitioner,
1177 physician assistant working under the supervision of a child
1178 protection team board-certified pediatrician, or registered
1179 nurse working under the direct supervision of a child protection
1180 team board-certified pediatrician, and the examining physician
1181 concludes that a further medical evaluation is unnecessary;

1182 (b) The child protective investigator, with supervisory
1183 approval, has determined, after conducting a child safety
1184 assessment, that there are no indications of injuries as
1185 described in paragraphs (2) (a)-(h) as reported; or

1186 (c) The child protection team board-certified pediatrician,
1187 as authorized in subsection (3), determines that a medical
1188 evaluation is not required.

1189
1190 Notwithstanding paragraphs (a), (b), and (c), a child protection
1191 team pediatrician, as authorized in subsection (3), may
1192 determine that a face-to-face medical evaluation is necessary.

1193 (5) In all instances in which a child protection team is
1194 providing certain services to abused, abandoned, or neglected
1195 children, other offices and units of the Department of Health,
1196 and offices and units of the Department of Children and Families
1197 ~~Family Services~~, shall avoid duplicating the provision of those
1198 services.

1199 (6) The Department of Health child protection team quality



915192

1200 assurance program and the Family Safety Program Office of the
1201 Department of Children and Families ~~Family Services' Family~~
1202 ~~Safety Program Office~~ quality assurance program shall
1203 collaborate to ensure referrals and responses to child abuse,
1204 abandonment, and neglect reports are appropriate. Each quality
1205 assurance program shall include a review of records in which
1206 there are no findings of abuse, abandonment, or neglect, and the
1207 findings of these reviews shall be included in each department's
1208 quality assurance reports.

1209 Section 10. Section 39.3068, Florida Statutes, is created
1210 to read:

1211 39.3068 Reports of medical neglect.—

1212 (1) Upon receiving a report alleging medical neglect, the
1213 department or sheriff's office shall assign the case to a child
1214 protective investigator who has specialized training in
1215 addressing medical neglect or working with medically complex
1216 children, if such investigator is available. If a child
1217 protective investigator with specialized training is not
1218 available, the child protective investigator shall consult with
1219 department staff with such expertise.

1220 (2) The child protective investigator who has interacted
1221 with the child and the child's family shall promptly contact and
1222 provide information to the child protection team. The child
1223 protection team shall assist the child protective investigator
1224 in identifying immediate responses to address the medical needs
1225 of the child with the priority of maintaining the child in the
1226 home if the parents will be able to meet the needs of the child
1227 with additional services. The child protective investigator and
1228 the child protection team must use a family-centered approach to



915192

1229 assess the capacity of the family to meet those needs. A family-
1230 centered approach is intended to increase independence on the
1231 part of the family, accessibility to programs and services
1232 within the community, and collaboration between families and
1233 their service providers. The ethnic, cultural, economic, racial,
1234 social, and religious diversity of families must be respected
1235 and considered in the development and provision of services.

1236 (3) The child shall be evaluated by the child protection
1237 team as soon as practicable. After receipt of the report from
1238 the child protection team, the department shall convene a case
1239 staffing which shall be attended, at a minimum, by the child
1240 protective investigator; department legal staff; and
1241 representatives from the child protection team that evaluated
1242 the child, Children's Medical Services, the Agency for Health
1243 Care Administration, the community-based care lead agency, and
1244 any providers of services to the child. However, the Agency for
1245 Health Care Administration is not required to attend the
1246 staffing if the child is not Medicaid-eligible. The staffing
1247 shall consider, at a minimum, available services, given the
1248 family's eligibility for services; services that are effective
1249 in addressing conditions leading to medical neglect allegations;
1250 and services that would enable the child to safely remain at
1251 home. Any services that are available and effective, shall be
1252 provided.

1253 Section 11. Section 39.307, Florida Statutes, is amended to
1254 read:

1255 39.307 Reports of child-on-child sexual abuse.—

1256 (1) Upon receiving a report alleging juvenile sexual abuse
1257 or inappropriate sexual behavior as defined in s. 39.01(7), the



915192

1258 department shall assist the family, child, and caregiver in
1259 receiving appropriate services to address the allegations of the
1260 report.

1261 (a) The department shall ensure that information describing
1262 the child's history of child sexual abuse is included in the
1263 child's electronic record. This record must also include
1264 information describing the services the child has received as a
1265 result of his or her involvement with child sexual abuse.

1266 (b) Placement decisions for a child who has been involved
1267 with child sexual abuse must include consideration of the needs
1268 of the child and any other children in the placement.

1269 (c) The department shall monitor the occurrence of child
1270 sexual abuse and the provision of services to children involved
1271 in child sexual abuse, juvenile sexual abuse, or who have
1272 displayed inappropriate sexual behavior.

1273 (2) The department, contracted sheriff's office providing
1274 protective investigation services, or contracted case management
1275 personnel responsible for providing services, at a minimum,
1276 shall adhere to the following procedures:

1277 (a) The purpose of the response to a report alleging
1278 juvenile sexual abuse behavior or inappropriate sexual behavior
1279 shall be explained to the caregiver.

1280 1. The purpose of the response shall be explained in a
1281 manner consistent with legislative purpose and intent provided
1282 in this chapter.

1283 2. The name and office telephone number of the person
1284 responding shall be provided to the caregiver of the alleged
1285 abuser ~~juvenile sexual offender~~ or child who has exhibited
1286 inappropriate sexual behavior and the victim's caregiver.



915192

1287 3. The possible consequences of the department's response,
1288 including outcomes and services, shall be explained to the
1289 caregiver of the alleged abuser ~~juvenile sexual offender~~ or
1290 child who has exhibited inappropriate sexual behavior and the
1291 victim's caregiver.

1292 (b) The caregiver of the alleged abuser ~~juvenile sexual~~
1293 ~~offender~~ or child who has exhibited inappropriate sexual
1294 behavior and the victim's caregiver shall be involved to the
1295 fullest extent possible in determining the nature of the sexual
1296 behavior concerns and the nature of any problem or risk to other
1297 children.

1298 (c) The assessment of risk and the perceived treatment
1299 needs of the alleged abuser ~~juvenile sexual offender~~ or child
1300 who has exhibited inappropriate sexual behavior, the victim, and
1301 respective caregivers shall be conducted by the district staff,
1302 the child protection team of the Department of Health, and other
1303 providers under contract with the department to provide services
1304 to the caregiver of the alleged offender, the victim, and the
1305 victim's caregiver.

1306 (d) The assessment shall be conducted in a manner that is
1307 sensitive to the social, economic, and cultural environment of
1308 the family.

1309 (e) If necessary, the child protection team of the
1310 Department of Health shall conduct a physical examination of the
1311 victim, which is sufficient to meet forensic requirements.

1312 (f) Based on the information obtained from the alleged
1313 abuser ~~juvenile sexual offender~~ or child who has exhibited
1314 inappropriate sexual behavior, his or her caregiver, the victim,
1315 and the victim's caregiver, an assessment of service and



915192

1316 treatment needs must be completed and, if needed, a case plan
1317 developed within 30 days.

1318 (g) The department shall classify the outcome of the report
1319 as follows:

1320 1. Report closed. Services were not offered because the
1321 department determined that there was no basis for intervention.

1322 2. Services accepted by alleged abuser ~~juvenile sexual~~
1323 ~~offender~~. Services were offered to the alleged abuser ~~juvenile~~
1324 ~~sexual offender~~ or child who has exhibited inappropriate sexual
1325 behavior and accepted by the caregiver.

1326 3. Report closed. Services were offered to the alleged
1327 abuser ~~juvenile sexual offender~~ or child who has exhibited
1328 inappropriate sexual behavior, but were rejected by the
1329 caregiver.

1330 4. Notification to law enforcement. The risk to the
1331 victim's safety and well-being cannot be reduced by the
1332 provision of services or the caregiver rejected services, and
1333 notification of the alleged delinquent act or violation of law
1334 to the appropriate law enforcement agency was initiated.

1335 5. Services accepted by victim. Services were offered to
1336 the victim and accepted by the caregiver.

1337 6. Report closed. Services were offered to the victim but
1338 were rejected by the caregiver.

1339 (3) If services have been accepted by the alleged abuser
1340 ~~juvenile sexual offender~~ or child who has exhibited
1341 inappropriate sexual behavior, the victim, and respective
1342 caregivers, the department shall designate a case manager and
1343 develop a specific case plan.

1344 (a) Upon receipt of the plan, the caregiver shall indicate



915192

1345 its acceptance of the plan in writing.

1346 (b) The case manager shall periodically review the progress
1347 toward achieving the objectives of the plan in order to:

1348 1. Make adjustments to the plan or take additional action
1349 as provided in this part; or

1350 2. Terminate the case if indicated by successful or
1351 substantial achievement of the objectives of the plan.

1352 (4) Services provided to the alleged abuser ~~juvenile sexual~~
1353 ~~offender~~ or child who has exhibited inappropriate sexual
1354 behavior, the victim, and respective caregivers or family must
1355 be voluntary and of necessary duration.

1356 (5) If the family or caregiver of the alleged abuser
1357 ~~juvenile sexual offender~~ or child who has exhibited
1358 inappropriate sexual behavior fails to adequately participate or
1359 allow for the adequate participation of the child in the
1360 services or treatment delineated in the case plan, the case
1361 manager may recommend that the department:

1362 (a) Close the case;

1363 (b) Refer the case to mediation or arbitration, if
1364 available; or

1365 (c) Notify the appropriate law enforcement agency of
1366 failure to comply.

1367 (6) At any time, as a result of additional information,
1368 findings of facts, or changing conditions, the department may
1369 pursue a child protective investigation as provided in this
1370 chapter.

1371 (7) The department may adopt ~~is authorized to develop~~ rules
1372 ~~and other policy directives necessary to~~ administer ~~implement~~
1373 ~~the provisions of~~ this section.



915192

1374 Section 12. Paragraph (h) of subsection (8) and subsection
1375 (9) of section 39.402, Florida Statutes, are amended to read:

1376 39.402 Placement in a shelter.—

1377 (8)

1378 (h) The order for placement of a child in shelter care must
1379 identify the parties present at the hearing and must contain
1380 written findings:

1381 1. That placement in shelter care is necessary based on the
1382 criteria in subsections (1) and (2).

1383 2. That placement in shelter care is in the best interest
1384 of the child.

1385 3. That continuation of the child in the home is contrary
1386 to the welfare of the child because the home situation presents
1387 a substantial and immediate danger to the child's physical,
1388 mental, or emotional health or safety which cannot be mitigated
1389 by the provision of preventive services.

1390 4. That based upon the allegations of the petition for
1391 placement in shelter care, there is probable cause to believe
1392 that the child is dependent or that the court needs additional
1393 time, which may not exceed 72 hours, in which to obtain and
1394 review documents pertaining to the family in order to
1395 appropriately determine the risk to the child.

1396 5. That the department has made reasonable efforts to
1397 prevent or eliminate the need for removal of the child from the
1398 home. A finding of reasonable effort by the department to
1399 prevent or eliminate the need for removal may be made and the
1400 department is deemed to have made reasonable efforts to prevent
1401 or eliminate the need for removal if:

1402 a. The first contact of the department with the family



915192

1403 occurs during an emergency;

1404 b. The appraisal of the home situation by the department
1405 indicates that the home situation presents a substantial and
1406 immediate danger to the child's physical, mental, or emotional
1407 health or safety which cannot be mitigated by the provision of
1408 preventive services;

1409 c. The child cannot safely remain at home, either because
1410 there are no preventive services that can ensure the health and
1411 safety of the child or because, even with appropriate and
1412 available services being provided, the health and safety of the
1413 child cannot be ensured; or

1414 d. The parent or legal custodian is alleged to have
1415 committed any of the acts listed as grounds for expedited
1416 termination of parental rights in s. 39.806(1)(f)-(i).

1417 6. That the department has made reasonable efforts to keep
1418 siblings together if they are removed and placed in out-of-home
1419 care unless such placement is not in the best interest of each
1420 child. Reasonable efforts shall include short-term placement in
1421 a group home with the ability to accommodate sibling groups if
1422 such a placement is available. The department shall report to
1423 the court its efforts to place siblings together unless the
1424 court finds that such placement is not in the best interest of a
1425 child or his or her sibling.

1426 ~~7.6.~~ That the court notified the parents, relatives that
1427 are providing out-of-home care for the child, or legal
1428 custodians of the time, date, and location of the next
1429 dependency hearing and of the importance of the active
1430 participation of the parents, relatives that are providing out-
1431 of-home care for the child, or legal custodians in all



915192

1432 proceedings and hearings.

1433 8.7. That the court notified the parents or legal
1434 custodians of their right to counsel to represent them at the
1435 shelter hearing and at each subsequent hearing or proceeding,
1436 and the right of the parents to appointed counsel, pursuant to
1437 the procedures set forth in s. 39.013.

1438 9.8. That the court notified relatives who are providing
1439 out-of-home care for a child as a result of the shelter petition
1440 being granted that they have the right to attend all subsequent
1441 hearings, to submit reports to the court, and to speak to the
1442 court regarding the child, if they so desire.

1443 (9) (a) At any shelter hearing, the department shall provide
1444 to the court a recommendation for scheduled contact between the
1445 child and parents, if appropriate. The court shall determine
1446 visitation rights absent a clear and convincing showing that
1447 visitation is not in the best interest of the child. Any order
1448 for visitation or other contact must conform to ~~the provisions~~
1449 ~~of~~ s. 39.0139. If visitation is ordered but will not commence
1450 within 72 hours of the shelter hearing, the department shall
1451 provide justification to the court.

1452 (b) If siblings who are removed from the home cannot be
1453 placed together, the department shall provide to the court a
1454 recommendation for frequent visitation or other ongoing
1455 interaction between the siblings unless this interaction would
1456 be contrary to a sibling's safety or well-being. If visitation
1457 among siblings is ordered but will not commence within 72 hours
1458 after the shelter hearing, the department shall provide
1459 justification to the court for the delay.

1460 Section 13. Paragraph (d) of subsection (3) of section



915192

1461 39.501, Florida Statutes, is amended to read:

1462 39.501 Petition for dependency.—

1463 (3)

1464 (d) The petitioner must state in the petition, if known,
1465 whether:

1466 1. A parent or legal custodian named in the petition has
1467 previously unsuccessfully participated in voluntary services
1468 offered by the department;

1469 2. A parent or legal custodian named in the petition has
1470 participated in mediation and whether a mediation agreement
1471 exists;

1472 3. A parent or legal custodian has rejected the voluntary
1473 services offered by the department;

1474 4. A parent or legal custodian named in the petition has
1475 not fully complied with a safety plan; or

1476 5.4. The department has determined that voluntary services
1477 are not appropriate for the parent or legal custodian and the
1478 reasons for such determination.

1479
1480 If the department is the petitioner, it shall provide all safety
1481 assessments and safety plans involving the parent or legal
1482 custodian to the court.

1483 Section 14. Section 39.5085, Florida Statutes, is amended
1484 to read:

1485 39.5085 Relative Caregiver Program.—

1486 (1) It is the intent of the Legislature in enacting this
1487 section to:

1488 (a) Provide for the establishment of procedures and
1489 protocols that serve to advance the continued safety of children



915192

1490 by acknowledging the valued resource uniquely available through
1491 grandparents, ~~and~~ relatives of children, and specified
1492 nonrelatives of children pursuant to subparagraph (2)(a)3.

1493 (b) Recognize family relationships in which a grandparent
1494 or other relative is the head of a household that includes a
1495 child otherwise at risk of foster care placement.

1496 (c) Enhance family preservation and stability by
1497 recognizing that most children in such placements with
1498 grandparents and other relatives do not need intensive
1499 supervision of the placement by the courts or by the department.

1500 (d) Recognize that permanency in the best interests of the
1501 child can be achieved through a variety of permanency options,
1502 including permanent guardianship under s. 39.6221 if the
1503 guardian is a relative, by permanent placement with a fit and
1504 willing relative under s. 39.6231, by a relative, guardianship
1505 under chapter 744, or adoption, by providing additional
1506 placement options and incentives that will achieve permanency
1507 and stability for many children who are otherwise at risk of
1508 foster care placement because of abuse, abandonment, or neglect,
1509 but who may successfully be able to be placed by the dependency
1510 court in the care of such relatives.

1511 (e) Reserve the limited casework and supervisory resources
1512 of the courts and the department for those cases in which
1513 children do not have the option for safe, stable care within the
1514 family.

1515 (f) Recognize that a child may have a close relationship
1516 with a person who is not a blood relative or a relative by
1517 marriage and that such person should be eligible for financial
1518 assistance under this section if he or she is able and willing



915192

1519 to care for the child and provide a safe, stable home
1520 environment.

1521 (2) (a) The Department of Children and Families ~~Family~~
1522 ~~Services~~ shall establish and operate the Relative Caregiver
1523 Program pursuant to eligibility guidelines established in this
1524 section as further implemented by rule of the department. The
1525 Relative Caregiver Program shall, within the limits of available
1526 funding, provide financial assistance to:

1527 1. Relatives who are within the fifth degree by blood or
1528 marriage to the parent or stepparent of a child and who are
1529 caring full-time for that dependent child in the role of
1530 substitute parent as a result of a court's determination of
1531 child abuse, neglect, or abandonment and subsequent placement
1532 with the relative under this chapter.

1533 2. Relatives who are within the fifth degree by blood or
1534 marriage to the parent or stepparent of a child and who are
1535 caring full-time for that dependent child, and a dependent half-
1536 brother or half-sister of that dependent child, in the role of
1537 substitute parent as a result of a court's determination of
1538 child abuse, neglect, or abandonment and subsequent placement
1539 with the relative under this chapter.

1540 3. Nonrelatives who are willing to assume custody and care
1541 of a dependent child and a dependent half-brother or half-sister
1542 of that dependent child in the role of substitute parent as a
1543 result of a court's determination of child abuse, neglect, or
1544 abandonment and subsequent placement with the nonrelative
1545 caregiver under this chapter. The court must find that a
1546 proposed placement under this subparagraph is in the best
1547 interest of the child.



915192

1548
1549 The placement may be court-ordered temporary legal custody to
1550 the relative or nonrelative under protective supervision of the
1551 department pursuant to s. 39.521(1)(b)3., or court-ordered
1552 placement in the home of a relative or nonrelative as a
1553 permanency option under s. 39.6221 or s. 39.6231 or under former
1554 s. 39.622 if the placement was made before July 1, 2006. The
1555 Relative Caregiver Program shall offer financial assistance to
1556 caregivers ~~who are relatives and~~ who would be unable to serve in
1557 that capacity without the ~~relative~~ caregiver payment because of
1558 financial burden, thus exposing the child to the trauma of
1559 placement in a shelter or in foster care.

1560 (b) Caregivers ~~who are relatives and~~ who receive assistance
1561 under this section must be capable, as determined by a home
1562 study, of providing a physically safe environment and a stable,
1563 supportive home for the children under their care, and must
1564 assure that the children's well-being is met, including, but not
1565 limited to, the provision of immunizations, education, and
1566 mental health services as needed.

1567 (c) Relatives or nonrelatives who qualify for and
1568 participate in the Relative Caregiver Program are not required
1569 to meet foster care licensing requirements under s. 409.175.

1570 (d) Relatives or nonrelatives who are caring for children
1571 placed with them by the court pursuant to this chapter shall
1572 receive a special monthly ~~relative~~ caregiver benefit established
1573 by rule of the department. The amount of the special benefit
1574 payment shall be based on the child's age within a payment
1575 schedule established by rule of the department and subject to
1576 availability of funding. The statewide average monthly rate for



915192

1577 children judicially placed with relatives or nonrelatives who
1578 are not licensed as foster homes may not exceed 82 percent of
1579 the statewide average foster care rate, and ~~nor may~~ the cost of
1580 providing the assistance described in this section to any
1581 ~~relative~~ caregiver may not exceed the cost of providing out-of-
1582 home care in emergency shelter or foster care.

1583 (e) Children receiving cash benefits under this section are
1584 not eligible to simultaneously receive WAGES cash benefits under
1585 chapter 414.

1586 (f) Within available funding, the Relative Caregiver
1587 Program shall provide ~~relative~~ caregivers with family support
1588 and preservation services, flexible funds in accordance with s.
1589 409.165, school readiness, and other available services in order
1590 to support the child's safety, growth, and healthy development.
1591 Children living with ~~relative~~ caregivers who are receiving
1592 assistance under this section shall be eligible for Medicaid
1593 coverage.

1594 (g) The department may use appropriate available state,
1595 federal, and private funds to operate the Relative Caregiver
1596 Program. The department may develop liaison functions to be
1597 available to relatives or nonrelatives who care for children
1598 pursuant to this chapter to ensure placement stability in
1599 extended family settings.

1600 Section 15. Subsections (3) and (4) of section 39.604,
1601 Florida Statutes, are amended to read:

1602 39.604 Rilya Wilson Act; short title; legislative intent;
1603 requirements; attendance and reporting responsibilities.—

1604 (3) REQUIREMENTS.—A child from birth to the age of ~~who is~~
1605 ~~age 3 years to~~ school entry, under court-ordered ~~court-ordered~~



915192

1606 protective supervision or in the custody of the Family Safety
1607 Program Office of the Department of Children and Families ~~Family~~
1608 ~~Services~~ or a community-based lead agency, and enrolled in a
1609 licensed early education or child care program must attend ~~be~~
1610 ~~enrolled to participate in~~ the program 5 days a week.

1611 Notwithstanding ~~the requirements of~~ s. 39.202, the Department of
1612 Children and Families ~~Family Services~~ must notify operators of
1613 the licensed early education or child care program, subject to
1614 the reporting requirements of this act, of the enrollment of any
1615 child from birth to the age of ~~age 3 years to~~ school entry,
1616 under court-ordered ~~court-ordered~~ protective supervision or in
1617 the custody of the Family Safety Program Office of the
1618 Department of Children and Families ~~Family Services~~ or a
1619 community-based lead agency. When a child is enrolled in an
1620 early education or child care program regulated by the
1621 department, the child's attendance in the program must be a
1622 required action in the safety plan or the case plan developed
1623 for the ~~a~~ child pursuant to this chapter ~~who is enrolled in a~~
1624 ~~licensed early education or child care program must contain the~~
1625 ~~participation in this program as a required action.~~ An exemption
1626 to participating in the licensed early education or child care
1627 program 5 days a week may be granted by the court.

1628 (4) ATTENDANCE AND REPORTING REQUIREMENTS.—

1629 (a) A child enrolled in a licensed early education or child
1630 care program who meets the requirements of subsection (3) may
1631 not be withdrawn from the program without the prior written
1632 approval of the Family Safety Program Office of the Department
1633 of Children and Families ~~Family Services~~ or the community-based
1634 lead agency.



915192

1635 (b)1. If a child covered by this section is absent from the
1636 program on a day when he or she is supposed to be present, the
1637 person with whom the child resides must report the absence to
1638 the program by the end of the business day. If the person with
1639 whom the child resides, whether the parent or caregiver, fails
1640 to timely report the absence, the absence is considered to be
1641 unexcused. The program shall report any unexcused absence or
1642 seven consecutive excused absences of a child who is enrolled in
1643 the program and covered by this act to the local designated
1644 staff of the Family Safety Program Office of the Department of
1645 Children and Families ~~Family Services~~ or the community-based
1646 lead agency by the end of the business day following the
1647 unexcused absence or seventh consecutive excused absence.

1648 2. The department or community-based lead agency shall
1649 conduct a site visit to the residence of the child upon
1650 receiving a report of two consecutive unexcused absences or
1651 seven consecutive excused absences.

1652 3. If the site visit results in a determination that the
1653 child is missing, the department or community-based lead agency
1654 shall report the child as missing to a law enforcement agency
1655 and proceed with the necessary actions to locate the child
1656 pursuant to procedures for locating missing children.

1657 4. If the site visit results in a determination that the
1658 child is not missing, the parent or caregiver shall be notified
1659 that failure to ensure that the child attends the licensed early
1660 education or child care program is a violation of the safety
1661 plan or the case plan. If more than two site visits are
1662 conducted pursuant to this subsection, staff shall initiate
1663 action to notify the court of the parent or caregiver's



915192

1664 noncompliance with the case plan.

1665 Section 16. Paragraph (c) of subsection (2) and paragraph
1666 (a) of subsection (3) of section 39.701, Florida Statutes, are
1667 amended to read:

1668 39.701 Judicial review.—

1669 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF
1670 AGE.—

1671 (c) *Review determinations.*—The court and any citizen review
1672 panel shall take into consideration the information contained in
1673 the social services study and investigation and all medical,
1674 psychological, and educational records that support the terms of
1675 the case plan; testimony by the social services agency, the
1676 parent, the foster parent or legal custodian, the guardian ad
1677 litem or surrogate parent for educational decisionmaking if one
1678 has been appointed for the child, and any other person deemed
1679 appropriate; and any relevant and material evidence submitted to
1680 the court, including written and oral reports to the extent of
1681 their probative value. These reports and evidence may be
1682 received by the court in its effort to determine the action to
1683 be taken with regard to the child and may be relied upon to the
1684 extent of their probative value, even though not competent in an
1685 adjudicatory hearing. In its deliberations, the court and any
1686 citizen review panel shall seek to determine:

1687 1. If the parent was advised of the right to receive
1688 assistance from any person or social service agency in the
1689 preparation of the case plan.

1690 2. If the parent has been advised of the right to have
1691 counsel present at the judicial review or citizen review
1692 hearings. If not so advised, the court or citizen review panel



915192

1693 shall advise the parent of such right.

1694 3. If a guardian ad litem needs to be appointed for the
1695 child in a case in which a guardian ad litem has not previously
1696 been appointed or if there is a need to continue a guardian ad
1697 litem in a case in which a guardian ad litem has been appointed.

1698 4. Who holds the rights to make educational decisions for
1699 the child. If appropriate, the court may refer the child to the
1700 district school superintendent for appointment of a surrogate
1701 parent or may itself appoint a surrogate parent under the
1702 Individuals with Disabilities Education Act and s. 39.0016.

1703 5. The compliance or lack of compliance of all parties with
1704 applicable items of the case plan, including the parents'
1705 compliance with child support orders.

1706 6. The compliance or lack of compliance with a visitation
1707 contract between the parent and the social service agency for
1708 contact with the child, including the frequency, duration, and
1709 results of the parent-child visitation and the reason for any
1710 noncompliance.

1711 7. The frequency, kind, and duration of contacts among
1712 siblings who have been separated during placement, as well as
1713 any efforts undertaken to reunite separated siblings if doing so
1714 is in the best interest of the child.

1715 ~~8.7.~~ The compliance or lack of compliance of the parent in
1716 meeting specified financial obligations pertaining to the care
1717 of the child, including the reason for failure to comply, if
1718 applicable ~~such is the case.~~

1719 ~~9.8.~~ Whether the child is receiving safe and proper care
1720 according to s. 39.6012, including, but not limited to, the
1721 appropriateness of the child's current placement, including



915192

1722 whether the child is in a setting that is as family-like and as
1723 close to the parent's home as possible, consistent with the
1724 child's best interests and special needs, and including
1725 maintaining stability in the child's educational placement, as
1726 documented by assurances from the community-based care provider
1727 that:

1728 a. The placement of the child takes into account the
1729 appropriateness of the current educational setting and the
1730 proximity to the school in which the child is enrolled at the
1731 time of placement.

1732 b. The community-based care agency has coordinated with
1733 appropriate local educational agencies to ensure that the child
1734 remains in the school in which the child is enrolled at the time
1735 of placement.

1736 ~~10.9.~~ A projected date likely for the child's return home
1737 or other permanent placement.

1738 ~~11.10.~~ When appropriate, the basis for the unwillingness or
1739 inability of the parent to become a party to a case plan. The
1740 court and the citizen review panel shall determine if the
1741 efforts of the social service agency to secure party
1742 participation in a case plan were sufficient.

1743 ~~12.11.~~ For a child who has reached 13 years of age but is
1744 not yet 18 years of age, the adequacy of the child's preparation
1745 for adulthood and independent living.

1746 ~~13.12.~~ If amendments to the case plan are required.
1747 Amendments to the case plan must be made under s. 39.6013.

1748 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

1749 (a) In addition to the review and report required under
1750 paragraphs (1) (a) and (2) (a), respectively, the court shall hold



915192

1751 a judicial review hearing within 90 days after a child's 17th
1752 birthday. The court shall also issue an order, separate from the
1753 order on judicial review, that the disability of nonage of the
1754 child has been removed pursuant to ss. 743.044, 743.045, and
1755 743.046, and for any of these disabilities that the court finds
1756 is in the child's best interest to remove. The court ~~s. 743.045~~
1757 ~~and~~ shall continue to hold timely judicial review hearings. If
1758 necessary, the court may review the status of the child more
1759 frequently during the year before the child's 18th birthday. At
1760 each review hearing held under this subsection, in addition to
1761 any information or report provided to the court by the foster
1762 parent, legal custodian, or guardian ad litem, the child shall
1763 be given the opportunity to address the court with any
1764 information relevant to the child's best interest, particularly
1765 in relation to independent living transition services. The
1766 department shall include in the social study report for judicial
1767 review written verification that the child has:

1768 1. A current Medicaid card and all necessary information
1769 concerning the Medicaid program sufficient to prepare the child
1770 to apply for coverage upon reaching the age of 18, if such
1771 application is appropriate.

1772 2. A certified copy of the child's birth certificate and,
1773 if the child does not have a valid driver license, a Florida
1774 identification card issued under s. 322.051.

1775 3. A social security card and information relating to
1776 social security insurance benefits if the child is eligible for
1777 those benefits. If the child has received such benefits and they
1778 are being held in trust for the child, a full accounting of
1779 these funds must be provided and the child must be informed as



915192

1780 to how to access those funds.

1781 4. All relevant information related to the Road-to-
1782 Independence Program, including, but not limited to, eligibility
1783 requirements, information on participation, and assistance in
1784 gaining admission to the program. If the child is eligible for
1785 the Road-to-Independence Program, he or she must be advised that
1786 he or she may continue to reside with the licensed family home
1787 or group care provider with whom the child was residing at the
1788 time the child attained his or her 18th birthday, in another
1789 licensed family home, or with a group care provider arranged by
1790 the department.

1791 5. An open bank account or the identification necessary to
1792 open a bank account and to acquire essential banking and
1793 budgeting skills.

1794 6. Information on public assistance and how to apply for
1795 public assistance.

1796 7. A clear understanding of where he or she will be living
1797 on his or her 18th birthday, how living expenses will be paid,
1798 and the educational program or school in which he or she will be
1799 enrolled.

1800 8. Information related to the ability of the child to
1801 remain in care until he or she reaches 21 years of age under s.
1802 39.013.

1803 9. A letter providing the dates that the child is under the
1804 jurisdiction of the court.

1805 10. A letter stating that the child is in compliance with
1806 financial aid documentation requirements.

1807 11. The child's educational records.

1808 12. The child's entire health and mental health records.



915192

1809 13. The process for accessing his or her case file.

1810 14. A statement encouraging the child to attend all
1811 judicial review hearings occurring after the child's 17th
1812 birthday.

1813 Section 17. Subsection (2) of section 39.802, Florida
1814 Statutes, is amended to read:

1815 39.802 Petition for termination of parental rights; filing;
1816 elements.—

1817 (2) The form of the petition is governed by the Florida
1818 Rules of Juvenile Procedure. The petition must be in writing and
1819 signed by the petitioner ~~or, if the department is the~~
1820 ~~petitioner, by an employee of the department,~~ under oath stating
1821 the petitioner's good faith in filing the petition.

1822 Section 18. Paragraph (g) of subsection (1) of section
1823 63.212, Florida Statutes, is amended to read:

1824 63.212 Prohibited acts; penalties for violation.—

1825 (1) It is unlawful for any person:

1826 (g) Except an adoption entity, to advertise or offer to the
1827 public, in any way, by any medium whatever that a minor is
1828 available for adoption or that a minor is sought for adoption;
1829 and, further, it is unlawful for any person to publish or
1830 broadcast any such advertisement or assist an unlicensed person
1831 or entity in publishing or broadcasting any such advertisement
1832 without including a Florida license number of the agency or
1833 attorney placing the advertisement.

1834 1. Only a person who is an attorney licensed to practice
1835 law in this state or an adoption entity licensed under the laws
1836 of this state may place a paid advertisement or paid listing of
1837 the person's telephone number, on the person's own behalf, in a



915192

1838 telephone directory that:

1839 a. A child is offered or wanted for adoption; or

1840 b. The person is able to place, locate, or receive a child
1841 for adoption.

1842 2. A person who publishes a telephone directory that is
1843 distributed in this state:

1844 ~~a.~~ shall include, at the beginning of any classified
1845 heading for adoption and adoption services, a statement that
1846 informs directory users that only attorneys licensed to practice
1847 law in this state and licensed adoption entities may legally
1848 provide adoption services under state law.

1849 ~~3.b.~~ A person who places ~~may publish~~ an advertisement
1850 described in subparagraph 1. in a the telephone directory must
1851 include only if the advertisement contains the following
1852 information:

1853 a. ~~(I)~~ For an attorney licensed to practice law in this
1854 state, the person's Florida Bar number.

1855 b. ~~(II)~~ For a child placing agency licensed under the laws
1856 of this state, the number on the person's adoption entity
1857 license.

1858 Section 19. Subsection (1) and paragraph (c) of subsection
1859 (3) of section 383.402, Florida Statutes, are amended to read:

1860 383.402 Child abuse death review; State Child Abuse Death
1861 Review Committee; local child abuse death review committees.—

1862 (1) It is the intent of the Legislature to establish a
1863 statewide multidisciplinary, multiagency child abuse death
1864 assessment and prevention system that consists of state and
1865 local review committees. The state and local review committees
1866 shall review the facts and circumstances of all deaths of



915192

1867 children from birth through age 18 which occur in this state and
1868 are reported to the central abuse hotline of the Department of
1869 Children and Families ~~as the result of verified child abuse or~~
1870 ~~neglect~~. The purpose of the review shall be to:

1871 (a) Achieve a greater understanding of the causes and
1872 contributing factors of deaths resulting from child abuse.

1873 (b) Whenever possible, develop a communitywide approach to
1874 address such cases and contributing factors.

1875 (c) Identify any gaps, deficiencies, or problems in the
1876 delivery of services to children and their families by public
1877 and private agencies which may be related to deaths that are the
1878 result of child abuse.

1879 (d) Make and implement recommendations for changes in law,
1880 rules, and policies, as well as develop practice standards that
1881 support the safe and healthy development of children and reduce
1882 preventable child abuse deaths.

1883 (3) The State Child Abuse Death Review Committee shall:

1884 (c) Prepare an annual statistical report on the incidence
1885 and causes of death resulting from reported child abuse in the
1886 state during the prior calendar year. The state committee shall
1887 submit a copy of the report by October 1 ~~December 31~~ of each
1888 year to the Governor, the President of the Senate, and the
1889 Speaker of the House of Representatives. The report must include
1890 recommendations for state and local action, including specific
1891 policy, procedural, regulatory, or statutory changes, and any
1892 other recommended preventive action.

1893 Section 20. Subsection (5) of section 402.40, Florida
1894 Statutes, is amended, and paragraph (g) is added to subsection
1895 (3) of that section, to read:



915192

1896 402.40 Child welfare training and certification.—
1897 (3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
1898 shall approve one or more third-party credentialing entities for
1899 the purpose of developing and administering child welfare
1900 certification programs for persons who provide child welfare
1901 services. A third-party credentialing entity shall request such
1902 approval in writing from the department. In order to obtain
1903 approval, the third-party credentialing entity must:
1904 (g) Maintain an advisory committee, including
1905 representatives from each region of the department, each
1906 sheriff's office providing child protective services, and each
1907 community-based care lead agency, who shall be appointed by the
1908 organization they represent. The third-party credentialing
1909 entity may appoint additional members to the advisory committee.
1910 (5) CORE COMPETENCIES AND SPECIALIZATIONS.—
1911 (a) The Department of Children and Families ~~Family Services~~
1912 shall approve the core competencies and related preservice
1913 curricula that ensures that each person delivering child welfare
1914 services obtains the knowledge, skills, and abilities to
1915 competently carry out his or her work responsibilities.
1916 (b) The identification of these core competencies and
1917 development of preservice curricula shall be a collaborative
1918 effort that includes professionals who have expertise in child
1919 welfare services, department-approved third-party credentialing
1920 entities, and providers that will be affected by the curriculum,
1921 including, but not limited to, representatives from the
1922 community-based care lead agencies, sheriffs' offices conducting
1923 child protection investigations, and child welfare legal
1924 services providers.



915192

1925 (c) Community-based care agencies, sheriffs' offices, and
1926 the department may contract for the delivery of preservice and
1927 any additional training for persons delivering child welfare
1928 services if the curriculum satisfies the department-approved
1929 core competencies.

1930 (d) The department may also approve certifications
1931 involving specializations in serving specific populations or in
1932 skills relevant to child protection to be awarded to persons
1933 delivering child welfare services by a third-party credentialing
1934 entity approved pursuant to subsection (3).

1935 (e) ~~(d)~~ Department-approved credentialing entities shall,
1936 for a period of at least 12 months after implementation of the
1937 third-party child welfare certification programs, grant
1938 reciprocity and award a child welfare certification to
1939 individuals who hold current department-issued child welfare
1940 certification in good standing, at no cost to the department or
1941 the certificateholder.

1942 Section 21. Section 402.402, Florida Statutes, is created
1943 to read:

1944 402.402 Child protection and child welfare personnel;
1945 attorneys employed by the department.-

1946 (1) DEFINITIONS.-As used in this section, the term:

1947 (a) "Child protection and child welfare personnel" includes
1948 child protective investigators and child protective investigator
1949 supervisors employed by the department and case managers and
1950 case manager supervisors employed by a community-based care lead
1951 agency or a subcontractor of a community-based care lead agency.

1952 (b) "Human services-related field" means psychology,
1953 sociology, counseling, special education, human development,



915192

1954 child development, family development, marriage and family
1955 therapy, and nursing.

1956 (2) CHILD PROTECTION AND CHILD WELFARE PERSONNEL
1957 REQUIREMENTS.—

1958 (a) On an annual and statewide basis, 80 percent of child
1959 protective investigators and child protective investigation
1960 supervisors hired by the department on or after July 1, 2014,
1961 must have a bachelor's degree or master's degree in social work
1962 from a college or university social work program accredited by
1963 the Council on Social Work Education. If no viable candidates
1964 are available, the department may hire a person with a
1965 bachelor's degree or master's degree in a human services-related
1966 field. However, such employees must complete certification
1967 pursuant to s. 402.40(3) and complete at least 6 credit hours of
1968 college level coursework that imparts knowledge and leads to the
1969 development of skills with direct application to the child
1970 protection field within 3 years of the date of hire.

1971 (b) Child protective investigators and child protective
1972 investigation supervisors employed by the department or a
1973 sheriff's office before July 1, 2014, are exempt from the
1974 requirements of paragraph (a).

1975 (c) Child protective investigators and child protective
1976 investigation supervisors employed by a sheriff's office must
1977 have a bachelor's degree and, within 3 years of hire, complete
1978 at least 6 credit hours of college level coursework that impart
1979 knowledge and lead to the development of skills with direct
1980 application to the child protection field.

1981 (d) All child protective investigators and child protective
1982 investigation supervisors employed by the department or a



915192

1983 sheriff's office must complete specialized training focused on
1984 serving a specific population, including, but not limited to,
1985 medically fragile children, sexually exploited children,
1986 children under 3 years of age, or families with a history of
1987 domestic violence, mental illness, or substance abuse, or
1988 focused on performing certain aspects of child protection
1989 practice, including, but not limited to, investigation
1990 techniques and analysis of family dynamics. The specialized
1991 training may be used to fulfill continuing education
1992 requirements under s. 402.40(3)(e). Individuals hired before
1993 July 1, 2014, shall complete the specialized training by June
1994 30, 2016, and individuals hired on or after July 1, 2014, shall
1995 complete the specialized training within 2 years after hire. An
1996 individual may receive specialized training in multiple areas.

1997 (3) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD
1998 WELFARE CASES.—Attorneys hired on or after July 1, 2014, whose
1999 primary responsibility is representing the department in child
2000 welfare cases shall, within the first 6 months of employment,
2001 receive training in:

2002 (a) The dependency court process, including the attorney's
2003 role in preparing and reviewing documents prepared for
2004 dependency court for accuracy and completeness;

2005 (b) Preparing and presenting child welfare cases, including
2006 at least 1 week shadowing an experienced children's legal
2007 services attorney preparing and presenting cases;

2008 (c) Safety assessment, safety decisionmaking tools, and
2009 safety plans;

2010 (d) Developing information presented by investigators and
2011 case managers to support decisionmaking in the best interest of



915192

2012 children; and

2013 (e) The experiences and techniques of case managers and
2014 investigators, including shadowing an experienced child
2015 protective investigator and an experienced case manager for at
2016 least 8 hours.

2017 Section 22. Section 402.403, Florida Statutes, is created
2018 to read:

2019 402.403 Child Protection and Child Welfare Personnel
2020 Tuition Exemption Program.—

2021 (1) There is established within the department the Child
2022 Protection and Child Welfare Personnel Tuition Exemption Program
2023 for the purpose of recruiting and retaining high-performing
2024 individuals who are employed as child protection and child
2025 welfare personnel as defined in s. 402.402 and who do not
2026 possess a master's degree in social work or a certificate in an
2027 area related to child welfare.

2028 (2) Child protection and child welfare personnel who meet
2029 the requirements specified in subsection (3) are exempt from the
2030 payment of tuition and fees at a state university.

2031 (3) The department may approve child protection and child
2032 welfare personnel for the tuition and fee exemption if such
2033 personnel:

2034 (a) Are employed as child protection and child welfare
2035 personnel and are determined by their employers to perform at a
2036 high level as established by their personnel evaluations; and

2037 (b) Are accepted in a graduate-level social work program or
2038 a certificate program related to child welfare which is
2039 accredited by the Council on Social Work Education.

2040 (4) Child protection and child welfare personnel who meet



915192

2041 the requirements specified in subsection (3) may enroll for up
2042 to 6 credit hours of courses per term.

2043 (5) Child protection and child welfare personnel who are
2044 accepted into a graduate-level social work program or a
2045 certificate program related to child welfare which is accredited
2046 by the Council on Social Work Education shall take courses
2047 associated with the degree or certificate program online if such
2048 courses are offered online.

2049 Section 23. Section 402.404, Florida Statutes, is created
2050 to read:

2051 402.404 Child Protective Investigator and Supervisor
2052 Student Loan Forgiveness Program.—

2053 (1) There is established within the department the Child
2054 Protective Investigator and Supervisor Student Loan Forgiveness
2055 Program. The purpose of the program is to increase employment
2056 and retention of high-performing individuals who have either a
2057 bachelor's degree or a master's degree in social work and work
2058 in child protection or child welfare for the department, a
2059 community-based care lead agency, or a community-based care
2060 subcontractor by making payments toward loans received by
2061 students from federal or state programs or commercial lending
2062 institutions for the support of prior postsecondary study in
2063 accredited social work programs.

2064 (2) To be eligible for the program, a candidate must:

2065 (a) Be employed by the department as a child protective
2066 investigator or a child protective investigation supervisor or
2067 be employed by a community-based care lead agency or
2068 subcontractor as a case manager or case manager supervisor;

2069 (b) Be determined by the department or his or her employer



915192

2070 to have a high level of performance based on his or her personal
2071 evaluation; and

2072 (c) Have graduated from an accredited social work program
2073 with either a bachelor's degree or a master's degree in social
2074 work.

2075 (3) Only loans to pay the costs of tuition, books, fees,
2076 and living expenses shall be covered.

2077 (4) The department or lead agency may make loan payments of
2078 up to \$3,000 each year for up to 4 years on behalf of selected
2079 graduates of an accredited social work program from the funds
2080 appropriated for this purpose. All payments are contingent upon
2081 continued proof of employment and shall be made directly to the
2082 holder of the loan.

2083 (5) A student who receives a tuition exemption pursuant to
2084 s. 402.403 is not eligible to participate in the Child
2085 Protective Investigator and Supervisor Student Loan Forgiveness
2086 Program.

2087 (6) The department shall prioritize funds appropriated for
2088 this purpose to regions with high average caseloads and low
2089 workforce retention rates.

2090 Section 24. Section 409.165, Florida Statutes, is amended
2091 to read:

2092 409.165 Alternate care for children.—

2093 (1) Within funds appropriated, the department shall
2094 establish and supervise a program of emergency shelters, runaway
2095 shelters, foster homes, group homes, agency-operated group
2096 treatment homes, nonpsychiatric residential group care
2097 facilities, psychiatric residential treatment facilities, and
2098 other appropriate facilities to provide shelter and care for



915192

2099 dependent children who must be placed away from their families.
2100 The department, in accordance with outcome established goals
2101 established in s. 409.986, shall contract for the provision of
2102 such shelter and care by counties, municipalities, nonprofit
2103 corporations, and other entities capable of providing needed
2104 services if:

2105 (a) The services ~~se~~ provided comply with all department
2106 standards, policies, and procedures are available;

2107 (b) The services can be ~~se~~ provided at a reasonable cost
2108 ~~are more cost-effective than those provided by the department~~;
2109 and

2110 (c) Unless otherwise provided by law, such providers of
2111 shelter and care are licensed by the department.

2112
2113 ~~It is the legislative intent that the~~

2114 (2) Funds appropriated for the alternate care of children
2115 as described in this section may be used to meet the needs of
2116 children in their own homes or those of relatives if the
2117 children can be safely served in such settings ~~their own homes,~~
2118 ~~or the homes of relatives~~, and the expenditure of funds in such
2119 manner is equal to or less than the cost of out-of-home
2120 placement ~~calculated by the department to be an eventual cost~~
2121 ~~savings over placement of children~~.

2122 (3) ~~(2)~~ The department shall may cooperate with all child
2123 service institutions or agencies within the state which meet the
2124 department's standards in order to maintain a comprehensive,
2125 coordinated, and inclusive system for promoting and protecting
2126 the well-being of children, consistent with the goals
2127 established in s. 409.986 ~~rules for proper care and supervision~~



915192

2128 ~~prescribed by the department for the well-being of children.~~

2129 (a) The department shall work with the Department of Health
2130 in the development, use, and monitoring of medical foster homes
2131 for medically complex children.

2132 (b) The department shall work with the Agency for Health
2133 Care Administration and the Agency for Persons with Disabilities
2134 to provide such services as may be necessary to maintain
2135 medically complex children in the least restrictive and most
2136 nurturing environment consistent with the subsection (2).

2137 (4)~~(3)~~ With the written consent of parents, custodians, or
2138 guardians, or in accordance with those provisions in chapter 39
2139 that relate to dependent children, the department, under rules
2140 properly adopted, may place a child:

2141 (a) With a relative;

2142 (b) With an adult nonrelative approved by the court for
2143 long-term custody;

2144 (c) With a person who is considering the adoption of a
2145 child in the manner provided for by law;

2146 (d) When limited, except as provided in paragraph (b), to
2147 temporary emergency situations, with a responsible adult
2148 approved by the court;

2149 (e) With a person or family approved by the department to
2150 serve as a medical foster home;

2151 (f)~~(e)~~ With a person or agency licensed by the department
2152 in accordance with s. 409.175; or

2153 (g)~~(f)~~ In a subsidized independent living situation,
2154 subject to the provisions of s. 409.1451(4)(c),

2155
2156 under such conditions as are determined to be for the best



915192

2157 interests or the welfare of the child. Any child placed in an
2158 institution or in a family home by the department or its agency
2159 may be removed by the department or its agency, and such other
2160 disposition may be made as is for the best interest of the
2161 child, including transfer of the child to another institution,
2162 another home, or the home of the child. Expenditure of funds
2163 appropriated for out-of-home care can be used to meet the needs
2164 of a child in the child's own home or the home of a relative if
2165 the child can be safely served in the child's own home or that
2166 of a relative if placement can be avoided by the expenditure of
2167 such funds, and if the expenditure of such funds in this manner
2168 is equal to or less than the cost of out-of-home placement
2169 ~~calculated by the department to be a potential cost savings.~~

2170 Section 25. Paragraph (c) of subsection (2) of section
2171 409.967, Florida Statutes, is amended to read:

2172 409.967 Managed care plan accountability.—

2173 (2) The agency shall establish such contract requirements
2174 as are necessary for the operation of the statewide managed care
2175 program. In addition to any other provisions the agency may deem
2176 necessary, the contract must require:

2177 (c) Access.—

2178 1. The agency shall establish specific standards for the
2179 number, type, and regional distribution of providers in managed
2180 care plan networks to ensure access to care for both adults and
2181 children. Each plan must maintain a regionwide network of
2182 providers in sufficient numbers to meet the access standards for
2183 specific medical services for all recipients enrolled in the
2184 plan. The exclusive use of mail-order pharmacies may not be
2185 sufficient to meet network access standards. Consistent with the



2186 standards established by the agency, provider networks may
2187 include providers located outside the region. A plan may
2188 contract with a new hospital facility before the date the
2189 hospital becomes operational if the hospital has commenced
2190 construction, will be licensed and operational by January 1,
2191 2013, and a final order has issued in any civil or
2192 administrative challenge. Each plan shall establish and maintain
2193 an accurate and complete electronic database of contracted
2194 providers, including information about licensure or
2195 registration, locations and hours of operation, specialty
2196 credentials and other certifications, specific performance
2197 indicators, and such other information as the agency deems
2198 necessary. The database must be available online to both the
2199 agency and the public and have the capability to compare the
2200 availability of providers to network adequacy standards and to
2201 accept and display feedback from each provider's patients. Each
2202 plan shall submit quarterly reports to the agency identifying
2203 the number of enrollees assigned to each primary care provider.

2204 2. Each managed care plan must publish any prescribed drug
2205 formulary or preferred drug list on the plan's website in a
2206 manner that is accessible to and searchable by enrollees and
2207 providers. The plan must update the list within 24 hours after
2208 making a change. Each plan must ensure that the prior
2209 authorization process for prescribed drugs is readily accessible
2210 to health care providers, including posting appropriate contact
2211 information on its website and providing timely responses to
2212 providers. For Medicaid recipients diagnosed with hemophilia who
2213 have been prescribed anti-hemophilic-factor replacement
2214 products, the agency shall provide for those products and



915192

2215 hemophilia overlay services through the agency's hemophilia
2216 disease management program.

2217 3. Managed care plans, and their fiscal agents or
2218 intermediaries, must accept prior authorization requests for any
2219 service electronically.

2220 4. Managed care plans serving children in the care and
2221 custody of the Department of Children and Families must maintain
2222 complete medical, dental, and behavioral health information and
2223 provide such information to the department for inclusion in the
2224 state's child welfare data system. Using such documentation, the
2225 agency and the department shall determine the plan's compliance
2226 with standards for access to medical, dental, and behavioral
2227 health services; the use of psychotropic medications; and
2228 followup on all medically necessary services recommended as a
2229 result of early and periodic screening, diagnosis, and
2230 treatment.

2231 Section 26. Paragraph (f) is added to subsection (2) of
2232 section 409.972, Florida Statutes, to read:

2233 409.972 Mandatory and voluntary enrollment.—

2234 (2) The following Medicaid-eligible persons are exempt from
2235 mandatory managed care enrollment required by s. 409.965, and
2236 may voluntarily choose to participate in the managed medical
2237 assistance program:

2238 (f) Medicaid recipients residing in a group home facility
2239 licensed under chapter 393.

2240 Section 27. The Division of Law Revision and Information is
2241 directed to create part V of chapter 409, Florida Statutes,
2242 consisting of ss. 409.986-409.998, to be entitled "Community-
2243 based child welfare."



915192

2244 Section 28. Section 409.986, Florida Statutes, is created
2245 to read:

2246 409.986 Legislative findings and intent; child protection
2247 and child welfare outcomes; definitions.-

2248 (1) LEGISLATIVE FINDINGS AND INTENT.-

2249 (a) It is the intent of the Legislature that the Department
2250 of Children and Families provide child protection and child
2251 welfare services to children through contracting with community-
2252 based care lead agencies. It is the further intent of the
2253 Legislature that communities have responsibility for and
2254 participate in ensuring safety, permanence, and well-being for
2255 all children in the state.

2256 (b) The Legislature finds that when private entities assume
2257 responsibility for the care of children in the child protection
2258 and child welfare system, comprehensive oversight of the
2259 programmatic, administrative, and fiscal operation of those
2260 entities is essential. The Legislature further finds that the
2261 appropriate care of children is ultimately the responsibility of
2262 the state and that outsourcing such care does not relieve the
2263 state of its responsibility to ensure that appropriate care is
2264 provided.

2265 (2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.-It is the
2266 goal of the department to protect the best interest of children
2267 by achieving the following outcomes in conjunction with the
2268 community-based care lead agency, community-based
2269 subcontractors, and the community alliance:

2270 (a) Children are first and foremost protected from abuse
2271 and neglect.

2272 (b) Children are safely maintained in their homes, if



915192

2273 possible and appropriate.

2274 (c) Services are provided to protect children and prevent
2275 their removal from their home.

2276 (d) Children have permanency and stability in their living
2277 arrangements.

2278 (e) Family relationships and connections are preserved for
2279 children.

2280 (f) Families have enhanced capacity to provide for their
2281 children's needs.

2282 (g) Children receive appropriate services to meet their
2283 educational needs.

2284 (h) Children receive adequate services to meet their
2285 physical and mental health needs.

2286 (i) Children develop the capacity for independent living
2287 and competence as an adult.

2288 (3) DEFINITIONS.—As used in this part, except as otherwise
2289 provided, the term:

2290 (a) "Care" means services of any kind which are designed to
2291 facilitate a child remaining safely in his or her own home,
2292 returning safely to his or her own home if he or she is removed
2293 from the home, or obtaining an alternative permanent home if he
2294 or she cannot remain at home or be returned home. The term
2295 includes, but is not be limited to, prevention, diversion, and
2296 related services.

2297 (b) "Child" or "children" has the same meaning as provided
2298 in s. 39.01.

2299 (c) "Community alliance" or "alliance" means the group of
2300 stakeholders, community leaders, client representatives, and
2301 fundors of human services established pursuant to s. 20.19(5) to



915192

2302 provide a focal point for community participation and oversight
2303 of community-based services.

2304 (d) "Community-based care lead agency" or "lead agency"
2305 means a single entity with which the department has a contract
2306 for the provision of care for children in the child protection
2307 and child welfare system in a community that is no smaller than
2308 a county and no larger than two contiguous judicial circuits.
2309 The secretary of the department may authorize more than one
2310 eligible lead agency within a single county if doing so will
2311 result in more effective delivery of services to children.

2312 (e) "Related services" includes, but is not limited to,
2313 family preservation, independent living, emergency shelter,
2314 residential group care, foster care, therapeutic foster care,
2315 intensive residential treatment, foster care supervision, case
2316 management, coordination of mental health services,
2317 postplacement supervision, permanent foster care, and family
2318 reunification.

2319 Section 29. Section 409.987, Florida Statutes, is created
2320 to read:

2321 409.987 Lead agency procurement.—

2322 (1) Community-based care lead agencies shall be procured by
2323 the department through a competitive process as required under
2324 chapter 287.

2325 (2) The department shall produce a schedule for the
2326 procurement of community-based care lead agencies and provide
2327 the schedule to the community alliances established pursuant to
2328 s. 409.998 and post the schedule on the department's website.

2329 (3) Notwithstanding s. 287.057, the department shall use 5-
2330 year contracts with lead agencies.



915192

2331 (4) In order to serve as a lead agency, an entity must:
2332 (a) Be organized as a Florida corporation or a governmental
2333 entity.
2334 (b) Be governed by a board of directors or a board
2335 committee composed of board members. The membership of the board
2336 of directors or board committee must be described in the bylaws
2337 or articles of incorporation of each lead agency, which must
2338 provide that at least 75 percent of the membership of the board
2339 of directors or board committee must consist of persons residing
2340 in this state, and at least 51 percent of the state residents on
2341 the board of directors must reside within the service area of
2342 the lead agency. However, for procurements of lead agency
2343 contracts initiated on or after July 1, 2014:
2344 1. At least 75 percent of the membership of the board of
2345 directors must consist of persons residing in this state, and at
2346 least 51 percent of the membership of the board of directors
2347 must consist of persons residing within the service area of the
2348 lead agency. If a board committee governs the lead agency, 100
2349 percent of its membership must consist of persons residing
2350 within the service area of the lead agency.
2351 2. The powers of the board of directors or board committee
2352 include, are not limited to, approving the lead agency's budget
2353 and setting the lead agency's operational policy and procedures.
2354 A board of directors must additionally have the power to hire
2355 the lead agency's executive director, unless a board committee
2356 governs the lead agency, in which case the board committee must
2357 have the power to confirm the selection of the lead agency's
2358 executive director.
2359 (c) Demonstrate financial responsibility through an



915192

2360 organized plan for regular fiscal audits and the posting of a
2361 performance bond.

2362 (5) The department's procurement team procuring any lead
2363 agencies' contracts must include individuals from the community
2364 alliance in the area to be served under the contract. All
2365 meetings at which vendors make presentations to or negotiate
2366 with the procurement team shall be held in the area to be served
2367 by the contract.

2368 (6) Upon award and execution of a contract between the
2369 department and a lead agency, the parties shall enter into a
2370 letter of engagement that the department will provide legal
2371 representation to the lead agency or its subcontractors for the
2372 preparation and presentation of dependency court proceedings.
2373 The department may not charge the lead agency for such legal
2374 representation.

2375 Section 30. Section 409.988, Florida Statutes, is created
2376 to read:

2377 409.988 Lead agency duties; general provisions.-

2378 (1) DUTIES.-A lead agency:

2379 (a) Shall serve all children referred as a result of a
2380 report of abuse, neglect, or abandonment to the department's
2381 central abuse hotline, including, but not limited to, children
2382 who are the subject of verified reports and children who are not
2383 the subject of verified reports but who are at moderate to
2384 extremely high risk of abuse, neglect, or abandonment, as
2385 determined using the department's risk assessment instrument,
2386 regardless of the level of funding allocated to the lead agency
2387 by the state if all related funding is transferred. The lead
2388 agency may also serve children who have not been the subject of



915192

2389 reports of abuse, neglect, or abandonment, but who are at risk
2390 of abuse, neglect, or abandonment, to prevent their entry into
2391 the child protection and child welfare system.

2392 (b) Shall provide accurate and timely information necessary
2393 for oversight by the department pursuant to the child welfare
2394 results-oriented accountability system required by s. 409.997.

2395 (c) Shall follow the financial guidelines developed by the
2396 department and provide for a regular independent auditing of its
2397 financial activities. Such financial information shall be
2398 provided to the community alliance established under s. 409.998.

2399 (d) Shall post on its website the current budget for the
2400 lead agency, including the salaries, bonuses, and other
2401 compensation paid, by position, for the agency's chief executive
2402 officer, chief financial officer, chief operating officer, or
2403 their equivalents.

2404 (e) Shall prepare all judicial reviews, case plans, and
2405 other reports necessary for court hearings for dependent
2406 children, except those related to the investigation of a
2407 referral from the department's child abuse hotline, and shall
2408 submit these documents timely to the department's attorneys for
2409 review, any necessary revision, and filing with the court. The
2410 lead agency shall make the necessary staff available to
2411 department attorneys for preparation for dependency proceedings,
2412 and shall provide testimony and other evidence required for
2413 dependency court proceedings in coordination with the
2414 department's attorneys. This duty does not include the
2415 preparation of legal pleadings or other legal documents, which
2416 remain the responsibility of the department.

2417 (f) Shall ensure that all individuals providing care for



915192

2418 dependent children receive appropriate training and meet the
2419 minimum employment standards established by the department.

2420 (g) Shall maintain eligibility to receive all available
2421 federal child welfare funds.

2422 (h) Shall maintain written agreements with Healthy Families
2423 Florida lead entities in its service area pursuant to s. 409.153
2424 to promote cooperative planning for the provision of prevention
2425 and intervention services.

2426 (i) Shall comply with federal and state statutory
2427 requirements and agency rules in the provision of contractual
2428 services.

2429 (j) May subcontract for the provision of services required
2430 by the contract with the lead agency and the department;
2431 however, the subcontracts must specify how the provider will
2432 contribute to the lead agency meeting the performance standards
2433 established pursuant to the child welfare results-oriented
2434 accountability system required by s. 409.997. The lead agency
2435 shall directly provide no more than 35 percent of all child
2436 welfare services provided.

2437 (k) Shall post on its website by the 15th day of each month
2438 at a minimum the information contained in subparagraphs 1.-4.
2439 for the preceding calendar month regarding its case management
2440 services. The following information shall be reported by each
2441 individual subcontracted case management provider, by the lead
2442 agency, if the lead agency provides case management services,
2443 and in total for all case management services subcontracted or
2444 directly provided by the lead agency:

2445 1. The average caseload of case managers, including only
2446 filled positions;



915192

2447 2. The turnover rate for case managers and case management
2448 supervisors for the previous 12 months;

2449 3. The percentage of required home visits completed; and

2450 4. Performance on outcome measures required pursuant to s.
2451 409.997 for the previous 12 months.

2452 (2) LICENSURE.—

2453 (a) A lead agency must be licensed as a child-caring or
2454 child-placing agency by the department under this chapter.

2455 (b) Each foster home, therapeutic foster home, emergency
2456 shelter, or other placement facility operated by the lead agency
2457 must be licensed by the department under chapter 402 or this
2458 chapter.

2459 (c) Substitute care providers who are licensed under s.
2460 409.175 and who have contracted with a lead agency are also
2461 authorized to provide registered or licensed family day care
2462 under s. 402.313 if such care is consistent with federal law and
2463 if the home has met the requirements of s. 402.313.

2464 (d) In order to eliminate or reduce the number of duplicate
2465 inspections by various program offices, the department shall
2466 coordinate inspections required for licensure of agencies under
2467 this subsection.

2468 (e) The department may adopt rules to administer this
2469 subsection.

2470 (3) SERVICES.—A lead agency must serve dependent children
2471 through services that are supported by research or are best
2472 child welfare practices. The agency may also provide innovative
2473 services, including, but not limited to, family-centered,
2474 cognitive-behavioral, trauma-informed interventions designed to
2475 mitigate out-of-home placements.



915192

2476 (4) LEAD AGENCY ACTING AS GUARDIAN.—

2477 (a) If a lead agency or other provider has accepted case
2478 management responsibilities for a child who is sheltered or
2479 found to be dependent and who is assigned to the care of the
2480 lead agency or other provider, the agency or provider may act as
2481 the child's guardian for the purpose of registering the child in
2482 school if a parent or guardian of the child is unavailable and
2483 his or her whereabouts cannot reasonably be ascertained.

2484 (b) The lead agency or other provider may also seek
2485 emergency medical attention for the child, but only if a parent
2486 or guardian of the child is unavailable, the parent or
2487 guardian's whereabouts cannot reasonably be ascertained, and a
2488 court order for such emergency medical services cannot be
2489 obtained because of the severity of the emergency or because it
2490 is after normal working hours.

2491 (c) A lead agency or other provider may not consent to
2492 sterilization, abortion, or termination of life support.

2493 (d) If a child's parents' rights have been terminated, the
2494 lead agency shall act as guardian of the child in all
2495 circumstances.

2496 Section 31. Section 409.990, Florida Statutes, is created
2497 to read:

2498 409.990 Funding for lead agencies.—A contract established
2499 between the department and a lead agency must be funded by a
2500 grant of general revenue, other applicable state funds, or
2501 applicable federal funding sources.

2502 (1) The method of payment for a fixed-price contract with a
2503 lead agency must provide for a 2-month advance payment at the
2504 beginning of each fiscal year and equal monthly payments



915192

2505 thereafter.

2506 (2) Notwithstanding s. 215.425, all documented federal
2507 funds earned for the current fiscal year by the department and
2508 lead agencies which exceed the amount appropriated by the
2509 Legislature shall be distributed to all entities that
2510 contributed to the excess earnings based on a schedule and
2511 methodology developed by the department and approved by the
2512 Executive Office of the Governor.

2513 (a) Distribution shall be pro rata, based on total
2514 earnings, and shall be made only to those entities that
2515 contributed to excess earnings.

2516 (b) Excess earnings of lead agencies shall be used only in
2517 the service district in which they were earned.

2518 (c) Additional state funds appropriated by the Legislature
2519 for lead agencies or made available pursuant to the budgetary
2520 amendment process described in s. 216.177 shall be transferred
2521 to the lead agencies.

2522 (d) The department shall amend a lead agency's contract to
2523 permit expenditure of the funds.

2524 (3) Notwithstanding any other provision of this section,
2525 the amount of the annual contract for a lead agency may be
2526 increased by excess federal funds earned in accordance with s.
2527 216.181(11).

2528 (4) Each contract with a lead agency shall provide for the
2529 payment by the department to the lead agency of a reasonable
2530 administrative cost in addition to funding for the provision of
2531 services.

2532 (5) A lead agency may carry forward documented unexpended
2533 state funds from one fiscal year to the next; however, the



915192

2534 cumulative amount carried forward may not exceed 8 percent of
2535 the total contract. Any unexpended state funds in excess of that
2536 percentage must be returned to the department.

2537 (a) The funds carried forward may not be used in any way
2538 that would create increased recurring future obligations, and
2539 such funds may not be used for any type of program or service
2540 that is not currently authorized by the existing contract with
2541 the department.

2542 (b) Expenditures of funds carried forward must be
2543 separately reported to the department.

2544 (c) Any unexpended funds that remain at the end of the
2545 contract period shall be returned to the department.

2546 (d) Funds carried forward may be retained through any
2547 contract renewals and any new procurements as long as the same
2548 lead agency is retained by the department.

2549 (6) It is the intent of the Legislature to improve services
2550 and local participation in community-based care initiatives by
2551 fostering community support and providing enhanced prevention
2552 and in-home services, thereby reducing the risk otherwise faced
2553 by lead agencies. A community partnership matching grant program
2554 is established and shall be operated by the department to
2555 encourage local participation in community-based care for
2556 children in the child welfare system. A children's services
2557 council or another local entity that makes a financial
2558 commitment to a community-based care lead agency may be eligible
2559 for a matching grant. The total amount of the local contribution
2560 may be matched on a one-to-one basis up to a maximum annual
2561 amount of \$500,000 per lead agency. Awarded matching grant funds
2562 may be used for any prevention or in-home services that can be



915192

2563 reasonably expected to reduce the number of children entering
2564 the child welfare system. Funding available for the matching
2565 grant program is subject to legislative appropriation of
2566 nonrecurring funds provided for this purpose.

2567 (7) (a) The department, in consultation with the Florida
2568 Coalition for Children, Inc., shall develop and implement a
2569 community-based care risk pool initiative to mitigate the
2570 financial risk to eligible lead agencies. This initiative must
2571 include:

2572 1. A risk pool application and protocol developed by the
2573 department which outlines submission criteria, including, but
2574 not limited to, financial and program management, descriptive
2575 data requirements, and timeframes for submission of
2576 applications. Requests for funding from risk pool applicants
2577 must be based on relevant and verifiable service trends and
2578 changes that have occurred during the current fiscal year. The
2579 application must confirm that expenditure of approved risk pool
2580 funds by the lead agency will be completed within the current
2581 fiscal year.

2582 2. A risk pool peer review committee, appointed by the
2583 secretary and consisting of department staff and representatives
2584 from at least three nonapplicant lead agencies, which reviews
2585 and assesses all risk pool applications. Upon completion of each
2586 application review, the peer review committee shall report its
2587 findings and recommendations to the secretary, providing, at a
2588 minimum, the following information:

2589 a. Justification for the specific funding amount required
2590 by the risk pool applicant based on the current year's service
2591 trend data, including validation that the applicant's financial



915192

2592 need was caused by circumstances beyond the control of the lead
2593 agency management;

2594 b. Verification that the proposed use of risk pool funds
2595 meets at least one of the purposes specified in paragraph (c);
2596 and

2597 c. Evidence of technical assistance provided in an effort
2598 to avoid the need to access the risk pool and recommendations
2599 for technical assistance to the lead agency to ensure that risk
2600 pool funds are expended effectively and that the agency's need
2601 for future risk pool funding is diminished.

2602 (b) Upon approval by the secretary of a risk pool
2603 application, the department may request funds from the risk pool
2604 in accordance with s. 216.181(6) (a).

2605 (c) The purposes for which the community-based care risk
2606 pool shall be used include:

2607 1. Significant changes in the number or composition of
2608 clients eligible to receive services.

2609 2. Significant changes in the services that are eligible
2610 for reimbursement.

2611 3. Continuity of care in the event of failure,
2612 discontinuance of service, or financial misconduct by a lead
2613 agency.

2614 4. Significant changes in the mix of available funds.

2615 (d) The department may also request in its annual
2616 legislative budget request, and the Governor may recommend, that
2617 the funding necessary to effect paragraph (c) be appropriated to
2618 the department. In addition, the department may request the
2619 allocation of funds from the community-based care risk pool in
2620 accordance with s. 216.181(6) (a). Funds from the pool may be



915192

2621 used to match available federal dollars.

2622 1. Such funds shall constitute partial security for
2623 contract performance by lead agencies and shall be used to
2624 offset the need for a performance bond.

2625 2. The department may separately require a bond to mitigate
2626 the financial consequences of potential acts of malfeasance or
2627 misfeasance or criminal violations by the service provider.

2628 Section 32. Section 409.16713, Florida Statutes, is
2629 transferred, renumbered as section 409.991, Florida Statutes,
2630 and paragraph (a) of subsection (1) of that section is amended
2631 to read:

2632 409.991 ~~409.16713~~ Allocation of funds for community-based
2633 care lead agencies.—

2634 (1) As used in this section, the term:

2635 (a) "Core services funding" means all funds allocated to
2636 community-based care lead agencies operating under contract with
2637 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the
2638 following exceptions:

- 2639 1. Funds appropriated for independent living;
2640 2. Funds appropriated for maintenance adoption subsidies;
2641 3. Funds allocated by the department for protective
2642 investigations training;
2643 4. Nonrecurring funds;
2644 5. Designated mental health wrap-around services funds; and
2645 6. Funds for special projects for a designated community-
2646 based care lead agency.

2647 Section 33. Section 409.992, Florida Statutes, is created
2648 to read:

2649 409.992 Lead agency expenditures.—



915192

2650 (1) The procurement of commodities or contractual services
2651 by lead agencies shall be governed by the financial guidelines
2652 developed by the department and must comply with applicable
2653 state and federal law and follow good business practices.

2654 Pursuant to s. 11.45, the Auditor General may provide technical
2655 advice in the development of the financial guidelines.

2656 (2) Notwithstanding any other provision of law, a
2657 community-based care lead agency may make expenditures for staff
2658 cellular telephone allowances, contracts requiring deferred
2659 payments and maintenance agreements, security deposits for
2660 office leases, related agency professional membership dues other
2661 than personal professional membership dues, promotional
2662 materials, and grant writing services. Expenditures for food and
2663 refreshments, other than those provided to clients in the care
2664 of the agency or to foster parents, adoptive parents, and
2665 caseworkers during training sessions, are not allowable.

2666 (3) A lead community-based care agency and its
2667 subcontractors are exempt from state travel policies as provided
2668 in s. 112.061(3)(a) for their travel expenses incurred in order
2669 to comply with the requirements of this section.

2670 Section 34. Section 409.993, Florida Statutes, is created
2671 to read:

2672 409.993 Lead agencies and subcontractor liability.-

2673 (1) FINDINGS.-

2674 (a) The Legislature finds that the state has traditionally
2675 provided foster care services to children who are the
2676 responsibility of the state. As such, foster children have not
2677 had the right to recover for injuries beyond the limitations
2678 specified in s. 768.28. The Legislature has determined that



915192

2679 foster care and related services should be outsourced pursuant
2680 to this section and that the provision of such services is of
2681 paramount importance to the state. The purpose of such
2682 outsourcing is to increase the level of safety, security, and
2683 stability of children who are or become the responsibility of
2684 the state. One of the components necessary to secure a safe and
2685 stable environment for such children is the requirement that
2686 private providers maintain liability insurance. As such,
2687 insurance needs to be available and remain available to
2688 nongovernmental foster care and related services providers
2689 without the resources of such providers being significantly
2690 reduced by the cost of maintaining such insurance.

2691 (b) The Legislature further finds that, by requiring the
2692 following minimum levels of insurance, children in outsourced
2693 foster care and related services will gain increased protection
2694 and rights of recovery in the event of injury than currently
2695 provided in s. 768.28.

2696 (2) LEAD AGENCY LIABILITY.-

2697 (a) Other than an entity to which s. 768.28 applies, an
2698 eligible community-based care lead agency, or its employees or
2699 officers, except as otherwise provided in paragraph (b), shall,
2700 as a part of its contract, obtain general liability insurance
2701 coverage sufficient to pay any successful tort action up to the
2702 liability caps established in this subsection. In a tort action
2703 brought against such an eligible community-based care lead
2704 agency or employee, net economic damages shall be limited to \$2
2705 million per liability claim and \$200,000 per automobile claim,
2706 including, but not limited to, past and future medical expenses,
2707 wage loss, and loss of earning capacity, offset by any



915192

2708 collateral source payment paid or payable. In any tort action
2709 brought against such an eligible community-based care lead
2710 agency, noneconomic damages shall be limited to \$400,000 per
2711 claim. A claims bill may be brought on behalf of a claimant
2712 pursuant to s. 768.28 for any amount exceeding the limits
2713 specified in this paragraph. Any offset of collateral source
2714 payments made as of the date of the settlement or judgment shall
2715 be in accordance with s. 768.76. The community-based care lead
2716 agency is not liable in tort for the acts or omissions of its
2717 subcontractors or the officers, agents, or employees of its
2718 subcontractors.

2719 (b) The liability of an eligible community-based care lead
2720 agency described in this section shall be exclusive and in place
2721 of all other liability of such lead agency. The same immunities
2722 from liability enjoyed by such lead agencies shall extend to
2723 each employee of the lead agency if he or she is acting in
2724 furtherance of the lead agency's business, including the
2725 transportation of clients served, as described in this
2726 subsection, in privately owned vehicles. Such immunities are not
2727 applicable to a lead agency or an employee who acts in a
2728 culpably negligent manner or with willful and wanton disregard
2729 or unprovoked physical aggression if such acts result in injury
2730 or death or such acts proximately cause such injury or death.
2731 Such immunities are not applicable to employees of the same lead
2732 agency when each is operating in the furtherance of the agency's
2733 business, but they are assigned primarily to unrelated work
2734 within private or public employment. The same immunity
2735 provisions enjoyed by a lead agency also apply to any sole
2736 proprietor, partner, corporate officer or director, supervisor,



915192

2737 or other person who, in the course and scope of his or her
2738 duties, acts in a managerial or policymaking capacity and the
2739 conduct that caused the alleged injury arose within the course
2740 and scope of those managerial or policymaking duties. As used in
2741 this subsection and subsection (3), the term "culpably negligent
2742 manner" means reckless indifference or grossly careless
2743 disregard of human life.

2744 (3) SUBCONTRACTOR LIABILITY.—

2745 (a) A subcontractor of an eligible community-based care
2746 lead agency that is a direct provider of foster care and related
2747 services to children and families, and its employees or
2748 officers, except as otherwise provided in paragraph (b), must,
2749 as a part of its contract, obtain general liability insurance
2750 coverage sufficient to pay any successful tort action up to the
2751 liability caps established in this subsection. In a tort action
2752 brought against such subcontractor or employee, net economic
2753 damages shall be limited to \$2 million per liability claim and
2754 \$200,000 per automobile claim, including, but not limited to,
2755 past and future medical expenses, wage loss, and loss of earning
2756 capacity, offset by any collateral source payment paid or
2757 payable. In a tort action brought against such subcontractor,
2758 noneconomic damages shall be limited to \$400,000 per claim. A
2759 claims bill may be brought on behalf of a claimant pursuant to
2760 s. 768.28 for any amount exceeding the limits specified in this
2761 paragraph. Any offset of collateral source payments made as of
2762 the date of the settlement or judgment shall be in accordance
2763 with s. 768.76.

2764 (b) The liability of a subcontractor of an eligible
2765 community-based care lead agency that is a direct provider of



915192

2766 foster care and related services as described in this section is
2767 exclusive and in place of all other liability of such provider.
2768 The same immunities from liability enjoyed by such subcontractor
2769 provider extend to each employee of the subcontractor when such
2770 employee is acting in furtherance of the subcontractor's
2771 business, including the transportation of clients served, as
2772 described in this subsection, in privately owned vehicles. Such
2773 immunities are not applicable to a subcontractor or an employee
2774 who acts in a culpably negligent manner or with willful and
2775 wanton disregard or unprovoked physical aggression if such acts
2776 result in injury or death or if such acts proximately cause such
2777 injury or death. Such immunities are not applicable to employees
2778 of the same subcontractor who are operating in the furtherance
2779 of the subcontractor's business but are assigned primarily to
2780 unrelated works within private or public employment. The same
2781 immunity provisions enjoyed by a subcontractor also apply to any
2782 sole proprietor, partner, corporate officer or director,
2783 supervisor, or other person who, in the course and scope of his
2784 or her duties, acts in a managerial or policymaking capacity and
2785 the conduct that caused the alleged injury arose within the
2786 course and scope of those managerial or policymaking duties.

2787 (4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of
2788 the increasing costs of goods and services each year and
2789 recognizes that fixing a set amount of compensation has the
2790 effect of a reduction in compensation each year. Accordingly,
2791 the conditional limitations on damages in this section shall be
2792 increased at the rate of 5 percent each year, prorated from July
2793 1, 2014, to the date at which damages subject to such
2794 limitations are awarded by final judgment or settlement.



915192

2795 Section 35. Section 409.1675, Florida Statutes, is
2796 transferred, renumbered as section 409.994, Florida Statutes,
2797 and amended to read:

2798 409.994 ~~409.1675~~ ~~Lead~~ Community-based care lead agencies
2799 ~~providers~~; receivership.-

2800 (1) The Department of Children and Families ~~Family Services~~
2801 may petition a court of competent jurisdiction for the
2802 appointment of a receiver for a ~~lead~~ community-based care lead
2803 agency provider established pursuant to s. 409.987 if ~~s.~~
2804 ~~409.1671~~ when any of the following conditions exist:

2805 (a) The lead agency ~~community-based provider~~ is operating
2806 without a license as a child-placing agency.

2807 (b) The lead agency ~~community-based provider~~ has given less
2808 than 120 days' notice of its intent to cease operations, and
2809 arrangements have not been made for another lead agency
2810 ~~community-based provider~~ or for the department to continue the
2811 uninterrupted provision of services.

2812 (c) The department determines that conditions exist in the
2813 lead agency ~~community-based provider~~ which present an imminent
2814 danger to the health, safety, or welfare of the dependent
2815 children under that agency's ~~provider's~~ care or supervision.
2816 Whenever possible, the department shall make a reasonable effort
2817 to facilitate the continued operation of the program.

2818 (d) The lead agency ~~community-based provider~~ cannot meet
2819 its current financial obligations to its employees, contractors,
2820 or foster parents. Issuance of bad checks or the existence of
2821 delinquent obligations for payment of salaries, utilities, or
2822 invoices for essential services or commodities shall constitute
2823 prima facie evidence that the lead agency ~~community-based~~



915192

2824 ~~provider~~ lacks the financial ability to meet its financial
2825 obligations.

2826 (2) (a) The petition for receivership shall take precedence
2827 over other court business unless the court determines that some
2828 other pending proceeding, having statutory precedence, has
2829 priority.

2830 (b) A hearing shall be conducted within 5 days after the
2831 filing of the petition, at which time interested parties shall
2832 have the opportunity to present evidence as to whether a
2833 receiver should be appointed. The department shall give
2834 reasonable notice of the hearing on the petition to the lead
2835 agency ~~community-based provider~~.

2836 (c) The court shall grant the petition upon finding that
2837 one or more of the conditions in subsection (1) exists and the
2838 continued existence of the condition or conditions jeopardizes
2839 the health, safety, or welfare of dependent children. A receiver
2840 may be appointed ex parte when the court determines that one or
2841 more of the conditions in subsection (1) exists. After such
2842 finding, the court may appoint any person, including an employee
2843 of the department who is qualified by education, training, or
2844 experience to carry out the duties of the receiver pursuant to
2845 this section, except that the court may ~~shall~~ not appoint any
2846 member of the governing board or any officer of the lead agency
2847 ~~community-based provider~~. The receiver may be selected from a
2848 list of persons qualified to act as receivers which is developed
2849 by the department and presented to the court with each petition
2850 of receivership.

2851 (d) A receiver may be appointed for up to 90 days, and the
2852 department may petition the court for additional 30-day



915192

2853 extensions. Sixty days after appointment of a receiver and every
2854 30 days thereafter until the receivership is terminated, the
2855 department shall submit to the court an assessment of the lead
2856 agency's ~~community-based provider's~~ ability to ensure the
2857 health, safety, and welfare of the dependent children under its
2858 supervision.

2859 (3) The receiver shall take such steps as are reasonably
2860 necessary to ensure the continued health, safety, and welfare of
2861 the dependent children under the supervision of the lead agency
2862 ~~community-based provider~~ and shall exercise those powers and
2863 perform those duties set out by the court, including, but not
2864 limited to:

2865 (a) Taking such action as is reasonably necessary to
2866 protect or conserve the assets or property of the lead agency
2867 ~~community-based provider~~. The receiver may use the assets and
2868 property and any proceeds from any transfer thereof only in the
2869 performance of the powers and duties provided ~~set forth~~ in this
2870 section and by order of the court.

2871 (b) Using the assets of the lead agency ~~community-based~~
2872 ~~provider~~ in the provision of care and services to dependent
2873 children.

2874 (c) Entering into contracts and hiring agents and employees
2875 to carry out the powers and duties of the receiver under this
2876 section.

2877 (d) Having full power to direct, manage, hire, and
2878 discharge employees of the lead agency ~~community-based provider~~.
2879 The receiver shall hire and pay new employees at the rate of
2880 compensation, including benefits, approved by the court.

2881 (e) Honoring all leases, mortgages, and contractual



915192

2882 obligations of the lead agency ~~community-based provider~~, but
2883 only to the extent of payments that become due during the period
2884 of the receivership.

2885 (4) (a) The receiver shall deposit funds received in a
2886 separate account and shall use this account for all
2887 disbursements.

2888 (b) A payment to the receiver of any sum owing to the lead
2889 agency ~~community-based provider~~ shall discharge any obligation
2890 to the provider to the extent of the payment.

2891 (5) A receiver may petition the court for temporary relief
2892 from obligations entered into by the lead agency ~~community-based~~
2893 ~~provider~~ if the rent, price, or rate of interest required to be
2894 paid under the agreement was substantially in excess of a
2895 reasonable rent, price, or rate of interest at the time the
2896 contract was entered into, or if any material provision of the
2897 agreement was unreasonable when compared to contracts negotiated
2898 under similar conditions. Any relief in this form provided by
2899 the court shall be limited to the life of the receivership,
2900 unless otherwise determined by the court.

2901 (6) The court shall set the compensation of the receiver,
2902 which shall be considered a necessary expense of a receivership
2903 and may grant to the receiver such other authority necessary to
2904 ensure the health, safety, and welfare of the children served.

2905 (7) A receiver may be held liable in a personal capacity
2906 only for the receiver's own gross negligence, intentional acts,
2907 or breaches of fiduciary duty. This section may ~~shall~~ not be
2908 interpreted to be a waiver of sovereign immunity should the
2909 department be appointed receiver.

2910 (8) If the receiver is not the department, the court may



915192

2911 require a receiver to post a bond to ensure the faithful
2912 performance of these duties.

2913 (9) The court may terminate a receivership when:

2914 (a) The court determines that the receivership is no longer
2915 necessary because the conditions that gave rise to the
2916 receivership no longer exist; or

2917 (b) The department has entered into a contract with a new
2918 lead agency ~~community-based provider~~ pursuant to s. 409.987 s.
2919 ~~409.1671~~, and that contractor is ready and able to assume the
2920 duties of the previous lead agency ~~provider~~.

2921 (10) Within 30 days after the termination, unless this time
2922 period is extended by the court, the receiver shall give the
2923 court a complete accounting of all property of which the
2924 receiver has taken possession, of all funds collected and
2925 disbursed, and of the expenses of the receivership.

2926 (11) ~~Nothing in~~ This section does not ~~shall be construed to~~
2927 relieve any employee of the lead agency ~~community-based provider~~
2928 placed in receivership of any civil or criminal liability
2929 incurred, or any duty imposed by law, by reason of acts or
2930 omissions of the employee before ~~prior to~~ the appointment of a
2931 receiver, and; ~~nor shall anything contained in this section~~ does
2932 not ~~be construed to~~ suspend during the receivership any
2933 obligation of the employee for payment of taxes or other
2934 operating or maintenance expenses of the lead agency ~~community-~~
2935 ~~based provider~~ or for the payment of mortgages or liens. The
2936 lead agency ~~community-based provider~~ shall retain the right to
2937 sell or mortgage any facility under receivership, subject to the
2938 prior approval of the court that ordered the receivership.

2939 Section 36. Section 409.996, Florida Statutes, is created



915192

2940 to read:

2941 409.996 Duties of the Department of Children and Families.—
2942 The department shall contract for the delivery, administration,
2943 or management of care for children in the child protection and
2944 child welfare system. In doing so, the department retains
2945 responsibility for the quality of contracted services and
2946 programs and shall ensure that services are delivered in
2947 accordance with applicable federal and state statutes and
2948 regulations.

2949 (1) The department shall enter into contracts with lead
2950 agencies for the performance of the duties by the lead agencies
2951 pursuant to s. 409.988. At a minimum, the contracts must:

2952 (a) Provide for the services needed to accomplish the
2953 duties established in s. 409.988 and provide information to the
2954 department which is necessary to meet the requirements for a
2955 quality assurance program pursuant to subsection (18) and the
2956 child welfare results-oriented accountability system pursuant to
2957 s. 409.997.

2958 (b) Provide for graduated penalties for failure to comply
2959 with contract terms. Such penalties may include financial
2960 penalties, enhanced monitoring and reporting, corrective action
2961 plans, and early termination of contracts or other appropriate
2962 action to ensure contract compliance.

2963 (c) Ensure that the lead agency shall furnish current and
2964 accurate information on its activities in all cases in client
2965 case records in the state's statewide automated child welfare
2966 information system.

2967 (d) Specify the procedures to be used by the parties to
2968 resolve differences in interpreting the contract or to resolve



915192

2969 disputes as to the adequacy of the parties' compliance with
2970 their respective obligations under the contract.

2971 (2) The department must adopt written policies and
2972 procedures for monitoring the contract for delivery of services
2973 by lead agencies which must be posted on the department's
2974 website. These policies and procedures must, at a minimum,
2975 address the evaluation of fiscal accountability and program
2976 operations, including provider achievement of performance
2977 standards, provider monitoring of subcontractors, and timely
2978 followup of corrective actions for significant monitoring
2979 findings related to providers and subcontractors. These policies
2980 and procedures must also include provisions for reducing the
2981 duplication of the department's program monitoring activities
2982 both internally and with other agencies, to the extent possible.
2983 The department's written procedures must ensure that the written
2984 findings, conclusions, and recommendations from monitoring the
2985 contract for services of lead agencies are communicated to the
2986 director of the provider agency and the community alliance as
2987 expeditiously as possible.

2988 (3) The department shall receive federal and state funds as
2989 appropriated for the operation of the child welfare system and
2990 shall transmit these funds to the lead agencies as agreed to in
2991 the contract. The department retains responsibility for the
2992 appropriate spending of these funds. The department shall
2993 monitor lead agencies to assess compliance with the financial
2994 guidelines established pursuant to s. 409.992 and other
2995 applicable state and federal laws.

2996 (4) The department shall provide technical assistance and
2997 consultation to lead agencies in the provision of care to



915192

2998 children in the child protection and child welfare system.
2999 (5) The department retains the responsibility for the
3000 review, approval or denial, and issuances of all foster home
3001 licenses.
3002 (6) The department shall process all applications submitted
3003 by lead agencies for the Interstate Compact on the Placement of
3004 Children and the Interstate Compact on Adoption and Medical
3005 Assistance.
3006 (7) The department shall assist lead agencies with access
3007 to and coordination with other service programs within the
3008 department.
3009 (8) The department shall determine Medicaid eligibility for
3010 all referred children and shall coordinate services with the
3011 Agency for Health Care Administration.
3012 (9) The department shall develop, in cooperation with the
3013 lead agencies and the third-party credentialing entity approved
3014 pursuant to s. 402.40(3), a standardized competency-based
3015 curriculum for certification training for child protection
3016 staff.
3017 (10) The department shall maintain the statewide adoptions
3018 website and provide information and training to the lead
3019 agencies relating to the website.
3020 (11) The department shall provide training and assistance
3021 to lead agencies regarding the responsibility of lead agencies
3022 relating to children receiving supplemental security income,
3023 social security, railroad retirement, or veterans' benefits.
3024 (12) With the assistance of a lead agency, the department
3025 shall develop and implement statewide and local interagency
3026 agreements needed to coordinate services for children and



915192

3027 parents involved in the child welfare system who are also
3028 involved with the Agency for Persons with Disabilities, the
3029 Department of Juvenile Justice, the Department of Education, the
3030 Department of Health, and other governmental organizations that
3031 share responsibilities for children or parents in the child
3032 welfare system.

3033 (13) With the assistance of a lead agency, the department
3034 shall develop and implement a working agreement between the lead
3035 agency and the substance abuse and mental health managing entity
3036 to integrate services and supports for children and parents
3037 serviced in the child welfare system.

3038 (14) The department shall work with the Agency for Health
3039 Care Administration to provide each Medicaid-eligible child with
3040 early and periodic screening, diagnosis, and treatment,
3041 including 72-hour screening, periodic child health checkups, and
3042 prescribed followup for ordered services, including, but not
3043 limited to, medical, dental, and vision care.

3044 (15) The department shall assist lead agencies in
3045 developing an array of services in compliance with the Title IV-
3046 E waiver and shall monitor the provision of such services.

3047 (16) The department shall provide a mechanism to allow lead
3048 agencies to request a waiver of department policies and
3049 procedures that create inefficiencies or inhibit the performance
3050 of the lead agency's duties.

3051 (17) The department shall directly or through contract
3052 provide attorneys to prepare and present cases in dependency
3053 court and shall ensure that the court is provided with adequate
3054 information for informed decisionmaking in dependency cases,
3055 including a fact sheet for each case which lists the names and



915192

3056 contact information for any child protective investigator, child
3057 protective investigation supervisor, case manager, and case
3058 manager supervisor, and the regional department official
3059 responsible for the lead agency contract. For the Sixth Judicial
3060 Circuit, the department shall contract with the state attorney
3061 for the provision of these services.

3062 (18) The department, in consultation with lead agencies,
3063 shall establish a quality assurance program for contracted
3064 services to dependent children. The quality assurance program
3065 shall be based on standards established by federal and state law
3066 and national accrediting organizations.

3067 (a) The department must evaluate each lead agency under
3068 contract at least annually. These evaluations shall cover the
3069 programmatic, operational, and fiscal operations of the lead
3070 agency and must be consistent with the child welfare results-
3071 oriented accountability system required by s. 409.997. The
3072 department must consult with dependency judges in the circuit or
3073 circuits served by the lead agency on the performance of the
3074 lead agency.

3075 (b) The department and each lead agency shall monitor out-
3076 of-home placements, including the extent to which sibling groups
3077 are placed together or provisions to provide visitation and
3078 other contacts if siblings are separated. The data shall
3079 identify reasons for sibling separation. Information related to
3080 sibling placement shall be incorporated into the results-
3081 oriented accountability system required pursuant to s. 409.997
3082 and in the evaluation of the outcome specified in s.
3083 409.986(2) (e). The information related to sibling placement
3084 shall also be made available to the institute established



915192

3085 pursuant s. 1004.615 for use in assessing the performance of
3086 child welfare services in relation to the outcome specified in
3087 s. 409.986(2) (e).

3088 (c) The department shall, to the extent possible, use
3089 independent financial audits provided by the lead agency to
3090 eliminate or reduce the ongoing contract and administrative
3091 reviews conducted by the department. If the department
3092 determines that such independent financial audits are
3093 inadequate, other audits, as necessary, may be conducted by the
3094 department. This paragraph does not abrogate the requirements of
3095 s. 215.97.

3096 (d) The department may suggest additional items to be
3097 included in such independent financial audits to meet the
3098 department's needs.

3099 (e) The department may outsource programmatic,
3100 administrative, or fiscal monitoring oversight of lead agencies.

3101 (f) A lead agency must assure that all subcontractors are
3102 subject to the same quality assurance activities as the lead
3103 agency.

3104 (19) The department and its attorneys have the
3105 responsibility to ensure that the court is fully informed about
3106 issues before it, to make recommendations to the court, and to
3107 present competent evidence, including testimony by the
3108 department's employees, contractors, and subcontractors, as well
3109 as other individuals, to support all recommendations made to the
3110 court. The department's attorneys shall coordinate lead agency
3111 or subcontractor staff to ensure that dependency cases are
3112 presented appropriately to the court, giving deference to the
3113 information developed by the case manager and direction to the



915192

3114 case manager if more information is needed.

3115 (20) The department, in consultation with lead agencies,
3116 shall develop a dispute resolution process so that disagreements
3117 between legal staff, investigators, and case management staff
3118 can be resolved in the best interest of the child in question
3119 before court appearances regarding that child.

3120 Section 37. Section 409.997, Florida Statutes, is created
3121 to read:

3122 409.997 Child welfare results-oriented accountability
3123 system.-

3124 (1) The department and its contract providers, including
3125 lead agencies, community-based care providers, and other
3126 community partners participating in the state's child protection
3127 and child welfare system, share the responsibility for achieving
3128 the outcome goals specified in s. 409.986(2).

3129 (2) In order to assess the achievement of the outcome goals
3130 specified in s. 409.986(2), the department shall maintain a
3131 comprehensive, results-oriented accountability system that
3132 monitors the use of resources, the quality and amount of
3133 services provided, and child and family outcomes through data
3134 analysis, research review, evaluation, and quality improvement.
3135 The system shall provide information about individual entities'
3136 performance as well as the performance of groups of entities
3137 working together as an integrated system of care on a local,
3138 regional, and statewide basis. In maintaining the accountability
3139 system, the department shall:

3140 (a) Identify valid and reliable outcome measures for each
3141 of the goals specified in this subsection. The outcome data set
3142 must consist of a limited number of understandable measures



915192

3143 using available data to quantify outcomes as children move
3144 through the system of care. Such measures may aggregate multiple
3145 variables that affect the overall achievement of the outcome
3146 goals. Valid and reliable measures must be based on adequate
3147 sample sizes, be gathered over suitable time periods, and
3148 reflect authentic rather than spurious results, and may not be
3149 susceptible to manipulation.

3150 (b) Implement a monitoring system to track the identified
3151 outcome measures on a statewide, regional, and provider-specific
3152 basis. The monitoring system must identify trends and chart
3153 progress toward achievement of the goals specified s.
3154 409.986(2). The requirements of the monitoring system may be
3155 incorporated into the quality assurance program required under
3156 s. 409.996(18).

3157 (c) Develop and maintain an analytical system that builds
3158 on the outcomes monitoring system to assess the statistical
3159 validity of observed associations between child welfare
3160 interventions and the measured outcomes. The analysis must use
3161 quantitative methods to adjust for variations in demographic or
3162 other conditions. The analysis must include longitudinal studies
3163 to evaluate longer-term outcomes such as continued safety,
3164 family permanence, and transition to self-sufficiency. The
3165 analysis may also include qualitative research methods to
3166 provide insight into statistical patterns.

3167 (d) Develop and maintain a program of research review to
3168 identify interventions that are supported by evidence as
3169 causally linked to improved outcomes.

3170 (e) Support an ongoing process of evaluation to determine
3171 the efficacy and effectiveness of various interventions.



915192

3172 Efficacy evaluation is intended to determine the validity of a
3173 causal relationship between an intervention and an outcome.

3174 Effectiveness evaluation is intended to determine the extent to
3175 which the results can be generalized.

3176 (f) Develop and maintain an inclusive, interactive, and
3177 evidence-supported program of quality improvement which promotes
3178 individual skill building as well as organizational learning.

3179 (g) Develop and implement a method for making the results
3180 of the accountability system transparent for all parties
3181 involved in the child welfare system as well as policymakers and
3182 the public. The presentation of the results shall provide a
3183 comprehensible, visual report card for the state and each
3184 community-based care region, indicating the current status
3185 relative to each goal and trends in that status over time. The
3186 presentation shall identify and report outcome measures that
3187 assess the performance of the department, the community-based
3188 care lead agency, and the lead agency's subcontractors working
3189 together as an integrated system of care.

3190 (3) The department shall establish a technical advisory
3191 panel consisting of representatives from the Florida Institute
3192 for Child Welfare established in s. 1004.615, lead agencies,
3193 community-based care providers, other contract providers,
3194 community alliances, and family representatives. The President
3195 of the Senate and the Speaker of the House of Representatives
3196 shall each appoint a member to serve as a legislative liaison to
3197 the panel. The technical advisory panel shall advise the
3198 department on meeting the requirements of this section.

3199 (4) The accountability system may not rank or compare
3200 performance among community-based care regions unless adequate



915192

3201 and specific adjustments are adopted that account for the
3202 diversity in regions' demographics, resources, and other
3203 relevant characteristics.

3204 (5) The results of the accountability system must provide
3205 the basis for performance incentives if funds for such payments
3206 are made available through the General Appropriations Act.

3207 (6) At least quarterly, the department shall make the
3208 results of the accountability system available to the public
3209 through publication on its website. The website must allow for
3210 custom searches of the performance data.

3211 (7) By October 1 of each year, the department shall submit
3212 a report on the statewide and individual community-based care
3213 lead agency results for child protection and child welfare
3214 systems. The department shall use the accountability system and
3215 consult with the community alliance and the chief judge or
3216 judges in the community-based care service area to prepare the
3217 report. The report shall be submitted to the Governor, the
3218 President of the Senate, and the Speaker of the House of
3219 Representatives.

3220 Section 38. Section 409.998, Florida Statutes, is created
3221 to read:

3222 409.998 Community-based care; assessment by community
3223 alliances.—To provide independent, community-focused assessment
3224 of child protection and child welfare services and the local
3225 system of community-based care, community alliances created in
3226 s. 20.19(5) shall, with the assistance of the department,
3227 perform the following duties:

3228 (1) Conduct a needs assessment and establish community
3229 priorities for child protection and child welfare services.



915192

3230 (2) Review the performance of the department, the sheriff's
3231 office, if the office provides child protective services, and
3232 the lead agency individually and as an integrated system of
3233 care, and advise the department, the sheriff's office, if
3234 applicable, and the lead agency regarding concerns and suggested
3235 areas of improvement.

3236 (3) Recommend a competitive procurement for the lead agency
3237 if programmatic or financial performance is poor. The community
3238 alliance shall make recommendations on the development of the
3239 procurement document for such competitive procurement and may
3240 suggest specific requirements relating to local needs and
3241 services.

3242 (4) Recommend a contract extension for the lead agency if
3243 programmatic and financial performance is superior.

3244 (5) In partnership with the Florida Institute for Child
3245 Welfare established in s. 1004.615, develop recommendations and
3246 submit such recommendations to the department and the community-
3247 based care lead agency to improve child protection and child
3248 welfare policies and practices.

3249 (6) Promote greater community involvement in community-
3250 based care through participation in community-based care lead
3251 agency services and activities, recruitment and retention of
3252 community volunteers, and public awareness efforts.

3253 Section 39. Section 827.10, Florida Statutes, is created to
3254 read:

3255 827.10 Unlawful desertion of a child.-

3256 (1) As used in this section, the term:

3257 (a) "Care" means support and services necessary to maintain
3258 the child's physical and mental health, including, but not



915192

3259 limited to, food, nutrition, clothing, shelter, supervision,
3260 medicine, and medical services that a prudent person would
3261 consider essential for the well-being of the child.

3262 (b) "Caregiver" has the same meaning as provided in s.
3263 39.01.

3264 (c) "Child" means a child for whose care the caregiver is
3265 legally responsible.

3266 (d) "Desertion" or "deserts" means to leave a child in a
3267 place or with a person other than a relative with the intent not
3268 to return to the child and with the intent not to provide for
3269 the care of the child.

3270 (e) "Relative" has the same meaning as provided in s.
3271 39.01.

3272 (2) A caregiver who deserts a child under circumstances in
3273 which the caregiver knew or should have known that the desertion
3274 exposes the child to unreasonable risk of harm commits a felony
3275 of the third degree, punishable as provided in s. 775.082, s.
3276 775.083, or s. 775.084.

3277 (3) This section does not apply to a person who surrenders
3278 a newborn infant in compliance with s. 383.50.

3279 (4) This section does not preclude prosecution for a
3280 criminal act under any other law, including, but not limited to,
3281 prosecution of child abuse or neglect of a child under s.
3282 827.03.

3283 Section 40. Paragraph (d) of subsection (4) of section
3284 985.04, Florida Statutes, is amended to read:

3285 985.04 Oaths; records; confidential information.—

3286 (4)

3287 (d) The department shall disclose to the school



915192

3288 superintendent the presence of any child in the care and custody
3289 or under the jurisdiction or supervision of the department who
3290 has a known history of criminal sexual behavior with other
3291 juveniles; is ~~an~~ alleged to have committed juvenile sexual abuse
3292 offender, as defined in s. 39.01; or has pled guilty or nolo
3293 contendere to, or has been found to have committed, a violation
3294 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.
3295 847.0133, regardless of adjudication. Any employee of a district
3296 school board who knowingly and willfully discloses such
3297 information to an unauthorized person commits a misdemeanor of
3298 the second degree, punishable as provided in s. 775.082 or s.
3299 775.083.

3300 Section 41. Section 1004.615, Florida Statutes, is created
3301 to read:

3302 1004.615 Florida Institute for Child Welfare.—

3303 (1) There is established the Florida Institute for Child
3304 Welfare within the Florida State University College of Social
3305 Work. The purpose of the institute is to advance the well-being
3306 of children and families by improving the performance of child
3307 protection and child welfare services through research, policy
3308 analysis, evaluation, and leadership development. The institute
3309 shall consist of a consortium of public and private universities
3310 offering degrees in social work and shall be housed within the
3311 Florida State University College of Social Work.

3312 (2) Using such resources as authorized in the General
3313 Appropriations Act, the Department of Children and Families
3314 shall contract with the institute for performance of the duties
3315 described in subsection (4) using state appropriations, public
3316 and private grants, and other resources obtained by the



915192

3317 institute.

3318 (3) The institute shall work with the department, sheriffs
3319 providing child protective investigative services, community-
3320 based care lead agencies, community-based care provider
3321 organizations, the court system, the Department of Juvenile
3322 Justice, the federally recognized statewide association for
3323 Florida's certified domestic violence centers, and other
3324 partners who contribute to and participate in providing child
3325 protection and child welfare services.

3326 (4) The institute shall:

3327 (a) Maintain a program of research which contributes to
3328 scientific knowledge and informs both policy and practice
3329 related to child safety, permanency, and child and family well-
3330 being.

3331 (b) Advise the department and other organizations
3332 participating in the child protection and child welfare system
3333 regarding scientific evidence on policy and practice related to
3334 child safety, permanency, and child and family well-being.

3335 (c) Provide advice regarding management practices and
3336 administrative processes used by the department and other
3337 organizations participating in the child protection and child
3338 welfare system and recommend improvements that reduce
3339 burdensome, ineffective requirements for frontline staff and
3340 their supervisors while enhancing their ability to effectively
3341 investigate, analyze, problem solve, and supervise.

3342 (d) Assess the performance of child protection and child
3343 welfare services based on specific outcome measures.

3344 (e) Evaluate the scope and effectiveness of preservice and
3345 inservice training for child protection and child welfare



915192

3346 employees and advise and assist the department in efforts to
3347 improve such training.

3348 (f) Assess the readiness of social work graduates to assume
3349 job responsibilities in the child protection and child welfare
3350 system and identify gaps in education which can be addressed
3351 through the modification of curricula or the establishment of
3352 industry certifications.

3353 (g) Develop and maintain a program of professional support
3354 including training courses and consulting services that assist
3355 both individuals and organizations in implementing adaptive and
3356 resilient responses to workplace stress.

3357 (h) Participate in the department's critical incident
3358 response team, assist in the preparation of reports about such
3359 incidents, and support the committee review of reports and
3360 development of recommendations.

3361 (i) Identify effective policies and promising practices,
3362 including, but not limited to, innovations in coordination
3363 between entities participating in the child protection and child
3364 welfare system, data analytics, working with the local
3365 community, and management of human service organizations, and
3366 communicate these findings to the department and other
3367 organizations participating in the child protection and child
3368 welfare system.

3369 (j) Develop a definition of a child or family at high risk
3370 of abuse or neglect. Such a definition must consider
3371 characteristics associated with a greater probability of abuse
3372 and neglect.

3373 (5) The President of the Florida State University shall
3374 appoint a director of the institute. The director must be a



915192

3375 child welfare professional with a degree in social work who
3376 holds a faculty appointment in the Florida State University
3377 College of Social Work. The institute shall be administered by
3378 the director, and the director's office shall be located at the
3379 Florida State University. The director is responsible for
3380 overall management of the institute and for developing and
3381 executing the work of the institute consistent with the
3382 responsibilities in subsection (4). The director shall engage
3383 individuals in other state universities with accredited colleges
3384 of social work to participate in the institute. Individuals from
3385 other university programs relevant to the institute's work,
3386 including, but not limited to, economics, management, law,
3387 medicine, and education, may also be invited by the director to
3388 contribute to the institute. The universities participating in
3389 the institute shall provide facilities, staff, and other
3390 resources to the institute to establish statewide access to
3391 institute programs and services.

3392 (6) By October 1 of each year, the institute shall provide
3393 a written report to the Governor, the President of the Senate,
3394 and the Speaker of the House of Representatives which outlines
3395 its activities in the preceding year, reports significant
3396 research findings, as well as results of other programs, and
3397 provides specific recommendations for improving child protection
3398 and child welfare services.

3399 (a) The institute shall include an evaluation of the
3400 results of the educational and training requirements for child
3401 protection and child welfare personnel established under this
3402 act and recommendations for application of the results to child
3403 protection personnel employed by sheriff's offices providing



915192

3404 child protection services in its report due October 1, 2017.

3405 (b) The institute shall include an evaluation of the
3406 effects of the other provisions of this act and recommendations
3407 for improvements in child protection and child welfare services
3408 in its report due October 1, 2018.

3409 (7) The institute shall submit a report with
3410 recommendations for improving the state's child welfare system.
3411 The report shall address topics including, but not limited to,
3412 enhancing working relationships between the entities involved in
3413 the child protection and child welfare system, identification of
3414 and replication of best practices, reducing paperwork,
3415 increasing the retention of child protective investigators and
3416 case managers, and caring for medically complex children within
3417 the child welfare system, with the goal of allowing the child to
3418 remain in the least restrictive and most nurturing environment.
3419 The institute shall submit an interim report by February 1,
3420 2015, and final report by November 1, 2015, to the Governor, the
3421 President of the Senate, and the Speaker of the House of
3422 Representatives.

3423 Section 42. Paragraph (h) is added to subsection (1) of
3424 section 1009.25, Florida Statutes, to read:

3425 1009.25 Fee exemptions.-

3426 (1) The following students are exempt from the payment of
3427 tuition and fees, including lab fees, at a school district that
3428 provides workforce education programs, Florida College System
3429 institution, or state university:

3430 (h) Pursuant to s. 402.403, child protection and child
3431 welfare personnel as defined in s. 402.402 who are enrolled in
3432 an accredited bachelor's degree or master's degree in social



915192

3433 work program or completing coursework required pursuant to s.
3434 402.402(2), provided that the student attains at least a grade
3435 of "B" in all courses for which tuition and fees are exempted.

3436 Section 43. Section 402.401, Florida Statutes, is repealed.

3437 Section 44. Section 409.1671, Florida Statutes, is
3438 repealed.

3439 Section 45. Section 409.16715, Florida Statutes, is
3440 repealed.

3441 Section 46. Section 409.16745, Florida Statutes, is
3442 repealed.

3443 Section 47. Section 1004.61, Florida Statutes, is repealed.

3444 Section 48. Paragraph (g) of subsection (1) of section
3445 39.201, Florida Statutes, is amended to read:

3446 39.201 Mandatory reports of child abuse, abandonment, or
3447 neglect; mandatory reports of death; central abuse hotline.—

3448 (1)

3449 (g) Nothing in this chapter or in the contracting with
3450 community-based care providers for foster care and related
3451 services as specified in s. 409.987 ~~s. 409.1671~~ shall be
3452 construed to remove or reduce the duty and responsibility of any
3453 person, including any employee of the community-based care
3454 provider, to report a suspected or actual case of child abuse,
3455 abandonment, or neglect or the sexual abuse of a child to the
3456 department's central abuse hotline.

3457 Section 49. Subsection (1) of section 39.302, Florida
3458 Statutes, is amended to read:

3459 39.302 Protective investigations of institutional child
3460 abuse, abandonment, or neglect.—

3461 (1) The department shall conduct a child protective



915192

3462 investigation of each report of institutional child abuse,
3463 abandonment, or neglect. Upon receipt of a report that alleges
3464 that an employee or agent of the department, or any other entity
3465 or person covered by s. 39.01(32) ~~s. 39.01(33)~~ or (47), acting
3466 in an official capacity, has committed an act of child abuse,
3467 abandonment, or neglect, the department shall initiate a child
3468 protective investigation within the timeframe established under
3469 s. 39.201(5) and notify the appropriate state attorney, law
3470 enforcement agency, and licensing agency, which shall
3471 immediately conduct a joint investigation, unless independent
3472 investigations are more feasible. When conducting investigations
3473 or having face-to-face interviews with the child, investigation
3474 visits shall be unannounced unless it is determined by the
3475 department or its agent that unannounced visits threaten the
3476 safety of the child. If a facility is exempt from licensing, the
3477 department shall inform the owner or operator of the facility of
3478 the report. Each agency conducting a joint investigation is
3479 entitled to full access to the information gathered by the
3480 department in the course of the investigation. A protective
3481 investigation must include an interview with the child's parent
3482 or legal guardian. The department shall make a full written
3483 report to the state attorney within 3 working days after making
3484 the oral report. A criminal investigation shall be coordinated,
3485 whenever possible, with the child protective investigation of
3486 the department. Any interested person who has information
3487 regarding the offenses described in this subsection may forward
3488 a statement to the state attorney as to whether prosecution is
3489 warranted and appropriate. Within 15 days after the completion
3490 of the investigation, the state attorney shall report the



915192

3491 findings to the department and shall include in the report a
3492 determination of whether or not prosecution is justified and
3493 appropriate in view of the circumstances of the specific case.

3494 Section 50. Subsection (1) of section 39.524, Florida
3495 Statutes, is amended to read:

3496 39.524 Safe-harbor placement.—

3497 (1) Except as provided in s. 39.407 or s. 985.801, a
3498 dependent child 6 years of age or older who has been found to be
3499 a victim of sexual exploitation as defined in s. 39.01(68)(g) ~~s.~~
3500 ~~39.01(67)(g)~~ must be assessed for placement in a safe house as
3501 provided in s. 409.1678. The assessment shall be conducted by
3502 the department or its agent and shall incorporate and address
3503 current and historical information from any law enforcement
3504 reports; psychological testing or evaluation that has occurred;
3505 current and historical information from the guardian ad litem,
3506 if one has been assigned; current and historical information
3507 from any current therapist, teacher, or other professional who
3508 has knowledge of the child and has worked with the child; and
3509 any other information concerning the availability and
3510 suitability of safe-house placement. If such placement is
3511 determined to be appropriate as a result of this assessment, the
3512 child may be placed in a safe house, if one is available. As
3513 used in this section, the term "available" as it relates to a
3514 placement means a placement that is located within the circuit
3515 or otherwise reasonably accessible.

3516 Section 51. Subsection (6) of section 316.613, Florida
3517 Statutes, is amended to read:

3518 316.613 Child restraint requirements.—

3519 (6) The child restraint requirements imposed by this



915192

3520 section do not apply to a chauffeur-driven taxi, limousine,
3521 sedan, van, bus, motor coach, or other passenger vehicle if the
3522 operator and the motor vehicle are hired and used for the
3523 transportation of persons for compensation. It is the obligation
3524 and responsibility of the parent, guardian, or other person
3525 responsible for a child's welfare, as defined in s. 39.01(47),
3526 to comply with the requirements of this section.

3527 Section 52. Subsections (1), (3), and (5) of section
3528 409.1676, Florida Statutes, are amended to read:

3529 409.1676 Comprehensive residential group care services to
3530 children who have extraordinary needs.—

3531 (1) It is the intent of the Legislature to provide
3532 comprehensive residential group care services, including
3533 residential care, case management, and other services, to
3534 children in the child protection system who have extraordinary
3535 needs. These services are to be provided in a residential group
3536 care setting by a not-for-profit corporation or a local
3537 government entity under a contract with the Department of
3538 Children and Families ~~Family Services~~ or by a lead agency as
3539 described in s. 409.987 ~~s. 409.1671~~. These contracts should be
3540 designed to provide an identified number of children with access
3541 to a full array of services for a fixed price. Further, it is
3542 the intent of the Legislature that the Department of Children
3543 and Families ~~Family Services~~ and the Department of Juvenile
3544 Justice establish an interagency agreement by December 1, 2002,
3545 which describes respective agency responsibilities for referral,
3546 placement, service provision, and service coordination for
3547 dependent and delinquent youth who are referred to these
3548 residential group care facilities. The agreement must require



915192

3549 interagency collaboration in the development of terms,
3550 conditions, and performance outcomes for residential group care
3551 contracts serving the youth referred who have been adjudicated
3552 both dependent and delinquent.

3553 (3) The department, in accordance with a specific
3554 appropriation for this program, shall contract with a not-for-
3555 profit corporation, a local government entity, or the lead
3556 agency that has been established in accordance with s. 409.987
3557 ~~s. 409.1671~~ for the performance of residential group care
3558 services described in this section. A lead agency that is
3559 currently providing residential care may provide this service
3560 directly with the approval of the local community alliance. The
3561 department or a lead agency may contract for more than one site
3562 in a county if that is determined to be the most effective way
3563 to achieve the goals set forth in this section.

3564 (5) The department may transfer all casework
3565 responsibilities for children served under this program to the
3566 entity that provides this service, including case management and
3567 development and implementation of a case plan in accordance with
3568 current standards for child protection services. When the
3569 department establishes this program in a community that has a
3570 lead agency as described in s. 409.987 ~~s. 409.1671~~, the casework
3571 responsibilities must be transferred to the lead agency.

3572 Section 53. Subsection (2) of section 409.1677, Florida
3573 Statutes, is amended to read:

3574 409.1677 Model comprehensive residential services
3575 programs.—

3576 (2) The department shall establish a model comprehensive
3577 residential services program in Manatee and Miami-Dade Counties



915192

3578 through a contract with the designated lead agency established
3579 in accordance with s. 409.987 ~~s. 409.1671~~ or with a private
3580 entity capable of providing residential group care and home-
3581 based care and experienced in the delivery of a range of
3582 services to foster children, if no lead agency exists. These
3583 model programs are to serve that portion of eligible children
3584 within each county which is specified in the contract, based on
3585 funds appropriated, to include a full array of services for a
3586 fixed price. The private entity or lead agency is responsible
3587 for all programmatic functions necessary to carry out the intent
3588 of this section.

3589 Section 54. Paragraph (d) of subsection (1) of section
3590 409.1678, Florida Statutes, is amended to read:

3591 409.1678 Safe harbor for children who are victims of sexual
3592 exploitation.—

3593 (1) As used in this section, the term:

3594 (d) "Sexually exploited child" means a dependent child who
3595 has suffered sexual exploitation as defined in s. 39.01(68)(g)
3596 ~~s. 39.01(67)(g)~~ and is ineligible for relief and benefits under
3597 the federal Trafficking Victims Protection Act, 22 U.S.C. ss.
3598 7101 et seq.

3599 Section 55. Subsection (24) of section 409.906, Florida
3600 Statutes, is amended to read:

3601 409.906 Optional Medicaid services.—Subject to specific
3602 appropriations, the agency may make payments for services which
3603 are optional to the state under Title XIX of the Social Security
3604 Act and are furnished by Medicaid providers to recipients who
3605 are determined to be eligible on the dates on which the services
3606 were provided. Any optional service that is provided shall be



915192

3607 provided only when medically necessary and in accordance with
3608 state and federal law. Optional services rendered by providers
3609 in mobile units to Medicaid recipients may be restricted or
3610 prohibited by the agency. Nothing in this section shall be
3611 construed to prevent or limit the agency from adjusting fees,
3612 reimbursement rates, lengths of stay, number of visits, or
3613 number of services, or making any other adjustments necessary to
3614 comply with the availability of moneys and any limitations or
3615 directions provided for in the General Appropriations Act or
3616 chapter 216. If necessary to safeguard the state's systems of
3617 providing services to elderly and disabled persons and subject
3618 to the notice and review provisions of s. 216.177, the Governor
3619 may direct the Agency for Health Care Administration to amend
3620 the Medicaid state plan to delete the optional Medicaid service
3621 known as "Intermediate Care Facilities for the Developmentally
3622 Disabled." Optional services may include:

3623 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for
3624 Health Care Administration, in consultation with the Department
3625 of Children and Families ~~Family Services~~, may establish a
3626 targeted case-management project in those counties identified by
3627 the Department of Children and Families ~~Family Services~~ and for
3628 all counties with a community-based child welfare project, as
3629 authorized under s. 409.987 ~~s. 409.1671~~, which have been
3630 specifically approved by the department. The covered group of
3631 individuals who are eligible to receive targeted case management
3632 include children who are eligible for Medicaid; who are between
3633 the ages of birth through 21; and who are under protective
3634 supervision or postplacement supervision, under foster-care
3635 supervision, or in shelter care or foster care. The number of



915192

3636 individuals who are eligible to receive targeted case management
3637 is limited to the number for whom the Department of Children and
3638 Families ~~Family Services~~ has matching funds to cover the costs.
3639 The general revenue funds required to match the funds for
3640 services provided by the community-based child welfare projects
3641 are limited to funds available for services described under s.
3642 409.990 ~~s. 409.1671~~. The Department of Children and Families
3643 ~~Family Services~~ may transfer the general revenue matching funds
3644 as billed by the Agency for Health Care Administration.

3645 Section 56. Paragraph (b) of subsection (4) of section
3646 409.912, Florida Statutes, is amended to read:

3647 409.912 Cost-effective purchasing of health care.—The
3648 agency shall purchase goods and services for Medicaid recipients
3649 in the most cost-effective manner consistent with the delivery
3650 of quality medical care. To ensure that medical services are
3651 effectively utilized, the agency may, in any case, require a
3652 confirmation or second physician's opinion of the correct
3653 diagnosis for purposes of authorizing future services under the
3654 Medicaid program. This section does not restrict access to
3655 emergency services or poststabilization care services as defined
3656 in 42 C.F.R. part 438.114. Such confirmation or second opinion
3657 shall be rendered in a manner approved by the agency. The agency
3658 shall maximize the use of prepaid per capita and prepaid
3659 aggregate fixed-sum basis services when appropriate and other
3660 alternative service delivery and reimbursement methodologies,
3661 including competitive bidding pursuant to s. 287.057, designed
3662 to facilitate the cost-effective purchase of a case-managed
3663 continuum of care. The agency shall also require providers to
3664 minimize the exposure of recipients to the need for acute



915192

3665 inpatient, custodial, and other institutional care and the
3666 inappropriate or unnecessary use of high-cost services. The
3667 agency shall contract with a vendor to monitor and evaluate the
3668 clinical practice patterns of providers in order to identify
3669 trends that are outside the normal practice patterns of a
3670 provider's professional peers or the national guidelines of a
3671 provider's professional association. The vendor must be able to
3672 provide information and counseling to a provider whose practice
3673 patterns are outside the norms, in consultation with the agency,
3674 to improve patient care and reduce inappropriate utilization.
3675 The agency may mandate prior authorization, drug therapy
3676 management, or disease management participation for certain
3677 populations of Medicaid beneficiaries, certain drug classes, or
3678 particular drugs to prevent fraud, abuse, overuse, and possible
3679 dangerous drug interactions. The Pharmaceutical and Therapeutics
3680 Committee shall make recommendations to the agency on drugs for
3681 which prior authorization is required. The agency shall inform
3682 the Pharmaceutical and Therapeutics Committee of its decisions
3683 regarding drugs subject to prior authorization. The agency is
3684 authorized to limit the entities it contracts with or enrolls as
3685 Medicaid providers by developing a provider network through
3686 provider credentialing. The agency may competitively bid single-
3687 source-provider contracts if procurement of goods or services
3688 results in demonstrated cost savings to the state without
3689 limiting access to care. The agency may limit its network based
3690 on the assessment of beneficiary access to care, provider
3691 availability, provider quality standards, time and distance
3692 standards for access to care, the cultural competence of the
3693 provider network, demographic characteristics of Medicaid



915192

3694 beneficiaries, practice and provider-to-beneficiary standards,
3695 appointment wait times, beneficiary use of services, provider
3696 turnover, provider profiling, provider licensure history,
3697 previous program integrity investigations and findings, peer
3698 review, provider Medicaid policy and billing compliance records,
3699 clinical and medical record audits, and other factors. Providers
3700 are not entitled to enrollment in the Medicaid provider network.
3701 The agency shall determine instances in which allowing Medicaid
3702 beneficiaries to purchase durable medical equipment and other
3703 goods is less expensive to the Medicaid program than long-term
3704 rental of the equipment or goods. The agency may establish rules
3705 to facilitate purchases in lieu of long-term rentals in order to
3706 protect against fraud and abuse in the Medicaid program as
3707 defined in s. 409.913. The agency may seek federal waivers
3708 necessary to administer these policies.

3709 (4) The agency may contract with:

3710 (b) An entity that is providing comprehensive behavioral
3711 health care services to certain Medicaid recipients through a
3712 capitated, prepaid arrangement pursuant to the federal waiver
3713 provided for by s. 409.905(5). Such entity must be licensed
3714 under chapter 624, chapter 636, or chapter 641, or authorized
3715 under paragraph (c) or paragraph (d), and must possess the
3716 clinical systems and operational competence to manage risk and
3717 provide comprehensive behavioral health care to Medicaid
3718 recipients. As used in this paragraph, the term "comprehensive
3719 behavioral health care services" means covered mental health and
3720 substance abuse treatment services that are available to
3721 Medicaid recipients. The secretary of the Department of Children
3722 and Families ~~Family Services~~ shall approve provisions of



915192

3723 procurements related to children in the department's care or
3724 custody before enrolling such children in a prepaid behavioral
3725 health plan. Any contract awarded under this paragraph must be
3726 competitively procured. In developing the behavioral health care
3727 prepaid plan procurement document, the agency shall ensure that
3728 the procurement document requires the contractor to develop and
3729 implement a plan to ensure compliance with s. 394.4574 related
3730 to services provided to residents of licensed assisted living
3731 facilities that hold a limited mental health license. Except as
3732 provided in subparagraph 5., and except in counties where the
3733 Medicaid managed care pilot program is authorized pursuant to s.
3734 409.91211, the agency shall seek federal approval to contract
3735 with a single entity meeting these requirements to provide
3736 comprehensive behavioral health care services to all Medicaid
3737 recipients not enrolled in a Medicaid managed care plan
3738 authorized under s. 409.91211, a provider service network
3739 authorized under paragraph (d), or a Medicaid health maintenance
3740 organization in an AHCA area. In an AHCA area where the Medicaid
3741 managed care pilot program is authorized pursuant to s.
3742 409.91211 in one or more counties, the agency may procure a
3743 contract with a single entity to serve the remaining counties as
3744 an AHCA area or the remaining counties may be included with an
3745 adjacent AHCA area and are subject to this paragraph. Each
3746 entity must offer a sufficient choice of providers in its
3747 network to ensure recipient access to care and the opportunity
3748 to select a provider with whom they are satisfied. The network
3749 shall include all public mental health hospitals. To ensure
3750 unimpaired access to behavioral health care services by Medicaid
3751 recipients, all contracts issued pursuant to this paragraph must



915192

3752 require 80 percent of the capitation paid to the managed care
3753 plan, including health maintenance organizations and capitated
3754 provider service networks, to be expended for the provision of
3755 behavioral health care services. If the managed care plan
3756 expends less than 80 percent of the capitation paid for the
3757 provision of behavioral health care services, the difference
3758 shall be returned to the agency. The agency shall provide the
3759 plan with a certification letter indicating the amount of
3760 capitation paid during each calendar year for behavioral health
3761 care services pursuant to this section. The agency may reimburse
3762 for substance abuse treatment services on a fee-for-service
3763 basis until the agency finds that adequate funds are available
3764 for capitated, prepaid arrangements.

3765 1. The agency shall modify the contracts with the entities
3766 providing comprehensive inpatient and outpatient mental health
3767 care services to Medicaid recipients in Hillsborough, Highlands,
3768 Hardee, Manatee, and Polk Counties, to include substance abuse
3769 treatment services.

3770 2. Except as provided in subparagraph 5., the agency and
3771 the Department of Children and Families ~~Family Services~~ shall
3772 contract with managed care entities in each AHCA area except
3773 area 6 or arrange to provide comprehensive inpatient and
3774 outpatient mental health and substance abuse services through
3775 capitated prepaid arrangements to all Medicaid recipients who
3776 are eligible to participate in such plans under federal law and
3777 regulation. In AHCA areas where eligible individuals number less
3778 than 150,000, the agency shall contract with a single managed
3779 care plan to provide comprehensive behavioral health services to
3780 all recipients who are not enrolled in a Medicaid health



915192

3781 maintenance organization, a provider service network authorized
3782 under paragraph (d), or a Medicaid capitated managed care plan
3783 authorized under s. 409.91211. The agency may contract with more
3784 than one comprehensive behavioral health provider to provide
3785 care to recipients who are not enrolled in a Medicaid capitated
3786 managed care plan authorized under s. 409.91211, a provider
3787 service network authorized under paragraph (d), or a Medicaid
3788 health maintenance organization in AHCA areas where the eligible
3789 population exceeds 150,000. In an AHCA area where the Medicaid
3790 managed care pilot program is authorized pursuant to s.
3791 409.91211 in one or more counties, the agency may procure a
3792 contract with a single entity to serve the remaining counties as
3793 an AHCA area or the remaining counties may be included with an
3794 adjacent AHCA area and shall be subject to this paragraph.
3795 Contracts for comprehensive behavioral health providers awarded
3796 pursuant to this section shall be competitively procured. Both
3797 for-profit and not-for-profit corporations are eligible to
3798 compete. Managed care plans contracting with the agency under
3799 subsection (3) or paragraph (d) shall provide and receive
3800 payment for the same comprehensive behavioral health benefits as
3801 provided in AHCA rules, including handbooks incorporated by
3802 reference. In AHCA area 11, the agency shall contract with at
3803 least two comprehensive behavioral health care providers to
3804 provide behavioral health care to recipients in that area who
3805 are enrolled in, or assigned to, the MediPass program. One of
3806 the behavioral health care contracts must be with the existing
3807 provider service network pilot project, as described in
3808 paragraph (d), for the purpose of demonstrating the cost-
3809 effectiveness of the provision of quality mental health services



915192

3810 through a public hospital-operated managed care model. Payment
3811 shall be at an agreed-upon capitated rate to ensure cost
3812 savings. Of the recipients in area 11 who are assigned to
3813 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those
3814 MediPass-enrolled recipients shall be assigned to the existing
3815 provider service network in area 11 for their behavioral care.

3816 3. Children residing in a statewide inpatient psychiatric
3817 program, or in a Department of Juvenile Justice or a Department
3818 of Children and Families ~~Family Services~~ residential program
3819 approved as a Medicaid behavioral health overlay services
3820 provider may not be included in a behavioral health care prepaid
3821 health plan or any other Medicaid managed care plan pursuant to
3822 this paragraph.

3823 4. Traditional community mental health providers under
3824 contract with the Department of Children and Families ~~Family~~
3825 ~~Services~~ pursuant to part IV of chapter 394, child welfare
3826 providers under contract with the Department of Children and
3827 Families ~~Family Services~~ in areas 1 and 6, and inpatient mental
3828 health providers licensed pursuant to chapter 395 must be
3829 offered an opportunity to accept or decline a contract to
3830 participate in any provider network for prepaid behavioral
3831 health services.

3832 5. All Medicaid-eligible children, except children in area
3833 1 and children in Highlands County, Hardee County, Polk County,
3834 or Manatee County of area 6, which ~~that~~ are open for child
3835 welfare services in the statewide automated child welfare
3836 information system, shall receive their behavioral health care
3837 services through a specialty prepaid plan operated by community-
3838 based lead agencies through a single agency or formal agreements



915192

3839 among several agencies. The agency shall work with the specialty
3840 plan to develop clinically effective, evidence-based
3841 alternatives as a downward substitution for the statewide
3842 inpatient psychiatric program and similar residential care and
3843 institutional services. The specialty prepaid plan must result
3844 in savings to the state comparable to savings achieved in other
3845 Medicaid managed care and prepaid programs. Such plan must
3846 provide mechanisms to maximize state and local revenues. The
3847 specialty prepaid plan shall be developed by the agency and the
3848 Department of Children and Families ~~Family Services~~. The agency
3849 may seek federal waivers to implement this initiative. Medicaid-
3850 eligible children whose cases are open for child welfare
3851 services in the statewide automated child welfare information
3852 system and who reside in AHCA area 10 shall be enrolled in a
3853 capitated provider service network or other capitated managed
3854 care plan, which, in coordination with available community-based
3855 care providers specified in s. 409.987 ~~s. 409.1671~~, shall
3856 provide sufficient medical, developmental, and behavioral health
3857 services to meet the needs of these children.

3858
3859 Effective July 1, 2012, in order to ensure continuity of care,
3860 the agency is authorized to extend or modify current contracts
3861 based on current service areas or on a regional basis, as
3862 determined appropriate by the agency, with comprehensive
3863 behavioral health care providers as described in this paragraph
3864 during the period prior to its expiration. This paragraph
3865 expires October 1, 2014.

3866 Section 57. Paragraph (dd) of subsection (3) of section
3867 409.91211, Florida Statutes, is amended to read:



915192

3868 409.91211 Medicaid managed care pilot program.—

3869 (3) The agency shall have the following powers, duties, and
3870 responsibilities with respect to the pilot program:

3871 (dd) To implement service delivery mechanisms within a
3872 specialty plan in area 10 to provide behavioral health care
3873 services to Medicaid-eligible children whose cases are open for
3874 child welfare services in the HomeSafeNet system. These services
3875 must be coordinated with community-based care providers as
3876 specified in s. 409.986 ~~s. 409.1671~~, where available, and be
3877 sufficient to meet the developmental, behavioral, and emotional
3878 needs of these children. Children in area 10 who have an open
3879 case in the HomeSafeNet system shall be enrolled into the
3880 specialty plan. These service delivery mechanisms must be
3881 implemented no later than July 1, 2011, in AHCA area 10 in order
3882 for the children in AHCA area 10 to remain exempt from the
3883 statewide plan under s. 409.912(4)(b)5. An administrative fee
3884 may be paid to the specialty plan for the coordination of
3885 services based on the receipt of the state share of that fee
3886 being provided through intergovernmental transfers.

3887 Section 58. Paragraph (d) of subsection (1) of section
3888 420.628, Florida Statutes, is amended to read:

3889 420.628 Affordable housing for children and young adults
3890 leaving foster care; legislative findings and intent.—

3891 (1)

3892 (d) The Legislature intends that the Florida Housing
3893 Finance Corporation, agencies within the State Housing
3894 Initiative Partnership Program, local housing finance agencies,
3895 public housing authorities, and their agents, and other
3896 providers of affordable housing coordinate with the Department



915192

3897 of Children and Families ~~Family Services~~, their agents, and
3898 community-based care providers who provide services under s.
3899 409.986 ~~s. 409.1671~~ to develop and implement strategies and
3900 procedures designed to make affordable housing available
3901 whenever and wherever possible to young adults who leave the
3902 child welfare system.

3903 Section 59. Subsection (5) of section 960.065, Florida
3904 Statutes, is amended to read:

3905 960.065 Eligibility for awards.—

3906 (5) A person is not ineligible for an award pursuant to
3907 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
3908 person is a victim of sexual exploitation of a child as defined
3909 in s. 39.01(68) (g) ~~s. 39.01(67) (g)~~.

3910 Section 60. This act shall take effect July 1, 2014.

3911
3912 ===== T I T L E A M E N D M E N T =====

3913 And the title is amended as follows:

3914 Delete everything before the enacting clause
3915 and insert:

3916 A bill to be entitled
3917 An act relating to child welfare; amending s. 20.19,
3918 F.S.; requiring the Secretary of Children and Families
3919 to appoint an Assistant Secretary for Child Welfare;
3920 providing qualifications and responsibilities;
3921 revising duties, appointment, and membership of
3922 community alliances; requiring the Department of
3923 Children and Families to appoint a statewide advisory
3924 committee to provide specified assistance to community
3925 alliances; amending s. 39.001, F.S.; revising the



915192

3926 purposes of ch. 39, F.S.; requiring the department to
3927 provide for certain services for medically complex
3928 children; amending s. 39.01, F.S.; providing,
3929 revising, and deleting definitions; amending s.
3930 39.013, F.S.; clarifying responsibilities of the
3931 department in dependency proceedings; amending s.
3932 39.201, F.S.; requiring alleged incidents of juvenile
3933 sexual abuse involving specified children to be
3934 reported to the department's central abuse hotline;
3935 requiring the department to provide specified
3936 information on an investigation of child sexual abuse
3937 to the court; creating s. 39.2015, F.S.; requiring the
3938 department to conduct specified investigations using
3939 critical incident rapid response teams; providing
3940 requirements for such investigations and for team
3941 membership; authorizing team access to specified
3942 information; requiring the cooperation of specified
3943 agencies and organizations; providing for
3944 reimbursement of team members; requiring the team to
3945 provide an investigation report; requiring the
3946 secretary to develop guidelines for investigations and
3947 provide team member training; requiring the secretary
3948 to appoint an advisory committee; requiring the
3949 committee to submit a report to the secretary;
3950 requiring the secretary to submit such report to the
3951 Governor and the Legislature by a specified date;
3952 creating s. 39.2022, F.S.; providing legislative
3953 intent; requiring the department to publish specified
3954 information on its website regarding the death of a



915192

3955 child reported to the central abuse hotline; amending
3956 s. 39.301, F.S.; authorizing the use of safety plans
3957 in child protection investigations in cases of present
3958 or impending danger; providing requirements for
3959 implementation of a safety plan; providing conditions
3960 for filing a petition for dependency; amending s.
3961 39.303, F.S.; requiring physician involvement when a
3962 child protection team evaluates a report of medical
3963 neglect of a medically complex child; creating s.
3964 39.3068, F.S.; providing requirements for
3965 investigating medical neglect; providing duties of the
3966 department; amending s. 39.307, F.S.; requiring the
3967 department to assist the family, child, and caregiver
3968 in receiving services upon a report alleging juvenile
3969 sexual abuse or inappropriate sexual behavior;
3970 requiring the department to maintain specified
3971 records; requiring child sexual abuse to be taken into
3972 account in placement consideration; requiring the
3973 department to monitor the occurrence of child sexual
3974 abuse and related services; amending s. 39.402, F.S.;
3975 requiring the department to make a reasonable effort
3976 to keep siblings together when they are placed in out-
3977 of-home care under certain circumstances; providing
3978 for sibling visitation under certain conditions;
3979 amending s. 39.501, F.S.; requiring compliance with a
3980 safety plan to be considered when deciding a petition
3981 for dependency; amending s. 39.5085, F.S.; revising
3982 legislative intent; authorizing placement of a child
3983 with a nonrelative caregiver and financial assistance



915192

3984 for such nonrelative caregiver through the Relative
3985 Caregiver Program under certain circumstances;
3986 amending s. 39.604, F.S.; requiring certain children
3987 to attend a licensed early education or child care
3988 program; requiring the inclusion of attendance at a
3989 licensed early education or child care program in a
3990 child's safety plan; amending s. 39.701, F.S.;
3991 requiring the court to consider contact among siblings
3992 in judicial reviews; authorizing the court to remove
3993 specified disabilities of nonage at judicial reviews;
3994 amending s. 39.802, F.S.; removing department
3995 authorization to sign a petition for termination of
3996 parental rights; amending s. 63.212, F.S.; requiring a
3997 person who places an advertisement for adoption
3998 services to provide specified information; amending s.
3999 383.402, F.S.; requiring review of all child deaths
4000 reported to the department's central abuse hotline;
4001 revising the due date for a report; amending s.
4002 402.40, F.S.; requiring a third-party credentialing
4003 entity to establish an advisory committee; authorizing
4004 the department to approve certification of
4005 specializations; creating s. 402.402, F.S.; defining
4006 terms; providing education and specialized training
4007 requirements for child protection and child welfare
4008 personnel; providing training requirements for
4009 department attorneys; creating s. 402.403, F.S.;
4010 establishing a tuition exemption program for child
4011 protective and child welfare personnel; providing
4012 eligibility requirements; creating s. 402.404, F.S.;



915192

4013 establishing a student loan forgiveness program for
4014 child protective investigators and supervisors;
4015 providing eligibility requirements; authorizing
4016 community-based care lead agencies to provide student
4017 loan forgiveness to case managers employed by a
4018 community-based care lead agency or its subcontractor;
4019 amending s. 409.165, F.S.; enhancing provision of care
4020 to medically complex children; amending s. 409.967,
4021 F.S.; revising standards for Medicaid managed care
4022 plan accountability with respect to services for
4023 dependent children; amending s. 409.972, F.S.;
4024 exempting certain Medicaid recipients from mandatory
4025 enrollment in managed care plans; providing a
4026 directive to the Division of Law Revision and
4027 Information; creating part V of ch. 409, F.S.;
4028 creating s. 409.986, F.S.; providing legislative
4029 findings and intent; providing child protection and
4030 child welfare outcome goals; defining terms; creating
4031 s. 409.987, F.S.; providing for department procurement
4032 of community-based care lead agencies; providing
4033 requirements for contracting as a lead agency;
4034 creating s. 409.988, F.S.; providing duties of a
4035 community-based care lead agency; providing licensure
4036 requirements for a lead agency; specifying services
4037 provided by a lead agency; providing conditions for an
4038 agency or provider to act as a child's guardian;
4039 creating s. 409.990, F.S.; providing general funding
4040 provisions for lead agencies; providing for a matching
4041 grant program and the maximum amount of funds that may



915192

4042 be awarded; requiring the department to develop and
4043 implement a community-based care risk pool initiative;
4044 providing requirements for the risk pool;
4045 transferring, renumbering, and amending s. 409.16713,
4046 F.S.; transferring provisions relating to the
4047 allocation of funds for community-based lead care
4048 agencies; conforming a cross-reference; creating s.
4049 409.992, F.S.; providing requirements for community-
4050 based care lead agency expenditures; creating s.
4051 409.993, F.S.; providing legislative findings;
4052 providing for lead agency and subcontractor liability;
4053 providing limitations on damages; transferring,
4054 renumbering, and amending s. 409.1675, F.S.;
4055 transferring provisions relating to receivership from
4056 community-based providers to lead agencies; conforming
4057 cross-references and terminology; creating s. 409.996,
4058 F.S.; providing duties of the department relating to
4059 community-based care and lead agencies; creating s.
4060 409.997, F.S.; providing outcome goals for the
4061 department and specified entities with respect to the
4062 delivery of child welfare services; requiring the
4063 department to maintain an accountability system;
4064 requiring the department to establish a technical
4065 advisory panel; requiring the department to make the
4066 results of the accountability system public; requiring
4067 a report to the Governor and the Legislature by a
4068 specified date; creating s. 409.998, F.S.; providing
4069 for assessment of community-based care by community
4070 alliances; creating s. 827.10, F.S.; providing



915192

4071 definitions; establishing the criminal offense of
4072 unlawful desertion of a child; providing criminal
4073 penalties; providing exceptions; amending s. 985.04,
4074 F.S.; conforming terminology; creating s. 1004.615,
4075 F.S.; establishing the Florida Institute for Child
4076 Welfare; providing purpose, duties, and
4077 responsibilities of the institute; requiring the
4078 institute to contract and work with specified
4079 entities; providing for the administration of the
4080 institute; requiring reports to the Governor and the
4081 Legislature by specified dates; amending s. 1009.25,
4082 F.S.; exempting specified child protective
4083 investigators and child protective investigation
4084 supervisors from certain tuition and fee requirements;
4085 repealing s. 402.401, F.S., relating to child welfare
4086 worker student loan forgiveness; repealing s.
4087 409.1671, F.S., relating to outsourcing of foster care
4088 and related services; repealing s. 409.16715, F.S.,
4089 relating to certain therapy for foster children;
4090 repealing s. 409.16745, F.S., relating to the
4091 community partnership matching grant program;
4092 repealing s. 1004.61, F.S., relating to a partnership
4093 between the Department of Children and Families and
4094 state universities; amending ss. 39.201, 39.302,
4095 39.524, 316.613, 409.1676, 409.1677, 409.1678,
4096 409.906, 409.912, 409.91211, 420.628, and 960.065,
4097 F.S.; conforming cross-references; providing an
4098 effective date.



879306

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/06/2014	.	
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	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment to Amendment (915192)

Delete line 743
and insert:
and timely responding to any requests for information. However,
records or information of contracted provider organizations made
confidential or privileged by state or federal law may not be
shared.



575546

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
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Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment to Amendment (915192)

Delete line 886
and insert:
violence as defined in s. 741.28. If the perpetrator of domestic
violence is not the parent, guardian, or legal custodian of the
child, the child protective investigator shall seek issuance of
an injunction authorized by s. 39.504 to implement a safety plan
for the perpetrator and impose any other conditions to protect
the child. The safety plan for the parent



251198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
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	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

1 **Senate Amendment to Amendment (915192) (with title**
2 **amendment)**

3
4 Between lines 1482 and 1483
5 insert:

6 Section 14. Paragraph (a) of subsection (4) of section
7 39.504, Florida Statutes, is amended to read:

8 39.504 Injunction pending disposition of petition;
9 penalty.—

10 (4) If an injunction is issued under this section, the



251198

11 primary purpose of the injunction must be to protect and promote
12 the best interests of the child, taking the preservation of the
13 child's immediate family into consideration.

14 (a) The injunction applies to the alleged or actual
15 offender in a case of child abuse or acts of domestic violence.
16 The conditions of the injunction shall be determined by the
17 court, which may include ordering the alleged or actual offender
18 to:

- 19 1. Refrain from further abuse or acts of domestic violence.
- 20 2. Participate in a specialized treatment program.
- 21 3. Limit contact or communication with the child victim,
22 other children in the home, or any other child.
- 23 4. Refrain from contacting the child at home, school, work,
24 or wherever the child may be found.
- 25 5. Have limited or supervised visitation with the child.
- 26 6. Vacate the home in which the child resides.
- 27 7. Comply with the terms of a safety plan implemented in
28 the injunction pursuant to s. 39.301.

29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Delete line 3981

33 and insert:

34 for dependency; amending s. 39.504, F.S.; authorizing
35 the court to order a person to comply with a safety
36 plan that is implemented in an injunction; amending s.
37 39.5085, F.S.; revising



960672

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment to Amendment (915192)

Delete lines 221 - 236

and insert:

(f) Access to sufficient supports and services for medically complex children to allow them to remain in the least restrictive and most nurturing environment, which includes sufficient services in an amount and scope comparable to those services the child would receive in out-of-home care placement.

(4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department



960672

11 shall maintain a program of family-centered services and
12 supports for medically complex children. The purpose of the
13 program is to prevent abuse and neglect of medically complex
14 children while enhancing the capacity of families to provide for
15 their children's needs. Program services must include outreach,
16 early intervention, and the provision of other supports and
17 services to meet the child's needs. The department shall
18 collaborate with all relevant state and local agencies to
19 provide needed services.



241332

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
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	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment to Amendment (915192)

Delete lines 2132 - 2136
and insert:

(b) The department shall collaborate with all relevant state and local agencies to provide such supports and services as may be necessary to maintain medically complex children in the least restrictive and most nurturing environment.



456776

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Substitute for Amendment (879306)

Delete line 743
and insert:
and timely responding to any requests for information. However,
records or information of contracted provider organizations made
confidential or privileged by state or federal law may be shared
among team members but not outside the team.

Major Differences: SB 1666 Strike-all and SBs 1666, 1668, and 1670

1. Community Alliances retain their current responsibilities. New membership requirements are given, and a transition plan for moving from the current membership to the new one is outlined.
2. Assistant Secretary for Child Welfare no longer requires a degree in social work as an option.
3. Purpose of chapter 39 amended to clarify that the safety of children is the paramount concern of the chapter.
4. Additional definitions of key terms such as “safety plans” and degrees of danger to children are added.
5. More complete description is given of safety plans and their appropriate use in a dependency investigation.
6. Direction is given that DCF is to be represented by counsel in all dependency hearings, and the relationship between DCF attorneys and CBC case workers is described.
7. Child-on-child sexual abuse reporting is modified so that DCF receives all reports of child-on-child sexual abuse, not just those of children under 13 years of age.
8. Reasonable efforts to keep siblings together upon initial removal from the home must include consideration of temporary placement in an appropriate group home, if available.
9. The requirement that children under court-ordered protective supervision or in the custody of DCF attend a child care program 5 days a week extended from birth rather than current from age 3 to school entry (Rilya Wilson Act).
10. Degree requirements extended to child welfare workers as well as protective investigators and supervisors; tuition exemption similarly expanded.
11. Sheriff’s offices excluded from requirement for social work degrees, but are required to acquire training as a part of certification process.
12. Training requirements for DCF dependency attorneys are provided.
13. Allows CBC board subcommittees to meet the requirements for an oversight board.
14. Additional clarification on the liability insurance provisions related to lead agencies and their subcontractors.
15. Allows Medicaid recipients in group homes for the developmentally disabled to join Medicaid managed care plans voluntarily instead of mandatorily.
16. Florida Institute for Child Welfare given additional duties related to definition of risk.
17. DCF given the additional duty to monitor out-of-home placements and to provide information about sibling placements to the Institute for the purposes of assessing child welfare performance.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 1666

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Sobel

SUBJECT: Child Abuse and Child Welfare Services

DATE: April 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Sanford</u>	<u>Hendon</u>		CF SPB 7072 as introduced
1.	<u>Brown/Sanford</u>	<u>Pigott</u>	<u>AHS</u>	Fav/CS
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1666 makes numerous changes to statutes designed to protect children from abuse and neglect. The bill seeks to improve the quality of child abuse investigations conducted by the Department of Children and Families (DCF) and certain sheriff's offices. The bill increases child welfare expertise in the DCF, improves child abuse investigator qualifications, and creates a consortium of schools of social work to advise the state on child welfare policy.

The bill directs the DCF to conduct immediate investigations of deaths and other significant incidents involving children who have been known to the child protection and child welfare system. The purpose of the investigations is to identify root causes and to rapidly determine the need to change policies and practices related to child protection and child welfare.

The bill provides a definition of "medical neglect" and requires improvements in the care of medically complex children and the investigation of child abuse cases involving such children.

The bill creates a new part V of ch. 409, F.S., to be entitled "Community-Based Child Welfare." In this new part, current law relating to community-based care is reorganized, obsolete provisions are removed, and some provisions are clarified.

The bill has fiscal impacts that are anticipated to be addressed in the General Appropriations Act.

II. Present Situation:

Child Abuse, Neglect, and Death

Child abuse and child neglect, known collectively as child maltreatment, have been identified as serious social issues in the United States. Most recent studies show that the most common child maltreatment is neglect, which accounts for about 78 percent of the cases. Other common maltreatments are physical abuse (approximately 17 percent of cases) and sexual abuse (approximately 9 percent of cases). Victims less than one year old have the highest rate of victimization.

Many factors are associated with child maltreatment, including poverty, substance abuse, domestic violence, and mental illness.¹ The presence of an adult male unrelated to the child in the household has also been identified as a major risk factor for child maltreatment.

Child maltreatment is one of the nation's most serious problems.² In federal fiscal year 2011, the most recent year for which national data is available,³ an estimated 3.4 million reports of abuse were received by child protection agencies.⁴ After investigation, the number of unduplicated child victims nationally was estimated to be 681,000. Florida reported 208,437 calls to the national child abuse hotline, of which 55,770 resulted in substantiated allegations of abuse.⁵

In addition to the human cost of child abuse and neglect, there is a significant fiscal impact to state government. The DCF has made a conservative estimate of \$72,709 annually per child to provide child welfare, hospitalization, special education, and juvenile justice services to care for an abused or neglected child.⁶ Just the cost of child and adult protective investigations in Florida (of which the great majority are child investigations) was reported to be \$312,493,471 in Fiscal Year 2012-2013.

The most serious result of child maltreatment is the death of the child. Nationally, 1,545 child fatalities resulting from child abuse or neglect were identified for federal fiscal year 2011.⁷ Florida reported 133 child fatalities for that year resulting from child abuse or neglect.⁸ In some instances the family was not previously known to the DCF, and in others the child was previously known. For cases in which the family was previously or currently known to the DCF, understanding the reasons that the previous or current intervention was not effective in avoiding the death is of critical importance.

¹ Myers, John E.B., *Child Protection in America: Past, Present, and Future*, Oxford University Press, 2006, pp. 134-156.

² U.S. Department of Health and Human Services, *Child Maltreatment 2011*, p. 1, available at <http://www.acf.hhs.gov/sites/default/files/cb/cm11.pdf> (last visited March 25, 2014).

³ All data in this paragraph are for FFY 2011 so that all are comparable.

⁴ *Id.* at vii. The report adds that the rate of referrals have remained fairly constant for at least five years.

⁵ *Id.* at 11, 29.

⁶ Department of Children and Families, *2013 Annual Report*, p. 27, available at <http://www.dcf.state.fl.us/admin/publications/docs/CFSAP-2013June.pdf> (last visited March 25, 2014).

⁷ U.S. Department of Health and Human Services, *ibid.* at 63.

⁸ *Id.* at 63.

Child Protection and Child Welfare Services in Florida

Florida's system for providing services to children alleged to have been abused, neglected, or abandoned is complex, involving the DCF, six sheriff's offices, the Office of the Attorney General, one state attorney's office, the Department of Health, 17 eligible lead community-based providers (lead agencies),⁹ and innumerable lead agency subcontractors.

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a non-stop ability and capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

CPIs are most commonly DCF employees, but in six counties, the local sheriff performs the investigative function.¹⁰ The DCF child protective services are delivered through six regional offices, using 1,300 investigators and 300 supervisors. The sheriff's offices employ 387 CPIs and 70 supervisors.

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either DCF employees or employees of the Attorney General's Office under contract to DCF or, in one case, a state attorney's office.

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 lead agencies with contracts covering all 20 judicial circuits. The lead agencies and their subcontractors employ case managers and supervisors to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the lead agencies or the case management subcontractors, but by providers of substance abuse services or mental health services, or other specialized community-based providers.

There is variation across the state in deciding the point at which the lead agency assumes responsibility for the case management of a child welfare case, with varying degrees of cooperation and overlap between CPIs and lead agencies. In addition, special problems arise when multiple areas of the state are involved in either the investigation or the placement of children.

Child Welfare Workforce

History

The college degrees most tailored to and associated with child welfare are the bachelor's and master's degrees in social work. During the first half of the 20th century, the federal government, in cooperation with universities and local agencies, established a child welfare system staffed by

⁹ The term "eligible lead community-based provider" is defined as a single agency with which the DCF is required to contract for the provision of child protective services in a community that is no smaller than a county. *See* s. 409.1671(1)(e), F.S. These entities are commonly known as community-based care lead agencies or "lead agencies."

¹⁰ As authorized under s. 39.3065, F.S., and the General Appropriations Act, sheriffs in Broward, Hillsborough, Manatee, Pasco, Pinellas and Seminole counties investigate child abuse and neglect reported to the abuse hotline rather than the DCF.

individuals with professional social work educations. Child welfare came to be viewed as a prestigious specialty within the social work profession.¹¹

In the 1990's, an increased recognition of child abuse led to enactment of state child abuse and neglect reporting laws and toll-free numbers to report abuse. This resulted in a large increase of child abuse reports, and resources for the preparation and support of additional staff needed to respond to the reports became inadequate. States moved quickly to hire additional employees to investigate abuse. One way to expand the workforce was to reduce staff qualifications. In response to having a varied workforce without similar expertise and training, agencies began to structure child welfare work to reduce its complexity and make it possible for people with fewer qualifications to adequately perform required tasks.¹²

Current Qualifications

The current qualifications for child protective investigators are not specified in statute or rule, but the DCF's internal hiring practices require that new protective investigators have a bachelor's degree in any field and at least one year of child welfare related experience, or a master's degree in any field. Preference is given to candidates with a human services related degree. The DCF is not involved in the hiring practices or standards established by the sheriff's offices.¹³

The current qualifications for child welfare case managers operating in the community-based care system are established by rule and are a bachelor's degree in social work or related field.¹⁴ Since employment decisions for child welfare case managers are made by individual lead agencies, and since the DCF does not collect data on their practices, the extent to which this rule is actually observed by the lead agencies is not clear. The DCF has authority to exempt employees from the rule and often does so.

In addition to these qualifications, the 2012 Legislature required that both child protective investigators and child welfare case managers obtain child welfare certification from a third-party credentialing entity.¹⁵ This certification requires the individual to demonstrate core competency in any child welfare practice area. A "core competency" is defined in statute to be the minimum knowledge, skills, and abilities necessary to carry out child welfare work responsibilities.¹⁶

¹¹ Child Welfare Workforce, Research Roundup, Child Welfare League of America, (Sept. 2002) *available at* <http://www.cwla.org/programs/r2p/rrnews0209.pdf>. (last visited March 3, 2014).

¹² Jones, L.P. and Okamura, A. Reprofessionalizing Child Welfare Services: An Evaluation of a Title IV-E Training Program, *Research on Social Work Practice*, Vol. 10 No. 5, September 2000 and Zlotnik, J.L., Preparing Social Workers for Child Welfare Practice: Lessons from an Historical Review of the Literature, *Journal of Health & Social Policy*, Vol. 15, No. 3/4, 2002.

¹³ Communication from the Department of Children and Family Services, Family Safety Office, (Sept. 16, 2010) (on file with the Committee on Children, Families, and Elder Affairs).

¹⁴ Section 409.1671(5)(a), F.S., requires that each community-based lead agency must be licensed as a child-caring or child-placing agency. Section 65C-15.017(2) and (3), F.A.C., sets the education and experience requirements for such agencies.

¹⁵ Currently, the Florida Certification Board.

¹⁶ Section 402.40, F.S.

Social Workers in Child Welfare

The DCF has records on the post-secondary degrees for 1,214 of the state's CPIs.¹⁷ These data do not include information on the degrees of the investigators in the six county sheriff's offices. Approximately 10 percent of the DCF's CPIs have a social work degree, either bachelor's or master's. See Table 1 below:

Table 1. Degrees of DCF Child Protective Investigators

Degree Major	Number	Percent of Workforce
Other	388	32.0%
Criminal Justice	361	29.7%
Other Health and Human Service	350	28.8%
Social Work	115	9.5%
Total	1,214	100%

There were 4,728 students enrolled statewide in programs leading to a bachelor's or master's degree in social work in the fall of 2012.¹⁸ (See Table 2.) There were 1,684 graduates from the state's 14 schools of social work in 2011-2012.¹⁹ The bachelor's level program in social work requires a structured internship with approximately 512 hours of supervision by a master's level social worker and 50 hours of coursework. In contrast, a psychology or a criminology major requires no internship and 36 hours of coursework, and a sociology major requires no internship and 30 hours of coursework.²⁰

Table 2. 2011-12 BSW and MSW Enrollment and Degrees

	Public Universities	Enrollment	Degrees
1	Florida Agricultural and Mechanical University	356	81
2	Florida Atlantic University	687	171
3	Florida Gulf Coast University	176	65
4	Florida International University	515	171
5	Florida State University	885	333
6	University of Central Florida	709	255
7	University of North Florida ²¹	0	0
8	University of South Florida	327	184
9	University of West Florida	285	113
	Private Universities	Enrollment	Degrees
10	Barry University	420	209
11	Florida Memorial University	50	15
12	Saint Leo University	218	50

¹⁷ Data provided by the Department of Children and Families, (Jan. 27, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁸ Informal communication, Florida State University School of Social Work, (Mar. 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁹ Data provided by the Florida Board of Governors and the Independent Colleges and Universities for 2011-2012, (Nov. 18, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁰ *Id.*

²¹ According to the Board of Governors, the University of North Florida's BSW program was approved for fall of 2013.

13	Southeastern University	70	31
14	Warner University	30	6
	Total	4,728	1,684

In 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reviewed child welfare systems in Florida and 16 other states with large child populations.²² Among the issues studied by OPPAGA were the qualifications required by states in hiring child protection workers. The results are as follows:

Table 3: Qualifications for Child Protective Workers in 17 States

State	Any Bachelor's Degree	Bachelor's Degree in Human Services Field	BSW
Arizona		x	
California			x
Florida	x		
Georgia	x		
Illinois			x
Indiana	x		
Michigan		x	
Missouri		x	
New Jersey	x		
New York	x		
N. Carolina			x
Ohio		x	
Pennsylvania	x		
Tennessee	x		
Texas	x		
Virginia			
Washington			x

In addition, Kansas requires a social work degree.²³

The impact of child welfare workers with a social work degree has been examined by researchers. Education is the variable that child welfare workforce researchers have explored most often in relation to performance.²⁴ Much of the research on the effect of education has

²² OPPAGA, *Research Memorandum, State Child Welfare Systems: Key Components and Performance Indicators*, March 10, 2014.

²³ Informal communication, Florida State University School of Social Work (March 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁴ *Id.* Several studies have found evidence that social work education, at either the bachelors of social work (BSW) or masters of social work (MSW) level, positively correlates with performance. A study conducted in Maryland public child welfare agencies found an MSW to be the best predictor of overall performance as measured by supervisory ratings and employee reports of work related competencies. A national study that measured competencies related to 32 job-related duties found that both MSW and BSW staff were better prepared for child welfare work than their colleagues without social work education. Research conducted with staff in Kentucky's public child welfare agency also revealed that staff with social work degrees scored significantly better on state merit examinations, received somewhat higher ratings from their supervisors, and had higher levels of work commitment than other staff. A Nevada study showed that caseworkers who had a social work degree

focused on agency/university partnership programs that have been established over the past decade using federal funding provided under Title IV-E of the Social Security Act. While there is variation among these programs, they generally aim to increase educational opportunities for agency staff to add to the pool of potential child welfare employees and enhance the relevance of curricula in schools of social work. Research to examine their effects found that students score significantly higher on measures of job-related competencies than non-students. Graduates of the specialized child welfare program in New York State, for example, had higher levels of skills, confidence, and sensitivity to clients.²⁵

Issues Identified in Child Abuse Deaths

Agency Structure and Stability

Since 1998 the DCF has had eight secretaries. In July 2013, the agency secretary resigned²⁶ and an interim secretary was named who has agreed to remain through the 2014 Legislative Session.²⁷ With each new secretary typically comes a somewhat new vision and a new strategic plan that includes substantial changes to both the structure of the DCF and staff assignments, all of which may result in some degree of disruption to the functioning of the department. Frequent changes to federal and state laws and to rules and operating procedures, combined with these leadership changes, have made long-term stability at the DCF difficult to achieve.

Currently, the structure of the DCF is provided in law, which requires the appointment of a secretary, a deputy secretary, and an assistant secretary for substance abuse and mental health. The law also provides that DCF offices may be consolidated, restructured, or rearranged by the secretary, in consultation with the Executive Office of the Governor, and that the secretary may appoint additional managers and administrators as he or she determines are necessary for the effective management of the department.²⁸

Child Welfare Workforce Issues

A number of commissions and task forces have been established over the past 25 years, often after deaths of children from child abuse or neglect. The commissions and task forces have often found that child protective and child welfare staff did not follow procedures or lacked the training and ability to perform their duties. The commissions and task forces have recommended ways to improve the qualifications of child welfare staff. Some of the findings are as follows:

were significantly more likely to create a permanent plan for children in their caseloads within three years than their colleagues without social work education.

²⁵ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships*, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

²⁶ Marbin Miller, C. and Klas, M.E., *DCF Secretary David Wilkins Resigns Amid Escalating Controversy over Child Deaths*, TAMPA BAY TIMES, July 18, 2013 available at <http://www.tampabay.com/news/politics/gubernatorial/dcf-secretary-david-wilkins-resigns-amid-escalating-scandal-over-child/2132083> (last visited Mar. 3, 2014).

²⁷ Koff, R., *Interim DCF Boss to Stay on Through Spring*. TAMPA BAY TIMES, Dec. 11, 2013 available at <http://www.tampabay.com/news/politics/stateroundup/interim-dcf-boss-to-stay-on-through-spring/2156688> (last visited Mar. 3, 2014).

²⁸ Section 20.19, F.S.

- The Study Commission on Child Welfare was established by the Florida Legislature in November 1989 after several children died while in state care.²⁹ At that time, CPIs reported that prior to employment, they worked most frequently in social service/welfare, law enforcement, and in education positions (54 percent). The rest previously held positions as sales personnel, law clerks, real estate agents, and members of the U.S. military.³⁰ The commission recommended that the state should recruit CPIs with bachelor's degrees in social work, child development, or guidance and counseling.³¹
- On April 25, 2002, the DCF revealed that a child in its care, five-year-old Rilya Wilson, had disappeared 15 months earlier from her custodial home and had not been seen since. In response, Gov. Jeb Bush appointed a four-member Governor's Blue-Ribbon Panel on Child Protection.³² The panel recommended that DCF compare the performance and longevity of child welfare staff who had degrees in social work or other behavioral sciences to staff who had other degrees.³³
- In a 2013 Florida case involving a two-year-old child who died from physical abuse, the Child Welfare League of America (CWLA) was commissioned to study the death and make recommendations. The family included two adult women, five adult men, and 10 children, including the victim. These people had varying connections and living arrangements throughout the child's life, and the family had been reported to the child abuse hotline 16 times between 2005 and 2013. The CWLA report stated the family had experienced substance abuse, domestic violence, a "chronic lack of even marginal parental nurturing," developmental delays in several of the children in the home, referrals for services that were not followed through, lack of managerial review, and "many years of systemic failure." In the words of the report, "(c)hanging a checklist or hiring additional staff cannot solve these pervasive problems."³⁴

One of the problems highlighted by the various commissions and panels is the turnover of child protective investigator workforce. Experience among child abuse investigators suffers with significant employee turnover. The annual turnover rate of department CPIs has been 32 percent, 19 percent, and 22 percent over the last three years. The negative impact of turnover is well known – increased training costs (\$6.2 million each year) and inexperienced workers.

Child welfare workers with degrees in social work are not immune from turnover. During the period from 2004-2013, Florida State University (FSU) placed and supervised a total of 293 interns in child welfare settings in the northwest region of Florida. While many of the interns

²⁹ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships*, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

³⁰ *Id.*

³¹ Report of the Study Commission on Child Welfare, *Part One Recommendations* (Mar. 1991) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³² Governor's Blue Ribbon Panel on Child Protection, (May 2002) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³³ *Id.* In spite of continuing dialog with the Schools of Social Work statewide, the department does not appear to have made progress towards increasing the number of staff with degrees in social work.

³⁴ Child Welfare League of America, *Special Review Report re JVM*, submitted December 19, 2013, p. 15.

were hired for positions with the DCF, retention was difficult, with few staying more than a few years. As a result, FSU began surveying students leaving employment within the field to determine the reasons for leaving. The top five reasons were:

- Poor overall management/administration by upper-level management;
- Lack of professional support from supervisors;
- Lack of respect and lack of feeling valued by supervisors and upper-level management;
- Lack of focus on teamwork, with employees often feeling like they were pitted against each other by upper-level management and supervisors; and
- No support for professional development or advancement.³⁵

While respondents indicated that caseloads were indeed high at some points and that salaries could be better, neither of these issues were cited as primary reasons for leaving.³⁶

As part of its review of child welfare systems, OPPAGA conducted a series of focus groups with both child protective service investigators and child welfare case managers. They found a variety of problems in the working conditions of CPIs and case managers.³⁷ These problems included:

- A lack of mentoring and management support across the state:
Some case managers noted that high turnover rates among workers resulted in supervisors carrying caseloads themselves, leaving little time for supervision or mentoring. In addition, most case managers reported that supervisors' primarily focused on meeting DCF performance measures rather than encouraging quality work or mentoring new case managers.
- Administrative tasks that detract from time spent with families and children:
Investigators estimated that they spend 60 percent to 80 percent of their time on the administrative requirements associated with each case rather than with families. Investigators stated they could not complete required case-related tasks in the standard 40-hour work week and that they routinely work nights and weekends.
- Concern about the sometimes volatile work environment:
Both investigators and case managers reported that they are required to go into unsafe neighborhoods and dangerous, violent homes, but they do not feel that the DCF is concerned for their safety. While investigators can request law enforcement agencies to have officers accompany them, they reported that law enforcement agencies are sometimes not responsive to their requests or that it takes hours for officers to arrive.
- Outdated technology:
CPIs and case managers reported that their electronic equipment has not kept up with prevailing technology. For example, they reported they are issued laptop computers that are not enabled for wireless Internet connection and that DCF-issued mobile phones often have poor or no reception, depending on the investigator's location. As a result, staff must use personal phones at their own expense.

According to the U.S. Administration on Children and Families, a supportive organizational culture is a key ingredient in building a stable and effective child welfare workforce. Core elements of organizational culture include agency leadership, workforce management,

³⁵ *Id.*

³⁶ *Id.*

³⁷ OPPAGA, *ibid.* (Mar. 6, 2014)

supervision, and support. Organizational culture and employee relations significantly influence an agency's ability to recruit and retain staff as well as make long-lasting workforce changes.

Efforts to Improve Child Protection

Florida has taken many actions to improve the quality of child abuse investigators over the years. Most recently, the Legislature has made significant investments in child protection and child welfare:

- In the 2010 Session, the Legislature required child abuse investigators and child welfare case workers to be certified.³⁸ The certification is outsourced and includes testing in child welfare and agreement to a set of ethics.
- In the 2011 Session, the Legislature provided \$11 million to the DCF to redesign the central abuse hotline.
- In the 2012 Session, the Legislature made several improvements to the child protection system by:
 - Appropriating \$10.8 million to provide additional permanent and temporary child abuse investigators.
 - Appropriating \$7.9 million to improve the state's child welfare information system (Florida Safe Families Network, or FSFN).
 - Providing funding to raise CPI salaries by \$4,300 per CPI per year.
- In the 2013 Session, the Legislature provided \$4 million for CPI redesign (including sheriff's offices) and \$1.8 million for FSFN.

University Partnerships with Child Welfare

Section 1004.61, F.S., currently directs the DCF to form partnerships with the schools of social work of state universities in order to encourage the development of graduates trained to work in child protection. The University of South Florida for example, coordinates child welfare training in the state.

The federal government provides both policy and financial resources to states for child welfare services under Title IV of the Social Security Act. One use of such funds is the education and training of child welfare workers. Some states use these funds to create partnerships between their child welfare agencies and colleges of social work at state universities. The universities provide the expertise in child welfare research, policy, and practices. They also develop and conduct on-the-job training to child welfare workers. The child welfare agency, in turn, advises the universities on the content of the training and education in the university so graduates are better prepared for child welfare work.

Care of Medically Complex Children

Current law requires that children in this state be provided with the following:

- Protections from abuse, abandonment, neglect, and exploitation;
- A permanent and stable home;

³⁸ Chapter 2011-163, Laws of Florida

- A safe and nurturing environment, which will preserve a sense of personal dignity and integrity;
- Adequate nutrition, shelter, and clothing;
- Effective treatment to address physical, social, and emotional needs, regardless of geographical location;
- Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities;
- Access to preventive services; and
- An independent, trained advocate, when intervention is necessary, and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.³⁹

Special provisions for medically complex children are not currently provided in statute.

Section 39.01(43), F.S., provides a definition of “necessary medical treatment” as care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child’s condition or to alleviate immediate pain of a child. Additionally, s. 39.01(44), F.S., sets out the circumstances for neglect of a child. The statute specifically provides that certain circumstances may not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered and rejected by a parent. Also, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or specific religious organization who does not provide specific medical treatment for a child, may not, for that reason alone, be considered a negligent parent or legal guardian. However, ch. 39, F.S., does not include a definition of “medical neglect” or special provisions related to the investigation of allegations of abuse, neglect, or abandonment when children with serious medical conditions are the reported victims.

Suspected child abuse, neglect, or abandonment may be reported to the DCF child abuse hotline regarding children with significant medical issues, as with any other children. Child Protection Teams, operated by the Department of Health (DOH), provide medical expertise to the DCF if there are medical issues associated with child abuse or neglect. However, the current law does not require the teams to coordinate their findings with physicians who have special knowledge of the medical condition of the child who is alleged to be the victim of abuse or neglect. Without the information possessed by those familiar with a particular disease or disability processes, parents can be found to be neglectful or abusive even when observed problems are related to insufficient services or a natural change in medical conditions.

In order to maintain these children in a safe environment that is the least restrictive, families with children who have medical issues need access to various medical and social services. These services are sometimes most readily available to the child in placements outside of the home. It is the current policy of the state, supported by federal and state law, that the parent or legal guardian decides what is best for the child. The state respects the parent or legal guardian’s decision made in consultation with medical professionals. Many children with complex medical needs live safely in their homes with supportive services through the Florida Medicaid program.

³⁹ See s. 39.001, F.S.

Florida Medicaid has a comprehensive medical service package to accommodate families that choose to care for their medically complex child at home. Medical services are made available in the home, including private duty nursing, personal care assistance, home health aide services, and occupational, physical, and speech therapy when medically necessary, in unlimited amounts or durations for children in the Medicaid program.

The DCF requires foster care caseworkers to obtain high-level approval before placing any dependent child in a nursing home. Foster children already placed in nursing homes are reviewed monthly by the AHCA in an effort to return the children to their birth parents or place them in foster homes run by parents with specialized medical training.

The state is currently a party to a lawsuit related to the placement of medically complex children in settings such as nursing homes. The U.S. Department of Justice joined the lawsuit that alleges that the state violated the Americans with Disabilities Act (ADA).⁴⁰ The AHCA has worked with the families of over 200 children in nursing homes under the Medicaid program to ensure they are aware of in-home health services and have been offered those services. In addition, the DCF and the Agency for Persons with Disabilities (APD) have worked with the families of medically complex children served by APD to ensure the least restrictive placement.

Statewide Medicaid Managed Care

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized by two federal Medicaid waivers, is designed for the Agency for Health Care Administration (AHCA) to issue invitations to negotiate⁴¹ and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and is scheduled to complete its statewide roll-out in March 2014.⁴² The MMA component is scheduled to begin enrolling Medicaid recipients in May 2014 and finish its roll-out in August 2014.⁴³

Provider Service Networks in SMMC

Types of managed care plans that are eligible for SMMC include health insurers, exclusive provider organizations, health maintenance organizations, provider service networks (PSNs), and federally-authorized accountable care organizations, among other entities.⁴⁴

⁴⁰ *A.R. et al. v. Dudek et al, United States V. Florida*, Consolidated Case No. 0:12-cv-60460-RSR, U.S. District Court for the Southern District of Florida.

⁴¹ An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012(17), F.S.

⁴² *See* < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#LTCMC >, last visited March 20, 2014.

⁴³ *See* < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#MMA >, last visited March 20, 2014.

⁴⁴ *See* s. 409.962(6), F.S.

A PSN is defined as a type of managed care plan of which a controlling interest is owned by a health care provider, or group of affiliated providers, or a public agency or entity that delivers health services. For the purpose of this definition, “health care provider” includes Florida-licensed health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.⁴⁵

The AHCA is required to procure a specified number of managed care plans per region or a number of plans that range between a minimum and maximum specified for each region. At least two plans per region must be procured, and at least one plan per region must be a PSN, if a PSN submits a responsive bid during the procurement. If no PSN submits a responsive bid for a region, the AHCA is required to procure no more than one less than the maximum number of plans for that region during the initial procurement and, within 12 months after the initial invitation to negotiate, attempt once again to procure a PSN for that region.⁴⁶

Siblings

Current law includes legislative intent that when siblings are placed in out-of-home care, the DCF must make every possible effort to place them together. If they are permanently placed, the DCF must attempt to place them in the same adoptive home, and if placement together is not possible, the DCF must attempt to keep them in contact with each other.⁴⁷ The term “sibling” is not defined and there is no provision at specific points in the child welfare system, such as at removal or at judicial review, to ensure that the DCF is attending to issues relating to siblings.

Relative Caregiver Program

The Florida Legislature established the Relative Caregiver Program in 1998.⁴⁸ This program offers monthly cash assistance and Medicaid for a child under the age of 18 who is placed by a dependency court with a relative after the child is removed from his or her home as a result of abuse, neglect, or abandonment. The monthly payment provides financial help for a relative who would not be able to afford to care for the child without assistance. The amount of the payment varies depending on the child’s age and circumstances. Medicaid pays for the child’s health care. The child may also be eligible for subsidized child care.

Only persons who are within the fifth degree of relationship by blood or marriage to the parent or stepparent of a dependent child or a half-brother or half-sister of a dependent child and who are caring full-time for the child, are eligible for the Program.

Under the Relative Caregiver Program, the child may be in temporary custody of the relative under the protective supervision of the DCF, may be placed under guardianship,⁴⁹ or may be placed permanently with the relative.⁵⁰ Either of the last two options is considered a permanency

⁴⁵ See s. 409.962(13), F.S.

⁴⁶ See s. 409.974(1), F.S.

⁴⁷ Section 39.001(1)(k), F.S.

⁴⁸ Chapter 98-403, s. 70, Laws of Florida.

⁴⁹ Section 39.6221, F.S.

⁵⁰ Section 39.6231, F.S.

placement for the child. Continued supervision of the placement by the DCF is required under the permanent placement option, but not under the guardianship option.

Funding for the Relative Caregiver Program is through Florida's share of the block grant for Temporary Assistance for Needy Families (TANF), in accordance with Title IV-A of the Social Security Act (SSA). The SSA lists the purposes of the TANF program in Title IV-A, section 401. This section specifically states that one of the purposes is to "provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives."⁵¹

The DCF currently places children with nonrelatives under court-ordered supervision, but has not been able to pay the nonrelatives due to restrictions on the TANF funding source. These children are placed in the nonrelative homes after studies by the DCF. The only current difference between relative and nonrelative placements is that relatives receive payments to offset the cost of caring for the children and nonrelatives do not. As of December 31, 2012, there were 1,552 children in the care of nonrelatives under DCF supervision. The estimated monthly Relative Caregiver cost per child is \$257.09 for an average annual total of \$3,087 per child.⁵¹

Public Disclosure of Child Deaths

There is currently no mechanism by which child deaths that have been reported to the DCF's child abuse hotline are made public. Arkansas has a database by which such deaths are reported, along with basic facts related to the case. This information is made available through the Arkansas social services website.⁵²

Child Abuse Death Review Committee

The State Child Abuse Death Review Committee (CADR) was established in Florida in 1999 by statute.⁵³ Case reviews began in 2000 and were expanded in 2004 to include all verified child abuse deaths. Current law establishes the CADR and local child abuse death review committees within the Department of Health (DOH).⁵⁴ The CADR is composed of 18 members, including experts from the medical, law enforcement, social services, and advocacy professions.⁵⁵

Members convene every other month to review facts and circumstances of the deaths of children whose deaths have been investigated by the DCF and closed with a "verified" finding of child abuse or neglect. The purpose of the child death review is to help prevent child deaths as a result of abuse or neglect by:⁵⁶

- Developing a community-based approach to address child abuse deaths and contributing factors;

⁵¹ Department of Children and Families, *SB 770 Fiscal Analysis* (Feb. 4, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵² Arkansas Department of Human Services, Child Fatality Notification, *available at* <https://ardhs.sharepoint.com/CFN/default.aspx> (last visited March 4, 2014)

⁵³ Section 383.402, F.S.

⁵⁴ Section 383.402(1), F.S.

⁵⁵ Section 383.402(2)(a) and (b), F.S.

⁵⁶ Section 383.402(1), F.S.

- Achieving a greater understanding of the causes and contributing factors of deaths resulting from child abuse or neglect;
- Identifying gaps, deficiencies, or problems in service delivery to children and families by public and private agencies that may be related to child abuse deaths; and
- Developing and implementing data-driven recommendations for reducing child abuse and neglect deaths.

The CADR is required to submit an annual statistical report to the governor and the Legislature by December 31 containing recommendations to reduce preventable child deaths.⁵⁷

Local child abuse death review committees also conduct reviews of the verified deaths of children in their respective communities to develop prevention campaigns and prepare recommendations for improving local practices in child protection and support services to families. There are 23 local committees that provide coverage for Florida's 67 counties.⁵⁸

During 2011, 2,241 children under the age of 18 died in Florida. Of those deaths, 474 were reported to the Florida Abuse Hotline and 130 deaths were verified by the DCF as being related to child abuse or neglect. The CADR received 126 cases for review during the period of January through November 2012. The CADR is statutorily limited to the review of "verified" child death reports.⁵⁹

Statutory Provisions Relating to Community-Based Care Lead Agencies

The transition from government-delivered to outsourced child welfare sources began in earnest in Florida in 1996, when the Legislature directed the DCF to contract with established community-based organizations to establish pilot projects for the provision of foster care and related services.⁶⁰ In 1998, the Legislature required the DCF to privatize the provision of all foster care and related services statewide. The transition was completed in Fiscal Year 2004-2005. Currently, there are 19 community-based care lead agencies (lead agencies) providing child welfare services statewide.

From the beginning of the outsourcing of child welfare services, s. 409.1671, F.S., has been the primary statute providing legislative direction for the process. Consequently, the statute contains many provisions that are obsolete, some which are current, and some which need clarification. For example, there is no provision in statute currently describing the duties of the DCF in an outsourced child welfare system.

In addition, currently there is not a statutory requirement that the lead agencies be incorporated under Florida law. Also, the duty to provide community input for lead agencies is buried in the other duties ascribed to DCF Community Alliances, which are at present located in the DCF organizational statute, ch. 20.19, F.S.

⁵⁷ Section 383.402(3)(c), F.S.

⁵⁸ Child Abuse Death Review Committee, *Annual Report* (Dec. 2012), available at <http://www.floridahealth.gov/alternatesites/flcadr/reports.html> (last visited Dec. 9, 2013).

⁵⁹ *Id.*

⁶⁰ Chapter 96-402, Laws of Florida.

Unlawful Desertion of a Child

Adoption is a legal process, but the process is not always properly carried-out, which can put children in danger. Beginning on September 9, 2013, Reuters New Service published a five-part series, entitled “The Child Exchange,” which exposed how American parents were using Internet message boards to find new families for children they regretted adopting – a practice that has been called “private re-homing.” Reuters spent 18 months investigating eight message boards where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.⁶¹ The investigative series found:

- An advertisement for re-homing appeared, on average, at least once per week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;
- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one Yahoo message board had been adopted from foreign countries;
- Only 29 states have laws that govern how children can be advertised for adoption;⁶² and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.⁶³

Florida law currently contains no criminal provisions specifically relating to re-homing.

III. Effect of Proposed Changes:

Section 1 amends s. 20.19, F.S., to direct the secretary of the Department of Children and Families (DCF) to appoint an assistant secretary for child welfare to spearhead the DCF’s efforts to carry out its duties and responsibilities for child protection and child welfare, and specifies the qualifications for a person appointed to that position. This section also provides new membership criteria for the DCF community alliances and adds the new duty of providing independent and community-focused assessment of child protection and child welfare services and the local system of community-based care.

Section 2 amends s. 39.001, F.S., to:

- Provide that the safety of children is the paramount concern of the chapter;
- Require that partnerships for child protection should include the courts, law enforcement agencies and service providers, as well as the DCF, other agencies, and local communities;
- Emphasize the importance of siblings remaining in contact with one another;
- Preserve and strengthen families caring for medically complex children; and
- Make specific provisions relating to medically complex children.

Section 3 amends s. 39.01, F.S., to provide definitions for “impending danger,” “medical neglect,” “present danger,” “safety plan,” and “sibling” and to remove obsolete provisions.

⁶¹ Megan Twohey, *The Child Exchange*, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited Mar. 3, 2014).

⁶² Florida is one of the 29 states that have addressed this issue. See s. 63.212(1)(g), F.S.

⁶³ *Id.*

Section 4 amends s. 39.013, F.S., to require that the DCF be represented by legal counsel in every dependency proceeding and to give direction to DCF lawyers.

Section 5 amends s. 39.201, F.S., to require that all incidents of juvenile sexual abuse involving a child who is in the custody of or under the supervision of the DCF to be reported to the child abuse hotline and to require the DCF to inform the court at the next hearing or in its next report to the court about the facts and results of such investigations of child sexual abuse.

Section 6 creates s. 39.2015, F.S., to establish a critical incident rapid response team within the DCF, to outline its duties and composition, and to require cooperative agreements with other entities and organizations to facilitate the work of the team. This section also requires that the reports of the team be published on the DCF website. The DCF secretary is required to develop guidelines and training for the teams, directing them to conduct a root-cause analysis for each incident. In addition, the secretary is directed to appoint an advisory committee to conduct an independent review of the reports of the critical incident rapid response teams and submit a report to the secretary, who is required to provide the report to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 7 creates s. 39.2022, F.S., to require the DCF to report on its website basic facts about all deaths of children reported to the DCF child abuse hotline and describes the information to be posted on the website.

Section 8 amends s. 39.301, F.S., to provide direction to investigators about the use of safety plans during the investigation of allegations of child abuse, neglect, or abandonment.

Section 9 amends s. 39.303, F.S., to require that child protection teams evaluating a report of medical neglect and assessing the health care needs of a medically complex child consult with a physician who has experience in treating children with the same condition.

Section 10 creates s. 39.3068, F.S., to describe special procedures to be followed when investigating a report of medical neglect.

Section 11 amends s. 39.307, F.S., to describe procedures for the DCF to follow after receiving a report to the child abuse hotline alleging that a child is involved in child sexual abuse or inappropriate sexual behavior.

Section 12 amends s. 39.402, F.S., to provide that the DCF must, as part of the information presented to the dependency court at a shelter hearing, describe its reasonable efforts to keep siblings together after removal, unless the court finds that placement together is not in the best interest of the children. Reasonable efforts to keep sibling together must include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. This section also requires that, if siblings cannot be placed together, the DCF must provide a recommendation for frequent visitation or other ongoing interaction among the siblings unless this interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours after the shelter hearing, the DCF must provide justification to the court for the delay.

Section 13 amends s. 39.501, F.S., to add noncompliance with a safety plan as information to be included in a petition for dependency.

Section 14 amends s. 39.504, F.S., to add compliance with a safety plan to the actions which may be ordered by the court in issuing an injunction to protect a child.

Section 15 amends s. 39.5085, F.S., to add nonrelative caregivers to those who qualify for the DCF relative caregiver program. These placements are already used by the DCF, but with this change, nonrelatives may be reimbursed for the cost of caring for the child.

Section 16 amends s. 39.604, F.S., (the Rilya Wilson Act) to change the beginning age when a child under court-ordered supervision or in the custody of the DCF must be enrolled in child care from age three to birth. Enrollment in such a program is made a part of the child's safety plan. The requirement extends until the child is enrolled in school.

Section 17 amends s. 39.701, F.S., to require the DCF to report to the court at the time of judicial review hearings the frequency, kind, and duration of contacts among siblings during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the children.

Section 18 amends s. 39.802, F.S., to remove a requirement that petitions for termination of parental rights be signed by an employee of the DCF.

Section 19 amends s. 63.212, F.S., to clarify provisions relating to the advertisement of minors available for adoption.

Section 20 amends s. 383.402, F.S., to direct the child abuse death review committees of the Department of Health to review all deaths of children reported to the DCF child abuse hotline, not just deaths verified as caused by abuse or neglect. This section also changes the due date of the annual report of the statewide committee from December 31 to October 1 of each year.

Section 21 amends s. 402.40, F.S., to require that third-party credentialing entities maintain an advisory committee and specifies the membership of such committees. The bill also provides that the DCF may approve certifications involving specializations in serving specific populations or in skills relevant to child protection.

Section 22 creates s. 402.402, F.S., to require that on an annual and statewide basis, 80 percent of all child protective investigators and child protective investigation supervisors hired on or after July 1, 2014, by the DCF, must have a bachelor's degree or master's degree in social work from an accredited school of social work. The bill exempts all personnel employed before July 1, 2014, from this requirement. The bill allows the DCF to hire persons with bachelor's degrees or master's degrees in other human services-related fields if no viable candidates are available with social work degrees. However, such employees are required to complete certification requirements and at least six credit hours of college level coursework related to the child protection field within three years of employment. Child protective investigators and child protective investigation supervisors hired by a sheriff's office must have a bachelor's degree and, within three years of hire, complete at least six credit hours of college level casework with direct

application to the child protection field. This section requires specialized training for child protective investigators and supervisors and specifies the content and deadline for such training. This section also describes training required for attorneys hired after July 1, 2014, to represent the DCF in child welfare cases.

Section 23 creates s. 402.403, F.S., to establish a child protection and child welfare personnel tuition exemption program and sets out the qualifications for obtaining the exemption. The program is for high-performing child protection and child welfare personnel who do not have a master's degree in social work or a certificate in an area related to child welfare.

Section 24 creates s. 402.404, F.S., to establish a student loan forgiveness program for child protection and child welfare staff and sets out the qualifications for obtaining the loan forgiveness. Approximately half of all graduates from the state university system have a student loan debt.⁶⁴ The bill allows the DCF or a lead agency to pay up to \$3,000 per year towards the student loan debt as an incentive for degreed social workers to become child protection or child welfare personnel. The DCF is directed to prioritize the use of funds appropriated for this purpose to regions with high average caseloads and low workforce retention rates.

Section 25 amends s. 409.165, F.S., to direct the DCF to work with relevant state and local agencies to develop medical foster homes for medically complex children and to provide such services as may be necessary to maintain such children in the least restrictive and most nurturing environment consistent with their needs. The bill also provides that funds for the care of such children can be spent for care in their own homes or the homes of relatives if the children can be safely served and the cost is equal to or less than the cost of out-of-home placement.

Section 26 amends s. 409.967, F.S., to specify the components of managed care plans serving children in the care and custody of DCF and to require that providers of such plans make information available to DCF for inclusion in the state's child welfare data system. It directs the DCF and the Agency for Health Care Administration (AHCA) to use the information provided to determine the plan's compliance with standards for access to medical, dental, and behavioral health services, the use of psychotropic medications, and follow-up on all medically necessary services recommended as a result of early and periodic screening diagnosis and treatment.

Section 27 amends s. 409.972, F.S., to exempt Medicaid recipients residing in a group home facility licensed under chapter 393 from mandatory managed care enrollment.

Section 28 directs the Division of Law Revision and Information to create part V of ch. 409, F.S., to be entitled "Community-Based Child Welfare."

Section 29 moves and revises provisions from s. 409.1671, F.S., to create s. 409.986, F.S. The new section provides legislative findings, intent, goals, and definitions related to community-based care.

⁶⁴ Data provided by the Florida Board of Governors, (Feb. 11, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

Section 30 moves and revises provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section clarifies the requirements for the DCF to procure community-based care lead agencies. The procurement must be conducted through a competitive process required by ch. 287, F.S. The bill sets the requirements for an entity to compete for the award of a contract as a lead agency. The bill requires that the procurement be done in consultation with local community alliances. The bill also requires that upon award and execution of a contract between the DCF and a lead agency, the parties must enter into a letter of engagement that the DCF will provide legal representation of the lead agency or its subcontractors for the preparation and presentation of dependency court proceedings without charge to the lead agency or subcontractor.

Section 31 moves and revises provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the lead agencies and to authorize subcontracting for the provision of child welfare services.

Section 32 moves and revises provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. The new section describes funding for lead agencies.

Section 33 moves provisions from 409.16713, F.S., to create s. 409.991, F.S. The new section remains unchanged and describes the allocation of funds for lead agencies.

Section 34 moves and revises provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures, requiring that these expenditures be governed by financial guidelines developed by the DCF and must comply with applicable state and federal law as well as good business practices. The auditor general is authorized to provide technical assistance in the development of the guidelines.

Section 35 moves and revises provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. The contents of this section are currently found in s. 409.1671(1)(h)-(l), F.S.

Section 36 transfers and renumbers the current s. 409.1675, F.S., to create s. 409.994, F.S., describing lead agencies and receivership.

Section 37 creates s. 409.996, F.S., to describe the duties of the DCF in contracting for community-based child welfare services.

Section 38 creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system. The section requires that the DCF maintain a comprehensive accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The DCF is given direction for establishing such a system and is required to report the result of the accountability system at least quarterly on its website as well as annually to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 39 creates s. 409.998, F.S., to add duties relating to community-based care to community alliances established in s. 20.19, F.S.

Section 40 creates s. 827.10, F.S., to establish the criminal offense of unlawful desertion of a child and provides definitions and penalties. This will provide a tool for prosecutors to stop the unlawful adoptions practice referred to as “re-homing.”

Section 41 amends s. 985.04, F.S., to correct a reference.

Section 42 creates s. 1004.615, F.S., to establish the Florida Institute for Child Welfare (FICW) and to set forth the purpose, duties, and responsibilities of the institute. The FICW is defined as a consortium of the state’s public and private university schools of social work. The FICW is charged to advise the state on child welfare policy, improve the curriculum for social work degree programs, and develop on-the-job training for child protective investigators and child welfare case managers. The bill requires the FICW to provide a report annually by October 1 to the governor, the president of the Senate, and the speaker of the House of Representatives to describe its activities in the preceding fiscal year, present significant research findings and results of other programs, and make specific recommendations for improving child protection and child welfare services.

Section 43 amends s. 1009.25, F.S., to add child protection and child welfare personnel who meet specified criteria to the list of persons exempted from payment of tuition and fees at a state college or state university under certain circumstances.

Section 44 repeals s. 402.401, F.S., which contains provisions relating to student loan forgiveness. The bill makes this statute obsolete.

Section 45 repeals s. 409.1671, F.S., which this bill makes obsolete.

Section 46 repeals s. 409.16715, F.S., whose provisions are modified and included in this bill.

Section 47 repeals s. 409.16745, F.S., whose provisions are modified and included in this bill.

Section 48 repeals s. 1004.61, F.S., which contains the current-law provisions relating to partnerships between the DCF and state schools of social work. The bill makes this statute obsolete.

Section 49 corrects a cross-reference in s. 39.201, F.S.

Section 50 corrects a cross-reference to s. 39.302, F.S.

Section 51 corrects a cross-reference to s. 39.524, F.S.

Section 52 corrects a cross-reference to s. 316.613, F.S.

Section 53 corrects a cross-reference to s. 409.1676, F.S.

Section 54 corrects a cross-reference to s. 409.1677, F.S.

Section 55 corrects a cross-reference to s. 409.1678, F.S.

Section 56 corrects a cross-reference to s. 409.906, F.S.

Section 57 corrects a cross-reference to s. 409.912, F.S.

Section 58 corrects a cross-reference to s. 409.91211, F.S.

Section 59 corrects a cross-reference to s. 420.628, F.S.

Section 60 corrects a cross-reference to s. 960.065, F.S.

Section 61 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:

Private schools of social work may see an increased enrollment of students as a result of CS/SB 1666.

C. Government Sector Impact:

The bill has fiscal impacts that are anticipated to be addressed in the General Appropriations Act, which could include the following:

The annual cost of an additional assistant secretary and an executive assistant in the DCF will be approximately \$260,000.

The bill calls for the creation of critical incident rapid response teams to review certain child abuse deaths. The team members may be reimbursed for expenses and salaries. It is unknown how many cases each year would be investigated by the teams so the cost of these new investigations is unknown.

The bill requires the posting on the DCF website of information relating to child deaths reported to the DCF hotline. The information is currently collected and maintained in the Florida Safe Families Network (FSFN). The costs to post this information on the DCF website would be insignificant.

The bill allows for the payment to nonrelatives willing to assume custody and care of a dependent child. Based on the number of children currently in this placement, the DCF estimates that the cost could be up to \$4.8 million each year.

The bill expands the cases reviewed by the State Child Abuse Death Review Committee. The reviews cost \$714 each and the costs are paid from the expense budget of the Department of Health. Based on these current costs and an estimated additional 346 cases to be reviewed under the bill, the increased costs could be \$247,143 each year.

The requirement in the bill that 80 percent of new Child Protective Investigators (CPIs) and supervisors hold a social work degree should have little or no fiscal impact. The cost of the tuition exemption program to the state university system cannot be determined until the number of persons taking advantage of the program is known.

There will be costs associated with the loan forgiveness program. The costs will be limited by the amount of funding appropriated by the Legislature. Using the current number of department CPIs (1,522) and an average turnover rate of 24 percent, then an additional 365 CPIs would be hired each year. If all of these new hires are social workers and receive the loan repayment amount of \$3,000, then the annual cost estimate could range as high as \$1,095,000.

The establishment of the Institute for Child Welfare would have associated costs depending on the structure or the institute. Similar consortiums of Florida universities can cost between \$500,000 and \$2 million, according to the Florida Board of Governors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 39.001, 39.01, 39.013, 39.201, 39.301, 39.302, 39.303, 39.524, 39.307, 39.402, 39.501, 39.504, 39.5085, 39.604, 39.701, 39.802, 63.212, 316.613, 383.402, 402.40, 409.165, 409.16713, 409.1675, 409.1676, 409.1677, 409.1678, 409.906, 409.912, 409.91211, 409.967, 409.972, 420.628, 960.065, 985.04, and 1009.25.

This bill creates the following sections of the Florida Statutes: 39.2015, 39.2022, 39.3068, 402.402, 402.403, 402.404, 409.986, 409.987, 409.988, 409.990, 409.992, 409.993, 409.996, 409.997, 409.998, 827.10, and 1004.615.

This bill repeals the following sections of the Florida Statutes: 402.401, 409.1671, 409.16715, 409.16745, and 1004.61.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on April 2, 2014:

The Committee Substitute:

- Retains the current responsibilities for DCF community alliances but adds new duties related to child protective services and child welfare services;
- Amends the purposes of ch. 39, F.S., to emphasize that the safety of children is the paramount concern;
- Directs the DCF to investigate all calls of child-on-child sexual abuse for children in its custody or under its supervision;
- Strengthens provisions relating to safety plans for children who have been abused, neglected, or abandoned by their caregivers;
- Responds to judicial concerns by clarifying the role and training of DCF lawyers, as well as the relationship between the lawyers and caseworkers or investigators;
- Strengthens the requirement for the DCF to keep siblings together when they are removed from their homes and requires that temporary placement in appropriate group homes be considered for this purpose, if available;
- Extends the requirement of the Rilya Wilson Act that children supervised by or in the custody of the DCF attend a child care program five days a week so that children are covered from birth, rather than from age three, to school entry;
- Establishes a new criminal offense of unlawful desertion of a child and provides for penalties;
- Establishes qualifications for hiring child welfare workers as well as protective investigators and supervisors and expands tuition exemption similarly;
- Excludes protective investigative staff in sheriffs' offices from the requirement for social work degrees but requires sheriffs' staff to acquire training as a part of certification process; and
- Reorganizes and updates statutes relating to community-based child welfare, placing these provisions in a new part V of ch. 409.

- B. **Amendments:**

None

By the Committee on Children, Families, and Elder Affairs; and
Senator Sobel

586-02450-14

20141666__

1 A bill to be entitled
2 An act relating to child abuse and child welfare
3 services; amending s. 20.19, F.S.; requiring the
4 secretary of the Department of Children and Families
5 to appoint an Assistant Secretary for Child Welfare;
6 providing requirements for such position; amending s.
7 402.40, F.S.; providing requirements for persons
8 providing child welfare services; creating s. 402.402,
9 F.S.; providing education requirements for child
10 protective investigators and child protective
11 investigation supervisors; providing for
12 implementation of such requirements; providing for
13 exemptions; requiring a report to the Governor and the
14 Legislature by a specified date; creating s. 402.403,
15 F.S.; establishing a tuition exemption program for
16 child protective investigators and supervisors;
17 providing eligibility requirements; creating s.
18 402.404, F.S.; establishing a student loan forgiveness
19 program for child protective investigators and
20 supervisors; providing eligibility requirements;
21 providing requirements for the program; creating s.
22 827.10, F.S.; defining terms; establishing the
23 criminal offense of unlawful abandonment of a child;
24 providing criminal penalties; providing exceptions;
25 creating s. 1004.615, F.S.; establishing the Florida
26 Institute for Child Welfare; providing the purpose of
27 the institute; requiring the department to contract
28 with the institute for the performance of specified
29 duties; requiring the institute to contract and work

Page 1 of 15

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586-02450-14

20141666__

30 with specified entities; providing duties and
31 responsibilities of the institute; providing for the
32 administration of the institute; requiring a report to
33 the Governor and the Legislature by a specified date;
34 amending s. 1009.25, F.S.; exempting tuition and fees
35 for specified child protective investigators and child
36 protective investigation supervisors; repealing s.
37 402.401, F.S., relating to the Florida Child Welfare
38 Student Loan Forgiveness Program; repealing s.
39 1004.61, F.S., relating to partnerships to develop
40 child protective investigation workers; amending s.
41 39.01, F.S.; conforming a cross-reference; providing
42 an effective date.
43
44 Be It Enacted by the Legislature of the State of Florida:
45
46 Section 1. Present subsections (3) through (5) of section
47 20.19, Florida Statutes, are redesignated as subsections (4)
48 through (6), respectively, a new subsection (3) is added to that
49 section, and subsection (2) of that section is amended, to read:
50 20.19 Department of Children and Families.—There is created
51 a Department of Children and Families.
52 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—
53 (a) The head of the department is the Secretary of Children
54 and Families. The secretary is appointed by the Governor,
55 subject to confirmation by the Senate. The secretary serves at
56 the pleasure of the Governor.
57 (b) The secretary shall appoint a deputy secretary who
58 shall act in the absence of the secretary. The deputy secretary

Page 2 of 15

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586-02450-14

20141666__

59 is directly responsible to the secretary, performs such duties
60 as are assigned by the secretary, and serves at the pleasure of
61 the secretary.

62 (3) ASSISTANT SECRETARIES.—

63 (a) Child Welfare.—

64 1. The secretary shall appoint an Assistant Secretary for
65 Child Welfare to lead the department in carrying out its duties
66 and responsibilities for child protection and child welfare. The
67 individual appointed to this position shall serve at the
68 pleasure of the secretary.

69 2. The assistant secretary must have a degree in social
70 work or at least 7 years of experience working in organizations
71 delivering child protective or child welfare services.

72 (b) Substance Abuse and Mental Health.—

73 ~~(e)~~1. The secretary shall appoint an Assistant Secretary
74 for Substance Abuse and Mental Health. The assistant secretary
75 shall serve at the pleasure of the secretary and must have
76 expertise in both areas of responsibility.

77 2. The secretary shall appoint a Director for Substance
78 Abuse and Mental Health who has the requisite expertise and
79 experience to head the state's Substance Abuse and Mental Health
80 Program Office.

81 Section 2. Section 402.40, Florida Statutes, is amended to
82 read:

83 402.40 Child welfare training and certification.—

84 (1) LEGISLATIVE INTENT.—In order to enable the state to
85 provide a systematic approach to staff development and training
86 for persons providing child welfare services which ~~that~~ will
87 meet the needs of such staff in their discharge of duties, it is

586-02450-14

20141666__

88 the intent of the Legislature that the Department of Children
89 and Families ~~Family Services~~ work in collaboration with the
90 child welfare stakeholder community, including department-
91 approved third-party credentialing entities, to ensure that
92 staff have the knowledge, skills, and abilities necessary to
93 competently provide child welfare services. It is the intent of
94 the Legislature that each person providing child welfare
95 services in this state earns and maintains a professional
96 certification from a professional credentialing entity that is
97 approved by the Department of Children and ~~Families~~ Family
98 Services. The Legislature further intends that certification and
99 training programs will aid in the reduction of poor staff morale
100 and of staff turnover, will positively impact on the quality of
101 decisions made regarding children and families who require
102 assistance from programs providing child welfare services, and
103 will afford better quality care of children who must be removed
104 from their families.

105 (2) REQUIREMENTS FOR PERSONS PROVIDING CHILD WELFARE
106 SERVICES.—Each person providing child welfare services who is
107 employed by the department, a sheriff's office, or a community-
108 based care lead agency or subcontractor is required to earn and
109 maintain a professional certification from a professional
110 credentialing entity that is approved by the department.

111 ~~(3)~~~~(2)~~ DEFINITIONS.—As used in this section, the term:

112 (a) "Child welfare certification" means a professional
113 credential awarded by a department-approved third-party
114 credentialing entity to individuals demonstrating core
115 competency in any child welfare practice area.

116 (b) "Child welfare services" means any intake, protective

586-02450-14

20141666__

117 investigations, preprotective services, protective services,
 118 foster care, shelter and group care, and adoption and related
 119 services program, including supportive services and supervision
 120 provided to children who are alleged to have been abused,
 121 abandoned, or neglected or who are at risk of becoming, are
 122 alleged to be, or have been found dependent pursuant to chapter
 123 39.

124 (c) "Core competency" means the minimum knowledge, skills,
 125 and abilities necessary to carry out work responsibilities.

126 (d) "Person providing child welfare services" means a
 127 person who has a responsibility for supervisory, direct care, or
 128 support-related work in the provision of child welfare services
 129 pursuant to chapter 39.

130 (e) "Preservice curriculum" means the minimum statewide
 131 training content based upon the core competencies which is made
 132 available to all persons providing child welfare services.

133 (f) "Third-party credentialing entity" means a department-
 134 approved nonprofit organization that has met nationally
 135 recognized standards for developing and administering
 136 professional certification programs.

137 (4)(3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
 138 shall approve one or more third-party credentialing entities for
 139 the purpose of developing and administering child welfare
 140 certification programs for persons who provide child welfare
 141 services. A third-party credentialing entity shall request such
 142 approval in writing from the department. In order to obtain
 143 approval, the third-party credentialing entity must:

144 (a) Establish professional requirements and standards that
 145 applicants must achieve in order to obtain a child welfare

586-02450-14

20141666__

146 certification and to maintain such certification.

147 (b) Develop and apply core competencies and examination
 148 instruments according to nationally recognized certification and
 149 psychometric standards.

150 (c) Maintain a professional code of ethics and a
 151 disciplinary process that apply to all persons holding child
 152 welfare certification.

153 (d) Maintain a database, accessible to the public, of all
 154 persons holding child welfare certification, including any
 155 history of ethical violations.

156 (e) Require annual continuing education for persons holding
 157 child welfare certification.

158 (f) Administer a continuing education provider program to
 159 ensure that only qualified providers offer continuing education
 160 opportunities for certificateholders.

161 (5)(4) CHILD WELFARE TRAINING TRUST FUND.—

162 (a) There is created within the State Treasury a Child
 163 Welfare Training Trust Fund to be used by the department ~~of~~
 164 ~~Children and Family Services~~ for the purpose of funding the
 165 professional development of persons providing child welfare
 166 services.

167 (b) One dollar from every noncriminal traffic infraction
 168 collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be
 169 deposited into the Child Welfare Training Trust Fund.

170 (c) In addition to the funds generated by paragraph (b),
 171 the trust fund shall receive funds generated from an additional
 172 fee on birth certificates and dissolution of marriage filings,
 173 as specified in ss. 382.0255 and 28.101, respectively, and may
 174 receive funds from any other public or private source.

586-02450-14

20141666__

175 (d) Funds that are not expended by the end of the budget
176 cycle or through a supplemental budget approved by the
177 department shall revert to the trust fund.

178 ~~(6)-(5)~~ CORE COMPETENCIES.-

179 (a) The department ~~of Children and Family Services~~ shall
180 approve the core competencies and related preservice curricula
181 that ensures that each person delivering child welfare services
182 obtains the knowledge, skills, and abilities to competently
183 carry out his or her work responsibilities.

184 (b) The identification of these core competencies and
185 development of preservice curricula shall be a collaborative
186 effort that includes professionals who have expertise in child
187 welfare services, department-approved third-party credentialing
188 entities, and providers that will be affected by the curriculum,
189 including, but not limited to, representatives from the
190 community-based care lead agencies, sheriffs' offices conducting
191 child protective ~~protection~~ investigations, and child welfare
192 legal services providers.

193 (c) Community-based care agencies, sheriffs' offices, and
194 the department may contract for the delivery of preservice and
195 any additional training for persons delivering child welfare
196 services if the curriculum satisfies the department-approved
197 core competencies.

198 (d) Department-approved credentialing entities shall, for a
199 period of at least 12 months after implementation of the third-
200 party child welfare certification programs, grant reciprocity
201 and award a child welfare certification to individuals who hold
202 current department-issued child welfare certification in good
203 standing, at no cost to the department or the certificateholder.

Page 7 of 15

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586-02450-14

20141666__

204 ~~(7)-(6)~~ ADOPTION OF RULES.-The department ~~of Children and~~
205 ~~Family Services~~ shall adopt rules necessary to administer carry
206 ~~out the provisions of this section.~~

207 Section 3. Section 402.402, Florida Statutes, is created to
208 read:

209 402.402 Child protective investigators; child protective
210 investigation supervisors.-

211 (1) CHILD PROTECTIVE INVESTIGATION STAFF REQUIREMENTS.-

212 (a) On an annual and statewide basis, 80 percent of child
213 protective investigators and child protective investigation
214 supervisors hired on or after July 1, 2014, by the department or
215 a sheriff's office must have a bachelor's degree or a master's
216 degree in social work from a college or university social work
217 program accredited by the Council on Social Work Education.

218 (b) Child protective investigators and child protective
219 investigation supervisors employed by the department or a
220 sheriff's office before July 1, 2014, are exempt from the
221 requirements in paragraph (a).

222 (2) REPORT.-By October 1, 2014, and annually thereafter,
223 the secretary of the department shall report to the Governor,
224 the President of the Senate, and the Speaker of the House of
225 Representatives on compliance with the requirements of
226 subsection (1). A sheriff who provides child protection services
227 shall report to the secretary of the department information
228 regarding the progress of his or her office in meeting the
229 requirements of subsection (1).

230 Section 4. Section 402.403, Florida Statutes, is created to
231 read:

232 402.403 Child Protective Investigator and Supervisor

Page 8 of 15

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586-02450-14

20141666__

233 Tuition Exemption Program.-

234 (1) There is established within the department the Child
 235 Protective Investigator and Supervisor Tuition Exemption Program
 236 for the purpose of recruiting and retaining high-performing
 237 individuals who are employed as child protective investigators
 238 or child protective investigation supervisors with the
 239 department or sheriff's office and who do not have a bachelor's
 240 degree or master's degree in social work. The department or
 241 sheriff's office may exempt tuition and fees to a state
 242 university for an employee who is:

243 (a) Employed as a child protective investigator or child
 244 protective investigation supervisor by the department or
 245 sheriff's office and who receives personnel evaluations
 246 indicating a high level of performance; and

247 (b) Accepted in an upper-division undergraduate or graduate
 248 level college or university social work program accredited by
 249 the Council on Social Work Education which leads to either a
 250 bachelor's degree or a master's degree in social work.

251 (2) To the greatest extent possible, the college or
 252 university social work program shall consider the training
 253 completed and experience of the child protective investigator or
 254 child protective investigation supervisor in granting credit
 255 towards the degree.

256 Section 5. Section 402.404, Florida Statutes, is created to
 257 read:

258 402.404 Child Protective Investigator and Supervisor
 259 Student Loan Forgiveness Program.-

260 (1) There is established within the department the Florida
 261 Child Protective Investigator and Supervisor Student Loan

586-02450-14

20141666__

262 Forgiveness Program. The purpose of the program is to increase
 263 employment and retention of high-performing individuals who have
 264 either a bachelor's degree or a master's degree in social work
 265 as child protective investigators or child protective
 266 investigation supervisors with the department or sheriff's
 267 office by making payments toward loans received by students from
 268 federal or state programs or commercial lending institutions for
 269 the support of prior postsecondary study in accredited social
 270 work programs.

271 (2) In order to be eligible for the program, a candidate
 272 must be employed as a child protective investigator or child
 273 protective investigation supervisor by the department or a
 274 sheriff's office, must receive a personnel evaluation indicating
 275 a high level of performance, and must have graduated from an
 276 accredited social work program with either a bachelor's degree
 277 or a master's degree in social work.

278 (3) Only loans to pay the costs of tuition, books, fees,
 279 and living expenses shall be covered.

280 (4) The department may make loan payments of up to \$3,000
 281 each year for up to 4 years on behalf of selected graduates of
 282 an accredited social work program from the funds appropriated
 283 for this purpose. All payments are contingent upon continued
 284 proof of employment as a child protective investigator or a
 285 child protective investigation supervisor with the department or
 286 sheriff's office and made directly to the holder of the loan.

287 (5) A student who receives a tuition exemption pursuant to
 288 s. 402.403 is not eligible to participate in the Child
 289 Protective Investigator Student Loan Forgiveness Program.

290 Section 6. Section 827.10, Florida Statutes, is created to

586-02450-14

20141666__

291 read:

292 827.10 Unlawful abandonment of a child.-293 (1) As used in this section, the term:294 (a) "Abandons" or "abandonment" means to leave a child in a
295 place or with a person other than a relative with the intent not
296 to return to the child and with the intent not to provide for
297 the care of the child.298 (b) "Care" means support and services necessary to maintain
299 the child's physical and mental health, including, but not
300 limited to, food, nutrition, clothing, shelter, supervision,
301 medicine, and medical services that a prudent person would
302 consider essential for the well-being of the child.303 (c) "Caregiver" has the same meaning as provided in s.
304 39.01(10).305 (d) "Child" means a child for whose care the caregiver is
306 legally responsible.307 (e) "Relative" has the same meaning as provided in s.
308 39.01(64).309 (2) A caregiver who abandons a child under circumstances in
310 which the caregiver knew or should have known that the
311 abandonment exposes the child to unreasonable risk of harm
312 commits a felony of the third degree, punishable as provided in
313 s. 775.082, s. 775.083, or s. 775.084.314 (3) This section does not apply to a person who surrenders
315 a newborn infant in compliance with s. 383.50.316 (4) This section does not preclude prosecution for a
317 criminal act under any other law, including, but not limited to,
318 prosecution of child abuse or neglect of a child under s.
319 827.03.

586-02450-14

20141666__

320 Section 7. Section 1004.615, Florida Statutes, is created
321 to read:322 1004.615 Florida Institute for Child Welfare.-323 (1) There is established the Florida Institute for Child
324 Welfare. The purpose of the institute is to advance the well-
325 being of children and families by improving the performance of
326 child protection and child welfare services through research,
327 policy analysis, evaluation, and leadership development. The
328 institute shall consist of a consortium of public and private
329 universities offering degrees in social work and shall be housed
330 within the College of Social Work of the Florida State
331 University.332 (2) Using such resources as authorized in the General
333 Appropriations Act, the Department of Children and Families
334 shall contract with the institute for performance of the duties
335 described in subsection (4).336 (3) The institute shall work with the department, sheriffs,
337 community-based care lead agencies, community-based care
338 provider organizations, and other partners who contribute to and
339 participate in providing child protection and child welfare
340 services.341 (4) The duties and responsibilities of the institute
342 include the following:343 (a) Maintain a program of research that contributes to
344 scientific knowledge and informs both policy and practice
345 related to child safety, permanency, and child and family well-
346 being.347 (b) Advise the department and other organizations
348 participating in the child protection and child welfare process

586-02450-14 20141666__

349 regarding scientific evidence on policy and practice related to
 350 child safety, permanency, and child and family well-being.
 351 (c) Assess the performance of child protection and child
 352 welfare services based on specific outcome measures.
 353 (d) Evaluate the scope and effectiveness of preservice and
 354 inservice training for child protection and child welfare
 355 workers.
 356 (e) Advise and assist the department in efforts to improve
 357 preservice and inservice training for child protection and child
 358 welfare workers.
 359 (f) Assess the readiness of social work graduates to assume
 360 job responsibilities in the child protection and child welfare
 361 system and identify gaps in education that can be addressed
 362 through the modification of curricula or the establishment of
 363 industry certifications.
 364 (g) Develop and maintain a program of professional support,
 365 including training to facilitate internships and transitions to
 366 the workforce and training courses and consulting services that
 367 assist both individuals and organizations in implementing
 368 adaptive and resilient responses to workplace stress.
 369 (h) Participate in the department's critical incident
 370 response team and assist in the preparation of reports about
 371 such incidents.
 372 (i) Identify effective policies and best practices,
 373 including innovations in management of human service
 374 organizations and communicate these findings to the department
 375 and other organizations participating in the child protection
 376 and child welfare process.
 377 (5) The institute shall be administered by a director who

586-02450-14 20141666__

378 is appointed by the President of the Florida State University.
 379 The director's office shall be located at the Florida State
 380 University. Other universities participating in the consortium
 381 shall also provide facilities, staff, and other resources to the
 382 institute to establish statewide access to institute programs
 383 and services. The director must be a child welfare professional
 384 and must hold a faculty appointment in the College of Social
 385 Work. The director is responsible for overall management of the
 386 institute and for developing and executing the work plan
 387 consistent with the responsibilities in subsection (4).
 388 (6) By October 1 of each year, the institute shall provide
 389 a written report to the Governor, the President of the Senate,
 390 and the Speaker of the House of Representatives which outlines
 391 its activities in the preceding state fiscal year, reports
 392 significant research findings as well as results of other
 393 programs, and provides specific recommendations for improving
 394 child protection and child welfare services.
 395 Section 8. Paragraph (h) is added to subsection (1) of
 396 section 1009.25, Florida Statutes, to read:
 397 1009.25 Fee exemptions.—
 398 (1) The following students are exempt from the payment of
 399 tuition and fees, including lab fees, at a school district that
 400 provides workforce education programs, Florida College System
 401 institution, or state university:
 402 (h) A child protective investigator or a child protective
 403 investigation supervisor employed by the Department of Children
 404 and Families or a sheriff's office who is enrolled in an
 405 accredited bachelor's degree or master's degree in social work
 406 program pursuant to s. 402.403.

586-02450-14

20141666__

407 Section 9. Section 402.401, Florida Statutes, is repealed.
408 Section 10. Section 1004.61, Florida Statutes, is repealed.
409 Section 11. Subsection (27) of section 39.01, Florida
410 Statutes, is amended to read:
411 39.01 Definitions.—When used in this chapter, unless the
412 context otherwise requires:
413 (27) “District administrator” means the chief operating
414 officer of each service district of the department as defined in
415 s. 20.19(5) and, where appropriate, includes any district
416 administrator whose service district falls within the boundaries
417 of a judicial circuit.
418 Section 12. This act shall take effect July 1, 2014.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 1668

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

SUBJECT: Child Welfare

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sanford	Hendon		CF SPB 7074 as introduced
1.	Brown	Pigott	AHS	Pre-meeting
2.			AP	

I. Summary:

SB 1668 makes numerous statutory changes regarding the child welfare system.

The bill defines the term “sibling” and requires that when siblings are removed from a home as the result of abuse, neglect, or abandonment, the Department of Children and Families (DCF) must make every effort to keep the siblings together and, if separated, to keep them in communication with one another and to reunite them as quickly as feasible, unless doing so would not be in the best interest of the children.

The bill requires the DCF to conduct immediate investigations of deaths involving children that have been known to the child protection and child welfare systems. The bill requires the DCF to report on its website basic facts relating to all deaths of children which occur in this state and are reported to the DCF child abuse hotline.

The bill expands the DCF Relative Caregiver Program to include non-relatives who are willing to assume custody of a dependent child and the half-brother or half-sister of such a child when placed by a dependency court. If a child is placed with a nonrelative as described in the bill, the placement must be court-ordered, temporary legal custody to the relative under the protective supervision of the DCF.

The bill creates a new part V of ch. 409, F.S., to be entitled “Community-Based Child Welfare Care.” In this new part, current law relating to community-based care is reorganized, obsolete provisions are removed, and some provisions are clarified. Increased specificity relating to duties and accountability of both the DCF and community-based care lead agencies is provided.

The bill is estimated to have a negative fiscal impact of approximately \$15.6 million general revenue (\$461,000 nonrecurring) during Fiscal Year 2014-2015, which could vary somewhat depending on legislative appropriations.

II. Present Situation:

Siblings

Current law includes legislative intent that when siblings are placed in out-of-home care, the Department of Children and Families (DCF) must make every possible effort to place them together. If they are permanently placed, the DCF must attempt to place them in the same adoptive home, and if placement together is not possible, the DCF must attempt to keep them in contact with each other.¹ The term “sibling” is not defined and there is no provision at specific points in the child welfare system, such as at removal or at judicial review, to ensure that the DCF is attending to issues relating to siblings.

Relative Caregiver Program

The Florida Legislature established the Relative Caregiver Program in 1998.² This program offers monthly cash assistance and Medicaid for a child under the age of 18 who is placed by a dependency court with a relative after the child is removed from his or her home as a result of abuse, neglect, or abandonment. The monthly payment provides financial help for a relative who would not be able to afford to care for the child without assistance. The amount of the payment varies depending on the child’s age and circumstances. Medicaid pays for the child’s health care. The child may also be eligible for subsidized child care.

Only persons who are within the fifth degree of relationship by blood or marriage to the parent or stepparent of a dependent child or a half-brother or half-sister of a dependent child and who are caring full-time for the child, are eligible for the Program.

Under the Relative Caregiver Program, the child may be in temporary custody of the relative under the protective supervision of the DCF, may be placed under guardianship,³ or may be placed permanently with the relative.⁴ Either of the last two options is considered a permanency placement for the child. Continued supervision of the placement by the DCF is required under the permanent placement option, but not under the guardianship option.

Funding for the Relative Caregiver Program is through Florida’s share of the block grant for Temporary Assistance for Needy Families (TANF), in accordance with Title IV-A of the Social Security Act (SSA). The SSA lists the purposes of the TANF program in Title IV-A, section 401. This section specifically states that one of the purposes is to “provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.”

The DCF currently places children with nonrelatives under court-ordered supervision, but has not been able to pay the nonrelatives due to restrictions on the TANF funding source. These children are placed in the nonrelative homes after studies by the DCF. The only current difference between relative and nonrelative placements is that relatives receive payments to offset the cost of caring for the children and nonrelatives do not. As of December 31, 2012, there

¹ Section 39.001(1)(k), F.S.

² Chapter 98-403, s. 70, Laws of Florida.

³ Section 39.6221, F.S.

⁴ Section 39.6231, F.S.

were 1,552 children in the care of nonrelatives under DCF supervision. The estimated monthly Relative Caregiver cost per child is \$257.09 for an average annual total of \$3,087 per child.⁵

Public Disclosure of Child Deaths

There is currently no mechanism by which child deaths that have been reported to the DCF's child abuse hotline are made public. Arkansas has a database by which such deaths are reported, along with basic facts related to the case. This information is made available through the Arkansas social services website.⁶

Child Abuse Death Review Committee

The State Child Abuse Death Review Committee (CADR) was established in Florida in 1999 by statute.⁷ Case reviews began in 2000 and were expanded in 2004 to include all verified child abuse deaths. Current law establishes the CADR and local child abuse death review committees within the Department of Health (DOH).⁸ The CADR is composed of 18 members, including experts from the medical, law enforcement, social services, and advocacy professions.⁹ Members convene every other month to review facts and circumstances of the deaths of children whose deaths have been investigated by the DCF and closed with a "verified" finding of child abuse or neglect. The purpose of the child death review is to help prevent child deaths as a result of abuse or neglect by:¹⁰

- Developing a community-based approach to address child abuse deaths and contributing factors;
- Achieving a greater understanding of the causes and contributing factors of deaths resulting from child abuse or neglect;
- Identifying gaps, deficiencies, or problems in service delivery to children and families by public and private agencies that may be related to child abuse deaths; and
- Developing and implementing data-driven recommendations for reducing child abuse and neglect deaths.

The CADR is required to submit an annual statistical report to the governor and the Legislature by December 31 containing recommendations to reduce preventable child deaths.¹¹

Local child abuse death review committees also conduct reviews of the verified deaths of children in their respective communities to develop prevention campaigns and prepare recommendations for improving local practices in child protection and support services to families. There are 23 local committees that provide coverage for Florida's 67 counties.¹²

⁵ Department of Children and Families, *SB 770 Fiscal Analysis* (Feb. 4, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁶ Arkansas Department of Human Services, Child Fatality Notification, *available at* <https://ardhs.sharepoint.com/CFN/default.aspx> (last visited March 4, 2014)

⁷ Section 383.402, F.S.

⁸ Section 383.402(1), F.S.

⁹ Section 383.402(2)(a) and (b), F.S.

¹⁰ Section 383.402(1), F.S.

¹¹ Section 383.402(3)(c), F.S.

¹² Child Abuse Death Review Committee, *Annual Report* (Dec. 2012), *available at* <http://www.floridahealth.gov/alternatesites/flcadr/reports.html> (last visited Dec. 9, 2013).

During 2011, 2,241 children under the age of 18 died in Florida. Of those deaths, 474 were reported to the Florida Abuse Hotline and 130 deaths were verified by the DCF as being related to child abuse or neglect. The CADR received 126 cases for review during the period of January through November 2012. The CADR is statutorily limited to the review of “verified” child death reports.¹³

Statutory Provisions Relating to Community-Based Care Lead Agencies

The transition from government-delivered to outsourced child welfare sources began in earnest in Florida in 1996, when the Legislature directed the DCF to contract with established community-based organizations to establish pilot projects for the provision of foster care and related services.¹⁴ In 1998, the Legislature required the DCF to privatize the provision of all foster care and related services statewide. The transition was completed in Fiscal Year 2004-2005. Currently, there are 19 community-based care lead agencies (lead agencies) providing child welfare services statewide.

From the beginning of the outsourcing of child welfare services, s. 409.1671, F.S., has been the primary statute providing legislative direction for the process. Consequently, the statute contains many provisions that are obsolete, some which are current, and some which need clarification. For example, there is no provision in statute currently describing the duties of the DCF in an outsourced child welfare system.

In addition, currently there is not a statutory requirement that the lead agencies be incorporated under Florida law. Also, the duty to provide community input for lead agencies is buried in the other duties ascribed to DCF Community Alliances, which are at present located in the DCF organizational statute, ch. 20.19, F.S.

III. Effect of Proposed Changes:

Section 1 revises s. 39.01, F.S., to provide a definition for “sibling.”

Section 2 creates s. 39.2015, F.S., to direct DCF to establish critical incident rapid response teams to conduct an immediate investigation of all deaths or other serious incidents involving children reported to the hotline. This investigation does not take the place of child abuse investigations currently conducted by the DCF or sheriff’s offices. Rather than focusing on the cause of death, the rapid response team investigations will focus on the child protection and child welfare services provided or needed. The qualifications of the team members, the time periods under which they must work, their compensation, and their required reporting are all delineated.

The bill also provides for the DCF secretary to appoint an advisory committee for the teams, with the responsibility for reviewing their reports and making recommendations to improve policies and practices related to child protection services and child welfare services. The result of these investigations will be to identify operational changes within the child protection and child welfare system to prevent future child abuse deaths.

¹³ *Id.*

¹⁴ Chapter 96-402, Laws of Florida.

Section 3 amends s. 39.202, F.S., to make conforming changes allowing for the posting on the DCF website of information relating to child deaths reported to the DCF hotline.

Section 4 creates s. 39.2022, F.S., to require public disclosure of child deaths reported to the child abuse hotline. It describes the basic information to be provided and requires the DCF to post the information on its website. The bill preserves the DCF's current ability to provide additional information to any person if the death is determined to be the result of abuse, neglect, or abandonment. The bill also provides that any information that is otherwise confidential or exempt will not be posted on the website.

Section 5 amends s. 39.402, F.S., to require that, at the time of a court's shelter hearing for a child removed from his or her home as the result of allegations of abuse, neglect, or abandonment, the DCF must report to the court that it has made reasonable efforts to keep siblings together unless the placement together is not in their best interest. The bill also provides that if siblings removed from their home cannot be placed together, the DCF must provide the court with a recommendation for frequent visitation or other ongoing interaction between the siblings unless such interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours of the shelter hearing, the DCF must provide justification to the court for the delay.

Section 6 amends s. 39.5085, F.S., to allow payment to nonrelatives willing to assume custody and care of a dependent child and a dependent half-brother or half-sister of that dependent child, in the role of a substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver. The placement is required to be court-ordered, temporary legal custody to the nonrelative under the protective supervision of the DCF. Nonrelatives may receive payment for the care of the child at the same rate that relatives would be paid, subject to available funding.

Section 7 amends s. 39.701, F.S., to require the DCF to report to the court at every judicial review the frequency, kind, and duration of sibling contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the children. It also requires that, at the time of the special judicial review hearing held for children who have become 17 years of age, the court must consider whether granting emancipation for the purposes of obtaining housing, turning on utilities, and opening bank accounts is in the child's best interest.

Section 8 amends s. 39.802, F.S., to remove the requirement that petitions for termination of parental rights be signed by employees of the DCF. This change will reduce the administrative burden on the DCF, decrease the cost of processing the petitions, and increase the timeliness of the petitions.

Section 9 amends s. s. 383.402, F.S., to expand the cases reviewed by the State Child Abuse Death Review Committee (CADR) to include all cases where the death was reported to the DCF child abuse hotline, as opposed to only those cases in which the death has been verified to have occurred as a result of abuse, neglect, or abandonment.

Section 10 directs the Division of Law Revision and Information to create part V of ch. 409, F.S., to be entitled “Community-Based Child Welfare.”

Section 11 moves provisions from s. 409.1671, F.S., to create s. 409.986, F.S. The new section provides legislative findings, intent, goals, and definitions related to community-based care.

Section 12 moves provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section clarifies the requirements for the DCF to procure community-based care lead agencies (lead agencies). The procurement must be conducted through a competitive process required by chapter 287, F.S. The bill describes the geographic size limitations for such procurements. The bill requires the DCF to produce a schedule for procurements and to share that schedule with community alliances. The bill creates requirements for an entity to compete for the award of a contract as a lead agency, including the requirement that the entity be organized as a Florida corporation governed by a local board of directors. The bill requires that the procurement be done in consultation with local community alliances.

Section 13 moves provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the lead agencies and authorizes subcontracting for the provision of child welfare services.

Section 14 moves provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. The new section describes funding for lead agencies.

Section 15 moves provisions from 409.16713, F.S., to create s. 409.991, F.S. The new section describes the allocation of funds for lead agencies.

Section 16 moves provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures. The DCF must develop financial guidelines in consultation with the auditor general.

Section 17 moves provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. The contents of this section are currently found in s. 409.1671(1)(h)-(l), F.S.

Section 18 transfers and renumbers s. 409.1675, F.S., to create s. 409.994, F.S., describing receivership for lead agencies.

Section 19 creates s. 409.996, F.S., to describe the duties of the DCF in contracting for child welfare services.

Section 20 creates s. 409.997, F.S., to establish a results-oriented accountability system for child welfare. The bill requires that the DCF must maintain a comprehensive, results-oriented accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The DCF is given direction for establishing such a system and is required to report the result of the accountability system at least quarterly on its website as well

as annually to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 21 creates s. 409.998, F.S., to require that DCF establish community-based care alliances in each lead agency service area. It describes the duties, membership, and responsibilities of the alliances and provides that meetings of the alliances are open to the public.

Section 22 repeals subsection (4) of s. 20.19, F.S. This statute describes the current composition and duties of the DCF community alliances, which the bill replaces with the community alliances described in new s. 409.998, F.S.

Section 23 repeals ss. 409.1671, 409.16715, and 409.16745, F.S., all of which are incorporated into the new statutory scheme.

Sections 24-30 amend ss. 39.201, 409.1676, 409.1677, 409.906, 409.912, 409.91211, and 420.628, F.S., respectively, to correct cross-references.

Section 31 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:

SB 1668 clarifies the responsibilities of the community-based care lead agencies but does not impose new requirements on them.

C. Government Sector Impact:

The Department of Children and Families (DCF) has made the following estimates of the bill's fiscal impacts for Fiscal Year 2014-2015 by component:

Component	FTE	Recurring GR	Nonrecurring GR	Total GR Needed
Critical incident response team		\$500,000		\$500,000
Advisory committee appointees		\$175,000		\$175,000
Public disclosure hotline		\$118,000	\$193,200	\$311,200
Nonrelative caregiver		\$4,791,024		\$4,791,024
Child death reviews	6	\$588,762	\$22,638	\$611,400
Technical assistance and consultation for lead agencies	7	\$722,589	\$26,411	\$749,000
Quality assurance	18	\$1,732,086	\$67,914	\$1,800,000
Results-oriented accountability	5	\$3,106,135	\$18,865	\$3,125,000
Community alliances	35	\$3,367,945	\$132,055	\$3,500,000
Totals for Fiscal Year 2014-2015	71	\$15,101,541	\$461,083	\$15,562,624

The DCF advises that in Fiscal Year 2015-2016 and beyond, the number of recipients in the nonrelative caregiver program will accumulate progressively because the assistance continues until the child reaches the age of 18 or otherwise becomes ineligible. This is expected to result in an increased program cost each year until the 17th year of the program.

VI. Technical Deficiencies:

The bill transfers current provisions relating to community-based care liability from s. 409.1671, F.S., to the newly created s. 409.993, F.S. Current law allows liability caps set in 1999 to increase by five percent each year. The bill does not update the amounts of the caps, resulting in a reduction of the caps back to the 1999 levels.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 39.201, 39.202, 39.402, 39.5085, 39.701, 39.802, 383.402, 409.16713, 409.1675, 409.1676, 409.1677, 409.906, 409.912, 409.91211, and 420.628.

This bill creates the following sections of the Florida Statutes: 39.2015, 39.2022, 409.986, 409.987, 409.988, 409.990, 409.991 (formerly s. 409.16713), 409.992, 409.993, 409.994 (formerly s. 409.1675), 409.996, 409.997, and 409.998.

This bill repeals the following sections of the Florida Statutes: 20.19(4), 409.1671, 409.16715, and 409.16745.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By the Committee on Children, Families, and Elder Affairs; and
Senator Detert

586-02451-14

20141668__

1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.01,
3 F.S.; defining the term "sibling"; creating s.
4 39.2015, F.S.; requiring the Department of Children
5 and Families to conduct specified investigations using
6 critical incident rapid response teams; providing
7 requirements for such investigations; providing
8 requirements for the team; authorizing the team to
9 access specified information; requiring the
10 cooperation of specified agencies and organizations;
11 providing for reimbursement of team members; requiring
12 a report of the investigation; requiring the Secretary
13 of Children and Families to develop specified
14 guidelines for investigations and provide training to
15 team members; requiring the secretary to appoint an
16 advisory committee; requiring a report from the
17 advisory committee to the secretary; requiring the
18 secretary to submit such report to the Governor and
19 the Legislature; amending s. 39.202, F.S.; authorizing
20 access to specified records in the event of the death
21 of a child which was reported to the department's
22 child abuse hotline; creating s. 39.2022, F.S.;
23 providing legislative intent; requiring the department
24 to publish specified information on its website if the
25 death of a child is reported to the child abuse
26 hotline; prohibiting specified information from being
27 released; providing requirements for the release of
28 information in the child's records; prohibiting
29 release of information that identifies the person who

Page 1 of 73

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586-02451-14

20141668__

30 reports an incident to the child abuse hotline;
31 amending s. 39.402, F.S.; requiring the department to
32 make a reasonable effort to keep siblings together
33 when they are placed in out-of-home care under certain
34 circumstances; providing for sibling visitation under
35 certain circumstances; amending s. 39.5085, F.S.;
36 revising legislative intent; authorizing placement of
37 a child with a nonrelative caregiver and financial
38 assistance for such nonrelative caregiver through the
39 Relative Caregiver Program under certain
40 circumstances; amending s. 39.701, F.S.; requiring the
41 court to consider contact among siblings in judicial
42 reviews; authorizing the court to remove specified
43 disabilities of nonage at judicial reviews; amending
44 s. 39.802, F.S.; requiring a petition for the
45 termination of parental rights to be signed under oath
46 stating the petitioner's good faith in filing the
47 petition; amending s. 383.402, F.S.; requiring the
48 review of all deaths of children which occur in the
49 state and are reported to the department's child abuse
50 hotline; revising the due date for a report; providing
51 a directive to the Division of Law Revision and
52 Information; creating part V of ch. 409, F.S.;
53 creating s. 409.986, F.S.; providing legislative
54 findings and intent; providing child protection and
55 child welfare outcome goals; defining terms; creating
56 s. 409.987, F.S.; providing for the procurement of
57 community-based care lead agencies; providing
58 requirements for contracting as a lead agency;

Page 2 of 73

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586-02451-14

20141668__

59 creating s. 409.988, F.S.; providing the duties of a
 60 community-based care lead agency; providing licensure
 61 requirements for a lead agency; creating s. 409.990,
 62 F.S.; providing general funding provisions; providing
 63 for a matching grant program and the maximum amount of
 64 funds that may be awarded; requiring the department to
 65 develop and implement a community-based care risk pool
 66 initiative; providing requirements for the risk pool;
 67 transferring, renumbering, and amending s. 409.16713,
 68 F.S.; transferring provisions relating to the
 69 allocation of funds for community-based lead care
 70 agencies; conforming a cross-reference; creating s.
 71 409.992, F.S.; providing requirements for community-
 72 based care lead agency expenditures; creating s.
 73 409.993, F.S.; providing findings; providing for lead
 74 agency and subcontractor liability; providing
 75 limitations on damages; transferring, renumbering, and
 76 amending s. 409.1675, F.S.; transferring provisions
 77 relating to receivership from community-based
 78 providers to lead agencies; conforming cross-
 79 references and terminology; creating s. 409.996, F.S.;
 80 providing duties of the department relating to
 81 community-based care and lead agencies; creating s.
 82 409.997, F.S.; providing goals for the department and
 83 specified entities; requiring the department to
 84 maintain a comprehensive, results-oriented
 85 accountability system; providing requirements;
 86 requiring the department to establish a technical
 87 advisory panel; providing requirements for the panel;

Page 3 of 73

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586-02451-14

20141668__

88 requiring the department to make the results of the
 89 system public; requiring a report to the Governor and
 90 the Legislature; creating s. 409.998, F.S.; requiring
 91 the department to establish community-based care
 92 alliances; specifying responsibilities of the
 93 alliance; providing for membership of the alliance;
 94 providing for compensation of and requirements for
 95 alliance members; authorizing the alliance to create a
 96 direct-support organization; providing requirements
 97 for such organization; providing for future repeal of
 98 the authority of the alliance to create a direct
 99 support organization; repealing s. 20.19(4), F.S.,
 100 relating to community alliances; repealing ss.
 101 409.1671, 409.16715, and 409.16745, F.S., relating to
 102 foster care and related services, therapy treatments,
 103 and the community partnership matching grant program,
 104 respectively; amending ss. 39.201, 409.1676, 409.1677,
 105 409.906, 409.912, 409.91211, and 420.628, F.S.;
 106 conforming cross-references; providing an effective
 107 date.

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

110
 111 Section 1. Present subsections (70) through (76) of section
 112 39.01, Florida Statutes, are redesignated as subsections (71)
 113 through (77), respectively, and a new subsection (70) is added
 114 to that section, to read:

115 39.01 Definitions.—When used in this chapter, unless the
 116 context otherwise requires:

Page 4 of 73

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586-02451-14

20141668__

117 (70) "Sibling" means:

118 (a) A child who shares a birth parent or legal parent with
 119 one or more other children; or

120 (b) Children who have lived together in a family and
 121 identify themselves as siblings.

122 Section 2. Section 39.2015, Florida Statutes, is created to
 123 read:

124 39.2015 Critical incident rapid response team.—

125 (1) The department shall conduct an immediate investigation
 126 of deaths or other serious incidents involving children using
 127 critical incident rapid response teams as provided in subsection
 128 (2). The purpose of such investigation is to identify root
 129 causes and rapidly determine the need to change policies and
 130 practices related to child protection and child welfare.

131 (2) An immediate onsite investigation conducted by a
 132 critical incident rapid response team is required for all child
 133 deaths reported to the department if the child or another child
 134 in his or her family was the subject of a verified report of
 135 suspected abuse or neglect in the previous 12 months. The
 136 secretary may also direct an immediate investigation for other
 137 cases involving serious injury to a child.

138 (3) Each investigation shall be conducted by a team of at
 139 least five professionals with expertise in child protection,
 140 child welfare, and organizational management. The team may be
 141 selected from employees of the department, community-based care
 142 lead agencies, other provider organizations, faculty from the
 143 Florida Institute for Child Welfare that consists of public and
 144 private universities offering degrees in social work established
 145 pursuant to s. 1004.615, or any other persons with the required

586-02451-14

20141668__

146 expertise. The majority of the team must reside in judicial
 147 circuits outside the location of the incident. The secretary
 148 shall appoint a team leader for each group assigned to an
 149 investigation.

150 (4) An investigation shall be initiated as soon as
 151 possible, but not later than 2 business days after the case is
 152 reported to the department. A preliminary report on each case
 153 shall be provided to the secretary no later than 30 days after
 154 the investigation begins.

155 (5) Each member of the team is authorized to access all
 156 information in the case file.

157 (6) All employees of the department or other state agencies
 158 and all personnel from contracted provider organizations are
 159 required to cooperate with the investigation by participating in
 160 interviews and timely responding to any requests for
 161 information.

162 (7) The secretary shall develop cooperative agreements with
 163 other entities and organizations as may be necessary to
 164 facilitate the work of the team.

165 (8) The members of the team may be reimbursed by the
 166 department for per diem, mileage, and other reasonable expenses
 167 as provided in s. 112.061. The department may also reimburse the
 168 team member's employer for the associated salary and benefits
 169 during the time the team member is fulfilling the duties
 170 required under this section.

171 (9) Upon completion of the investigation, a final report
 172 shall be made available to community-based care lead agencies,
 173 to other organizations involved in the child welfare system, and
 174 to the public through the department's website.

586-02451-14

20141668__

175 (10) The secretary, in conjunction with the institute
 176 established pursuant to s. 1004.615, shall develop guidelines
 177 for investigations conducted by critical incident rapid response
 178 teams and provide training to team members. Such guidelines must
 179 direct the teams in the conduct of a root-cause analysis that
 180 identifies, classifies, and attributes responsibility for both
 181 direct and latent causes for the death or other incident,
 182 including organizational factors, preconditions, and specific
 183 acts or omissions resulting from an error or a violation of
 184 procedures.

185 (11) The secretary shall appoint an advisory committee made
 186 up of experts in child protection and child welfare to make an
 187 independent review of investigative reports from the critical
 188 incident rapid response teams and make recommendations to
 189 improve policies and practices related to child protection and
 190 child welfare services. By October 1 of each year, the advisory
 191 committee shall make an annual report to the secretary,
 192 including findings and recommendations. The secretary shall
 193 submit the report to the Governor, the President of the Senate,
 194 and the Speaker of the House of Representatives.

195 Section 3. Paragraph (o) of subsection (2) of section
 196 39.202, Florida Statutes, is amended to read:

197 39.202 Confidentiality of reports and records in cases of
 198 child abuse or neglect.—

199 (2) Except as provided in subsection (4), access to such
 200 records, excluding the name of the reporter which shall be
 201 released only as provided in subsection (5), shall be granted
 202 only to the following persons, officials, and agencies:

203 (o) Any person, in the event of the death of a child

586-02451-14

20141668__

204 reported to the child abuse hotline ~~determined to be a result of~~
 205 abuse, abandonment, or neglect. Information identifying the
 206 person reporting abuse, abandonment, or neglect may ~~shall~~ not be
 207 released. Any information otherwise made confidential or exempt
 208 by law may ~~shall~~ not be released pursuant to this paragraph. The
 209 information released pursuant to this paragraph must meet the
 210 requirements of s. 39.2022.

211 Section 4. Section 39.2022, Florida Statutes, is created to
 212 read:

213 39.2022 Public disclosure of child deaths reported to the
 214 child abuse hotline.—

215 (1) It is the intent of the Legislature to provide prompt
 216 disclosure of the basic facts of all deaths of children from
 217 birth through 18 years of age which occur in this state and
 218 which are reported to the department's child abuse hotline.
 219 Disclosure shall be posted on the department's public website.
 220 This section does not limit the public access to records under
 221 any other provision of law.

222 (2) If a child's death is reported to the child abuse
 223 hotline, the department shall post on its website all of the
 224 following:

225 (a) Name of the child.

226 (b) Date of birth, race, and gender of the child.

227 (c) Date of the child's death.

228 (d) Allegations of the cause of death or the preliminary
 229 cause of death.

230 (e) County and placement of the child at the time of the
 231 incident leading to the child's death, if applicable.

232 (f) Name of the community-based care lead agency, case

586-02451-14 20141668__

233 management agency, or out-of-home licensing agency involved with
 234 the child, family, or licensed caregiver, if applicable.
 235 (g) The relationship of any alleged offender to the child.
 236 (h) Whether the child has been the subject of any prior
 237 verified reports to the department's child abuse hotline.
 238 (3) The department may not release the following
 239 information concerning a death of a child:
 240 (a) Information about the siblings of the child.
 241 (b) Attorney-client communications.
 242 (c) Any information if the release of such information
 243 would jeopardize a criminal investigation.
 244 (d) Any information that is confidential or exempt under
 245 state or federal law.
 246 (4) If the death of a child is determined to be the result
 247 of abuse, neglect, or abandonment, the department may release
 248 information in the child's record to any person. Information
 249 identifying the person reporting abuse, abandonment, or neglect
 250 may not be released. Any information otherwise made confidential
 251 or exempt by law may not be released pursuant to this
 252 subsection.

253 Section 5. Paragraph (h) of subsection (8) and subsection
 254 (9) of section 39.402, Florida Statutes, are amended to read:
 255 39.402 Placement in a shelter.—
 256 (8)
 257 (h) The order for placement of a child in shelter care must
 258 identify the parties present at the hearing and must contain
 259 written findings:
 260 1. That placement in shelter care is necessary based on the
 261 criteria in subsections (1) and (2).

586-02451-14 20141668__

262 2. That placement in shelter care is in the best interest
 263 of the child.
 264 3. That continuation of the child in the home is contrary
 265 to the welfare of the child because the home situation presents
 266 a substantial and immediate danger to the child's physical,
 267 mental, or emotional health or safety which cannot be mitigated
 268 by the provision of preventive services.
 269 4. That based upon the allegations of the petition for
 270 placement in shelter care, there is probable cause to believe
 271 that the child is dependent or that the court needs additional
 272 time, which may not exceed 72 hours, in which to obtain and
 273 review documents pertaining to the family in order to
 274 appropriately determine the risk to the child.
 275 5. That the department has made reasonable efforts to
 276 prevent or eliminate the need for removal of the child from the
 277 home. A finding of reasonable effort by the department to
 278 prevent or eliminate the need for removal may be made and the
 279 department is deemed to have made reasonable efforts to prevent
 280 or eliminate the need for removal if:
 281 a. The first contact of the department with the family
 282 occurs during an emergency;
 283 b. The appraisal of the home situation by the department
 284 indicates that the home situation presents a substantial and
 285 immediate danger to the child's physical, mental, or emotional
 286 health or safety which cannot be mitigated by the provision of
 287 preventive services;
 288 c. The child cannot safely remain at home, either because
 289 there are no preventive services that can ensure the health and
 290 safety of the child or because, even with appropriate and

586-02451-14 20141668__

291 available services being provided, the health and safety of the
292 child cannot be ensured; or

293 d. The parent or legal custodian is alleged to have
294 committed any of the acts listed as grounds for expedited
295 termination of parental rights in s. 39.806(1)(f)-(i).

296 6. That the department has made reasonable efforts to keep
297 siblings together if they are removed and placed in out-of-home
298 care unless such a placement is not in the best interest of each
299 child. The department shall report to the court its efforts to
300 place siblings together unless the court finds that such
301 placement is not in the best interest of a child or his or her
302 sibling.

303 ~~7.6-~~ That the court notified the parents, relatives that
304 are providing out-of-home care for the child, or legal
305 custodians of the time, date, and location of the next
306 dependency hearing and of the importance of the active
307 participation of the parents, relatives that are providing out-
308 of-home care for the child, or legal custodians in all
309 proceedings and hearings.

310 ~~8.7-~~ That the court notified the parents or legal
311 custodians of their right to counsel to represent them at the
312 shelter hearing and at each subsequent hearing or proceeding,
313 and the right of the parents to appointed counsel, pursuant to
314 the procedures set forth in s. 39.013.

315 ~~9.8-~~ That the court notified relatives who are providing
316 out-of-home care for a child as a result of the shelter petition
317 being granted that they have the right to attend all subsequent
318 hearings, to submit reports to the court, and to speak to the
319 court regarding the child, if they so desire.

586-02451-14 20141668__

320 (9) (a) At any shelter hearing, the department shall provide
321 to the court a recommendation for scheduled contact between the
322 child and parents, if appropriate. The court shall determine
323 visitation rights absent a clear and convincing showing that
324 visitation is not in the best interest of the child. Any order
325 for visitation or other contact must conform to ~~the provisions~~
326 ~~of~~ s. 39.0139. If visitation is ordered but will not commence
327 within 72 hours of the shelter hearing, the department shall
328 provide justification to the court.

329 (b) If siblings who are removed from the home cannot be
330 placed together, the department shall provide to the court a
331 recommendation for frequent visitation or other ongoing
332 interaction between the siblings unless this interaction would
333 be contrary to a sibling's safety or well-being. If visitation
334 among siblings is ordered but will not commence within 72 hours
335 of the shelter hearing, the department shall provide
336 justification to the court for the delay.

337 Section 6. Section 39.5085, Florida Statutes, is amended to
338 read:

339 39.5085 Relative Caregiver Program.—

340 (1) It is the intent of the Legislature in enacting this
341 section to:

342 (a) Provide for the establishment of procedures and
343 protocols that serve to advance the continued safety of children
344 by acknowledging the valued resource uniquely available through
345 grandparents, ~~and~~ relatives of children, and specified
346 nonrelatives of children pursuant to subparagraph (2)(a)3.

347 (b) Recognize family relationships in which a grandparent
348 or other relative is the head of a household that includes a

586-02451-14

20141668__

349 child otherwise at risk of foster care placement.

350 (c) Enhance family preservation and stability by
351 recognizing that most children in such placements with
352 grandparents and other relatives do not need intensive
353 supervision of the placement by the courts or by the department.

354 (d) Recognize that permanency in the best interests of the
355 child can be achieved through a variety of permanency options,
356 including permanent guardianship under s. 39.6221 if the
357 guardian is a relative, by permanent placement with a fit and
358 willing relative under s. 39.6231, by a relative, guardianship
359 under chapter 744, or adoption, by providing additional
360 placement options and incentives that will achieve permanency
361 and stability for many children who are otherwise at risk of
362 foster care placement because of abuse, abandonment, or neglect,
363 but who may successfully be able to be placed by the dependency
364 court in the care of such relatives.

365 (e) Reserve the limited casework and supervisory resources
366 of the courts and the department for those cases in which
367 children do not have the option for safe, stable care within the
368 family.

369 (f) Recognize that a child may have a close relationship
370 with a person who is not a blood relative or a relative by
371 marriage and that such person should be eligible for financial
372 assistance under this section if he or she is able and willing
373 to care for the child and provide a safe, stable home
374 environment.

375 (2) (a) The Department of Children and ~~Families~~ Family
376 ~~Services~~ shall establish and operate the Relative Caregiver
377 Program pursuant to eligibility guidelines established in this

Page 13 of 73

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586-02451-14

20141668__

378 section as further implemented by rule of the department. The
379 Relative Caregiver Program shall, within the limits of available
380 funding, provide financial assistance to:

381 1. Relatives who are within the fifth degree by blood or
382 marriage to the parent or stepparent of a child and who are
383 caring full-time for that dependent child in the role of
384 substitute parent as a result of a court's determination of
385 child abuse, neglect, or abandonment and subsequent placement
386 with the relative under this chapter.

387 2. Relatives who are within the fifth degree by blood or
388 marriage to the parent or stepparent of a child and who are
389 caring full-time for that dependent child, and a dependent half-
390 brother or half-sister of that dependent child, in the role of
391 substitute parent as a result of a court's determination of
392 child abuse, neglect, or abandonment and subsequent placement
393 with the relative under this chapter.

394 3. Nonrelatives who are willing to assume custody and care
395 of a dependent child and a dependent half-brother or half-sister
396 of that dependent child in the role of substitute parent as a
397 result of a court's determination of child abuse, neglect, or
398 abandonment and subsequent placement with the nonrelative
399 caregiver under this chapter. The court must find that a
400 proposed placement under this subparagraph is in the best
401 interest of the child.

402
403 The placement may be court-ordered temporary legal custody to
404 the relative or nonrelative under protective supervision of the
405 department pursuant to s. 39.521(1)(b)3., or court-ordered
406 placement in the home of a relative or nonrelative as a

Page 14 of 73

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586-02451-14 20141668__

407 permanency option under s. 39.6221 or s. 39.6231 or under former
 408 s. 39.622 if the placement was made before July 1, 2006. The
 409 Relative Caregiver Program shall offer financial assistance to
 410 caregivers ~~who are relatives and~~ who would be unable to serve in
 411 that capacity without the ~~relative~~ caregiver payment because of
 412 financial burden, thus exposing the child to the trauma of
 413 placement in a shelter or in foster care.

414 (b) Caregivers ~~who are relatives and~~ who receive assistance
 415 under this section must be capable, as determined by a home
 416 study, of providing a physically safe environment and a stable,
 417 supportive home for the children under their care, and must
 418 assure that the children's well-being is met, including, but not
 419 limited to, the provision of immunizations, education, and
 420 mental health services as needed.

421 (c) Relatives or nonrelatives who qualify for and
 422 participate in the Relative Caregiver Program are not required
 423 to meet foster care licensing requirements under s. 409.175.

424 (d) Relatives or nonrelatives who are caring for children
 425 placed with them by the court pursuant to this chapter shall
 426 receive a special monthly ~~relative~~ caregiver benefit established
 427 by rule of the department. The amount of the special benefit
 428 payment shall be based on the child's age within a payment
 429 schedule established by rule of the department and subject to
 430 availability of funding. The statewide average monthly rate for
 431 children judicially placed with relatives or nonrelatives who
 432 are not licensed as foster homes may not exceed 82 percent of
 433 the statewide average foster care rate, and nor may the cost of
 434 providing the assistance described in this section to any
 435 ~~relative~~ caregiver may not exceed the cost of providing out-of-

586-02451-14 20141668__

436 home care in emergency shelter or foster care.

437 (e) Children receiving cash benefits under this section are
 438 not eligible to simultaneously receive WAGES cash benefits under
 439 chapter 414.

440 (f) Within available funding, the Relative Caregiver
 441 Program shall provide ~~relative~~ caregivers with family support
 442 and preservation services, flexible funds in accordance with s.
 443 409.165, school readiness, and other available services in order
 444 to support the child's safety, growth, and healthy development.
 445 Children living with ~~relative~~ caregivers who are receiving
 446 assistance under this section shall be eligible for Medicaid
 447 coverage.

448 (g) The department may use appropriate available state,
 449 federal, and private funds to operate the Relative Caregiver
 450 Program. The department may develop liaison functions to be
 451 available to relatives or nonrelatives who care for children
 452 pursuant to this chapter to ensure placement stability in
 453 extended family settings.

454 Section 7. Paragraph (c) of subsection (2) and paragraph
 455 (a) of subsection (3) of section 39.701, Florida Statutes, are
 456 amended to read:

457 39.701 Judicial review.—

458 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF
 459 AGE.—

460 (c) *Review determinations.*—The court and any citizen review
 461 panel shall take into consideration the information contained in
 462 the social services study and investigation and all medical,
 463 psychological, and educational records that support the terms of
 464 the case plan; testimony by the social services agency, the

586-02451-14

20141668__

465 parent, the foster parent or legal custodian, the guardian ad
 466 litem or surrogate parent for educational decisionmaking if one
 467 has been appointed for the child, and any other person deemed
 468 appropriate; and any relevant and material evidence submitted to
 469 the court, including written and oral reports to the extent of
 470 their probative value. These reports and evidence may be
 471 received by the court in its effort to determine the action to
 472 be taken with regard to the child and may be relied upon to the
 473 extent of their probative value, even though not competent in an
 474 adjudicatory hearing. In its deliberations, the court and any
 475 citizen review panel shall seek to determine:

- 476 1. If the parent was advised of the right to receive
 477 assistance from any person or social service agency in the
 478 preparation of the case plan.
- 479 2. If the parent has been advised of the right to have
 480 counsel present at the judicial review or citizen review
 481 hearings. If not so advised, the court or citizen review panel
 482 shall advise the parent of such right.
- 483 3. If a guardian ad litem needs to be appointed for the
 484 child in a case in which a guardian ad litem has not previously
 485 been appointed or if there is a need to continue a guardian ad
 486 litem in a case in which a guardian ad litem has been appointed.
- 487 4. Who holds the rights to make educational decisions for
 488 the child. If appropriate, the court may refer the child to the
 489 district school superintendent for appointment of a surrogate
 490 parent or may itself appoint a surrogate parent under the
 491 Individuals with Disabilities Education Act and s. 39.0016.
- 492 5. The compliance or lack of compliance of all parties with
 493 applicable items of the case plan, including the parents'

Page 17 of 73

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586-02451-14

20141668__

494 compliance with child support orders.

495 6. The compliance or lack of compliance with a visitation
 496 contract between the parent and the social service agency for
 497 contact with the child, including the frequency, duration, and
 498 results of the parent-child visitation and the reason for any
 499 noncompliance.

500 7. The frequency, kind, and duration of sibling contacts
 501 among siblings who have been separated during placement, as well
 502 as any efforts undertaken to reunite separated siblings if doing
 503 so is in the best interest of the child.

504 ~~8.7.~~ The compliance or lack of compliance of the parent in
 505 meeting specified financial obligations pertaining to the care
 506 of the child, including the reason for failure to comply, if
 507 applicable such is the case.

508 ~~9.8.~~ Whether the child is receiving safe and proper care
 509 according to s. 39.6012, including, but not limited to, the
 510 appropriateness of the child's current placement, including
 511 whether the child is in a setting that is as family-like and as
 512 close to the parent's home as possible, consistent with the
 513 child's best interests and special needs, and including
 514 maintaining stability in the child's educational placement, as
 515 documented by assurances from the community-based care provider
 516 that:

- 517 a. The placement of the child takes into account the
 518 appropriateness of the current educational setting and the
 519 proximity to the school in which the child is enrolled at the
 520 time of placement.
- 521 b. The community-based care agency has coordinated with
 522 appropriate local educational agencies to ensure that the child

Page 18 of 73

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586-02451-14 20141668__

523 remains in the school in which the child is enrolled at the time
524 of placement.

525 ~~10.9.~~ A projected date likely for the child's return home
526 or other permanent placement.

527 ~~11.10.~~ When appropriate, the basis for the unwillingness or
528 inability of the parent to become a party to a case plan. The
529 court and the citizen review panel shall determine if the
530 efforts of the social service agency to secure party
531 participation in a case plan were sufficient.

532 ~~12.11.~~ For a child who has reached 13 years of age but is
533 not yet 18 years of age, the adequacy of the child's preparation
534 for adulthood and independent living.

535 ~~13.12.~~ If amendments to the case plan are required.
536 Amendments to the case plan must be made under s. 39.6013.

537 (3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—
538 (a) In addition to the review and report required under
539 paragraphs (1)(a) and (2)(a), respectively, the court shall hold
540 a judicial review hearing within 90 days after a child's 17th
541 birthday. The court shall also issue an order, separate from the
542 order on judicial review, that the disability of nonage of the
543 child has been removed pursuant to ss. 743.044, 743.045, and
544 743.046, and for any of these disabilities that the court finds
545 is in the child's best interest to remove. The court s. 743.045
546 ~~and~~ shall continue to hold timely judicial review hearings. If
547 necessary, the court may review the status of the child more
548 frequently during the year before the child's 18th birthday. At
549 each review hearing held under this subsection, in addition to
550 any information or report provided to the court by the foster
551 parent, legal custodian, or guardian ad litem, the child shall

586-02451-14 20141668__

552 be given the opportunity to address the court with any
553 information relevant to the child's best interest, particularly
554 in relation to independent living transition services. The
555 department shall include in the social study report for judicial
556 review written verification that the child has:

557 1. A current Medicaid card and all necessary information
558 concerning the Medicaid program sufficient to prepare the child
559 to apply for coverage upon reaching the age of 18, if such
560 application is appropriate.

561 2. A certified copy of the child's birth certificate and,
562 if the child does not have a valid driver license, a Florida
563 identification card issued under s. 322.051.

564 3. A social security card and information relating to
565 social security insurance benefits if the child is eligible for
566 those benefits. If the child has received such benefits and they
567 are being held in trust for the child, a full accounting of
568 these funds must be provided and the child must be informed as
569 to how to access those funds.

570 4. All relevant information related to the Road-to-
571 Independence Program, including, but not limited to, eligibility
572 requirements, information on participation, and assistance in
573 gaining admission to the program. If the child is eligible for
574 the Road-to-Independence Program, he or she must be advised that
575 he or she may continue to reside with the licensed family home
576 or group care provider with whom the child was residing at the
577 time the child attained his or her 18th birthday, in another
578 licensed family home, or with a group care provider arranged by
579 the department.

580 5. An open bank account or the identification necessary to

586-02451-14 20141668__

581 open a bank account and to acquire essential banking and
582 budgeting skills.

583 6. Information on public assistance and how to apply for
584 public assistance.

585 7. A clear understanding of where he or she will be living
586 on his or her 18th birthday, how living expenses will be paid,
587 and the educational program or school in which he or she will be
588 enrolled.

589 8. Information related to the ability of the child to
590 remain in care until he or she reaches 21 years of age under s.
591 39.013.

592 9. A letter providing the dates that the child is under the
593 jurisdiction of the court.

594 10. A letter stating that the child is in compliance with
595 financial aid documentation requirements.

596 11. The child's educational records.

597 12. The child's entire health and mental health records.

598 13. The process for accessing his or her case file.

599 14. A statement encouraging the child to attend all
600 judicial review hearings occurring after the child's 17th
601 birthday.

602 Section 8. Subsection (2) of section 39.802, Florida
603 Statutes, is amended to read:

604 39.802 Petition for termination of parental rights; filing;
605 elements.—

606 (2) The form of the petition is governed by the Florida
607 Rules of Juvenile Procedure. The petition must be in writing and
608 signed by the petitioner under oath stating the petitioner's
609 good faith in ~~er, if the department is the petitioner, by an~~

586-02451-14 20141668__

610 ~~employee of the department, under oath stating the petitioner's~~
611 ~~good faith in~~ filing the petition.

612 Section 9. Subsection (1) and paragraph (c) of subsection
613 (3) of section 383.402, Florida Statutes, are amended to read:

614 383.402 Child abuse death review; State Child Abuse Death
615 Review Committee; local child abuse death review committees.—

616 (1) It is the intent of the Legislature to establish a
617 statewide multidisciplinary, multiagency child abuse death
618 assessment and prevention system that consists of state and
619 local review committees. The state and local review committees
620 shall review the facts and circumstances of all deaths of
621 children from birth through age 18 which occur in this state and
622 are reported to the child abuse hotline of the Department of
623 Children and Families as the result of verified child abuse or
624 neglect. The purpose of the review shall be to:

625 (a) Achieve a greater understanding of the causes and
626 contributing factors of deaths resulting from child abuse.

627 (b) Whenever possible, develop a communitywide approach to
628 address such cases and contributing factors.

629 (c) Identify any gaps, deficiencies, or problems in the
630 delivery of services to children and their families by public
631 and private agencies which may be related to deaths that are the
632 result of child abuse.

633 (d) Make and implement recommendations for changes in law,
634 rules, and policies, as well as develop practice standards that
635 support the safe and healthy development of children and reduce
636 preventable child abuse deaths.

637 (3) The State Child Abuse Death Review Committee shall:

638 (c) Prepare an annual statistical report on the incidence

586-02451-14 20141668__
 639 and causes of death resulting from reported child abuse in the
 640 state during the prior calendar year. The state committee shall
 641 submit a copy of the report by ~~October 1~~ ~~December 31~~ of each
 642 year to the Governor, the President of the Senate, and the
 643 Speaker of the House of Representatives. The report must include
 644 recommendations for state and local action, including specific
 645 policy, procedural, regulatory, or statutory changes, and any
 646 other recommended preventive action.

647 Section 10. The Division of Law Revision and Information is
 648 directed to create part V of chapter 409, Florida Statutes,
 649 consisting of ss. 409.986-409.998, Florida Statutes, to be
 650 titled "Community-Based Child Welfare."

651 Section 11. Section 409.986, Florida Statutes, is created
 652 to read:

653 409.986 Legislative findings, intent, and definitions.—

654 (1) LEGISLATIVE FINDINGS AND INTENT.—

655 (a) It is the intent of the Legislature that the Department
 656 of Children and Families provide child protection and child
 657 welfare services to children through contracting with community-
 658 based care lead agencies. It is further the Legislature's intent
 659 that communities and other stakeholders in the well-being of
 660 children participate in assuring safety, permanence, and well-
 661 being for all children in the state.

662 (b) The Legislature finds that, when private entities
 663 assume responsibility for the care of children in the child
 664 protection and child welfare system, adequate oversight of the
 665 programmatic, administrative, and fiscal operation of those
 666 entities is essential. The Legislature finds that, ultimately,
 667 the appropriate care of children is the responsibility of the

586-02451-14 20141668__
 668 state and outsourcing the provision of such care does not
 669 relieve the state of its responsibility to ensure that
 670 appropriate care is provided.

671 (2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the
 672 goal of the department to achieve the following outcomes in
 673 conjunction with the community-based care lead agency,
 674 community-based subcontractors, and the community-based care
 675 alliance:

676 (a) Children are first and foremost protected from abuse
 677 and neglect.

678 (b) Children are safely maintained in their homes if
 679 possible and appropriate.

680 (c) Services are provided to protect children and prevent
 681 removal from the home.

682 (d) Children have permanency and stability in their living
 683 arrangements.

684 (e) Family relationships and connections are preserved for
 685 children.

686 (f) Families have enhanced capacity to provide for their
 687 children's needs.

688 (g) Children receive appropriate services to meet their
 689 educational needs.

690 (h) Children receive adequate services to meet their
 691 physical and mental health needs.

692 (3) DEFINITIONS.—As used in this part, except as otherwise
 693 specifically provided, the term:

694 (a) "Child" or "children" means has the same meaning as the
 695 term "child" as defined in s. 39.01.

696 (b) "Dependent child" means a child who has been determined

586-02451-14 20141668__

697 by the court to be in need of care due to allegations of abuse,
698 neglect, or abandonment.

699 (c) "Care" means services of any kind which are designed to
700 facilitate a child remaining safely in his or her own home,
701 returning safely to his or her own home if he or she is removed,
702 or obtaining an alternative permanent home if he or she cannot
703 remain home or be returned home.

704 (d) "Community-based care alliance" or "alliance" means the
705 group of stakeholders, community leaders, client
706 representatives, and funders of human services established to
707 provide a focal point for community participation and governance
708 of community-based services.

709 (e) "Community-based care lead agency" or "lead agency"
710 means a single entity with which the department has a contract
711 for the provision of care for children in the child protection
712 and child welfare system in a community that is no smaller than
713 a county and no larger than two contiguous judicial circuits.
714 The secretary of the department may authorize more than one
715 eligible lead agency within a single county if doing so will
716 result in more effective delivery of services to children.

717 (f) "Related services" includes, but is not limited to,
718 family preservation, independent living, emergency shelter,
719 residential group care, foster care, therapeutic foster care,
720 intensive residential treatment, foster care supervision, case
721 management, postplacement supervision, permanent foster care,
722 and family reunification.

723 Section 12. Section 409.987, Florida Statutes, is created
724 to read:
725 409.987 Lead agency procurement.-

Page 25 of 73

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586-02451-14 20141668__

726 (1) Community-based care lead agencies shall be procured by
727 the department through a competitive process as required by
728 chapter 287.

729 (2) The department shall produce a schedule for the
730 procurement of community-based care lead agencies and provide
731 the schedule to the community-based care alliances established
732 pursuant to s. 409.998.

733 (3) Notwithstanding s. 287.057, the department shall use 5-
734 year contracts with lead agencies.

735 (4) In order to compete for a contract to serve as a lead
736 agency, an entity must:

737 (a) Be organized as a Florida corporation or a governmental
738 entity.

739 (b) Be governed by a board of directors. The membership of
740 the board of directors must be described in the bylaws or
741 articles of incorporation of each lead agency. At least 75
742 percent of the membership of the board of directors must be
743 composed of persons residing in this state. Of the state
744 residents, at least 51 percent must also reside within the
745 service area of the lead agency.

746 (c) Demonstrate financial responsibility through an
747 organized plan for regular fiscal audits and the posting of a
748 performance bond.

749 (5) The procurement of lead agencies must be done in
750 consultation with the local community-based care alliances.

751 Section 13. Section 409.988, Florida Statutes, is created
752 to read:

753 409.988 Lead agency duties; general provisions.-

754 (1) DUTIES.—A lead agency:

Page 26 of 73

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586-02451-14

20141668__

755 (a) Shall serve all children referred as a result of a
 756 report of abuse, neglect, or abandonment to the department's
 757 child abuse hotline regardless of the level of funding allocated
 758 to the lead agency by the state if all related funding is
 759 transferred.

760 (b) Shall provide accurate and timely information necessary
 761 for oversight by the department pursuant to the child welfare
 762 results-oriented accountability system required by s. 409.997.

763 (c) Shall follow the financial guidelines developed by the
 764 department and provide for a regular independent auditing of its
 765 financial activities. Such financial information shall be
 766 provided to the community-based care alliance established under
 767 s. 409.998.

768 (d) Shall prepare all judicial reviews, case plans, and
 769 other reports necessary for court hearings for dependent
 770 children, except those related to the investigation of a
 771 referral from the department's child abuse hotline, and shall
 772 provide testimony as required for dependency court proceedings.
 773 This duty does not include the preparation of legal pleadings or
 774 other legal documents, which remain the responsibility of the
 775 department.

776 (e) Shall ensure that all individuals providing care for
 777 dependent children receive appropriate training and meet the
 778 minimum employment standards established by the department.

779 (f) Shall maintain eligibility to receive all available
 780 federal child welfare funds.

781 (g) Shall maintain written agreements with Healthy Families
 782 Florida lead entities in its service area pursuant to s. 409.153
 783 to promote cooperative planning for the provision of prevention

586-02451-14

20141668__

784 and intervention services.

785 (h) Shall comply with federal and state statutory
 786 requirements and agency rules in the provision of contractual
 787 services.

788 (i) May subcontract for the provision of services required
 789 by the contract with the lead agency and the department;
 790 however, the subcontracts must specify how the provider will
 791 contribute to the lead agency meeting the performance standards
 792 established pursuant to the child welfare results-oriented
 793 accountability system required by s. 409.997.

794 (2) LICENSURE.—

795 (a) A lead agency must be licensed as a child-caring or
 796 child-placing agency by the department under this chapter.

797 (b) Each foster home, therapeutic foster home, emergency
 798 shelter, or other placement facility operated by the lead agency
 799 must be licensed by the department under chapter 402 or this
 800 chapter.

801 (c) Substitute care providers who are licensed under s.
 802 409.175 and who have contracted with a lead agency are also
 803 authorized to provide registered or licensed family day care
 804 under s. 402.313 if such care is consistent with federal law and
 805 if the home has met the requirements of s. 402.313.

806 (d) A foster home licensed under s. 409.175 may be dually
 807 licensed as a child care home under chapter 402 and may receive
 808 a foster care maintenance payment and, to the extent permitted
 809 under federal law, school readiness funding for the same child.

810 (e) In order to eliminate or reduce the number of duplicate
 811 inspections by various program offices, the department shall
 812 coordinate inspections required for licensure of agencies under

586-02451-14 20141668__

813 this subsection.

814 (f) The department may adopt rules to administer this
815 subsection.

816 (3) SERVICES.—A lead agency must serve dependent children
817 through services that are supported by research or are best
818 child welfare practices. The agency may also provide innovative
819 services such as family-centered, cognitive-behavioral
820 interventions designed to mitigate out-of-home placements.

821 (4) LEAD AGENCY ACTING AS GUARDIAN.—

822 (a) If a lead agency or other provider has accepted case
823 management responsibilities for a child who is sheltered or
824 found to be dependent and who is assigned to the care of the
825 lead agency or other provider, the agency or provider may act as
826 the child's guardian for the purpose of registering the child in
827 school if a parent or guardian of the child is unavailable and
828 his or her whereabouts cannot reasonably be ascertained.

829 (b) The lead agency or other provider may also seek
830 emergency medical attention for the child, but only if a parent
831 or guardian of the child is unavailable, the parent's
832 whereabouts cannot reasonably be ascertained, and a court order
833 for such emergency medical services cannot be obtained because
834 of the severity of the emergency or because it is after normal
835 working hours.

836 (c) A lead agency or other provider may not consent to
837 sterilization, abortion, or termination of life support.

838 (d) If a child's parents' rights have been terminated, the
839 lead agency shall act as guardian of the child in all
840 circumstances.

841 Section 14. Section 409.990, Florida Statutes, is created

586-02451-14 20141668__

842 to read:

843 409.990 Funding for lead agencies.—A contract established
844 between the department and a lead agency must be funded by a
845 grant of general revenue, other applicable state funds, or
846 applicable federal funding sources.

847 (1) The method of payment for a fixed-price contract with a
848 lead agency must provide for a 2-month advance payment at the
849 beginning of each fiscal year and equal monthly payments
850 thereafter.

851 (2) Notwithstanding s. 215.425, all documented federal
852 funds earned for the current fiscal year by the department and
853 lead agencies which exceed the amount appropriated by the
854 Legislature shall be distributed to all entities that
855 contributed to the excess earnings based on a schedule and
856 methodology developed by the department and approved by the
857 Executive Office of the Governor.

858 (a) Distribution shall be pro rata based on total earnings
859 and shall be made only to those entities that contributed to
860 excess earnings.

861 (b) Excess earnings of lead agencies shall be used only in
862 the service district in which they were earned.

863 (c) Additional state funds appropriated by the Legislature
864 for lead agencies or made available pursuant to the budgetary
865 amendment process described in s. 216.177 shall be transferred
866 to the lead agencies.

867 (d) The department shall amend a lead agency's contract to
868 permit expenditure of the funds.

869 (3) Notwithstanding other provisions in this section, the
870 amount of the annual contract for a lead agency may be increased

586-02451-14 20141668__

871 by excess federal funds earned in accordance with s.
872 216.181(11).

873 (4) Each contract with a lead agency shall provide for the
874 payment by the department to the lead agency of a reasonable
875 administrative cost in addition to funding for the provision of
876 services.

877 (5) A lead agency may carry forward documented unexpended
878 state funds from one fiscal year to the next; however, the
879 cumulative amount carried forward may not exceed 8 percent of
880 the total contract. Any unexpended state funds in excess of that
881 percentage must be returned to the department.

882 (a) The funds carried forward may not be used in any way
883 that would create increased recurring future obligations, and
884 such funds may not be used for any type of program or service
885 that is not currently authorized by the existing contract with
886 the department.

887 (b) Expenditures of funds carried forward must be
888 separately reported to the department.

889 (c) Any unexpended funds that remain at the end of the
890 contract period shall be returned to the department.

891 (d) Funds carried forward may be retained through any
892 contract renewals and any new procurements as long as the same
893 lead agency is retained by the department.

894 (6) It is the intent of the Legislature to improve services
895 and local participation in community-based care initiatives by
896 fostering community support and providing enhanced prevention
897 and in-home services, thereby reducing the risk otherwise faced
898 by lead agencies. There is established a community partnership
899 matching grant program to be operated by the department for the

586-02451-14 20141668__

900 purpose of encouraging local participation in community-based
901 care for child welfare. A community-based care alliance direct-
902 support organization, a children's services council, or another
903 local entity that makes a financial commitment to a community-
904 based care lead agency may be eligible for a matching grant. The
905 total amount of the local contribution may be matched on a one-
906 to-one basis up to a maximum annual amount of \$500,000 per lead
907 agency. Awarded matching grant funds may be used for any
908 prevention or in-home services that can be reasonably expected
909 to reduce the number of children entering the child welfare
910 system. Funding available for the matching grant program is
911 subject to legislative appropriation of nonrecurring funds
912 provided for this purpose.

913 (7) (a) The department, in consultation with the Florida
914 Coalition for Children, Inc., shall develop and implement a
915 community-based care risk pool initiative to mitigate the
916 financial risk to eligible lead agencies. This initiative must
917 include:

918 1. A risk pool application and protocol developed by the
919 department which outline submission criteria, including, but not
920 limited to, financial and program management, descriptive data
921 requirements, and timeframes for submission of applications.
922 Requests for funding from risk pool applicants shall be based on
923 relevant and verifiable service trends and changes that have
924 occurred during the current fiscal year. The application shall
925 confirm that expenditure of approved risk pool funds by the lead
926 agency shall be completed within the current fiscal year.

927 2. A risk pool peer review committee, appointed by the
928 secretary and consisting of department staff and representatives

586-02451-14 20141668__

929 from at least three nonapplicant lead agencies, which reviews
 930 and assesses all risk pool applications. Upon completion of each
 931 application review, the peer review committee shall report its
 932 findings and recommendations to the secretary providing, at a
 933 minimum, the following information:

934 a. Justification for the specific funding amount required
 935 by the risk pool applicant based on current year service trend
 936 data, including validation that the applicant's financial need
 937 was caused by circumstances beyond the control of the lead
 938 agency management;

939 b. Verification that the proposed use of risk pool funds
 940 meets at least one of the criteria in paragraph (c); and

941 c. Evidence of technical assistance provided in an effort
 942 to avoid the need to access the risk pool and recommendations
 943 for technical assistance to the lead agency to ensure that risk
 944 pool funds are expended effectively and that the agency's need
 945 for future risk pool funding is diminished.

946 (b) Upon approval by the secretary of a risk pool
 947 application, the department may request funds from the risk pool
 948 in accordance with s. 216.181(6) (a).

949 (c) The purposes for which the community-based care risk
 950 pool shall be used include:

951 1. Significant changes in the number or composition of
 952 clients eligible to receive services.

953 2. Significant changes in the services that are eligible
 954 for reimbursement.

955 3. Continuity of care in the event of failure,
 956 discontinuance of service, or financial misconduct by a lead
 957 agency.

586-02451-14 20141668__

958 4. Significant changes in the mix of available funds.
 959 (d) The department may also request in its annual
 960 legislative budget request, and the Governor may recommend, that
 961 the funding necessary to carry out paragraph (c) be appropriated
 962 to the department. In addition, the department may request the
 963 allocation of funds from the community-based care risk pool in
 964 accordance with s. 216.181(6) (a). Funds from the pool may be
 965 used to match available federal dollars.

966 1. Such funds shall constitute partial security for
 967 contract performance by lead agencies and shall be used to
 968 offset the need for a performance bond.

969 2. The department may separately require a bond to mitigate
 970 the financial consequences of potential acts of malfeasance or
 971 misfeasance or criminal violations by the provider.

972 Section 15. Section 409.16713, Florida Statutes, is
 973 transferred, renumbered as section 409.991, Florida Statutes,
 974 and paragraph (a) of subsection (1) of that section is amended,
 975 to read:

976 409.991 ~~409.16713~~ Allocation of funds for community-based
 977 care lead agencies.—

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

979 (a) "Core services funding" means all funds allocated to
 980 community-based care lead agencies operating under contract with
 981 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the
 982 following exceptions:

983 1. Funds appropriated for independent living;
 984 2. Funds appropriated for maintenance adoption subsidies;
 985 3. Funds allocated by the department for protective
 986 investigations training;

586-02451-14 20141668__

987 4. Nonrecurring funds;
 988 5. Designated mental health wrap-around services funds; and
 989 6. Funds for special projects for a designated community-
 990 based care lead agency.

991 Section 16. Section 409.992, Florida Statutes, is created
 992 to read:

993 409.992 Lead agency expenditures.—
 994 (1) The procurement of commodities or contractual services
 995 by lead agencies shall be governed by the financial guidelines
 996 developed by the department which comply with applicable state
 997 and federal law and follow good business practices. Pursuant to
 998 s. 11.45, the Auditor General may provide technical advice in
 999 the development of the financial guidelines.

1000 (2) Notwithstanding any other provision of law, a
 1001 community-based care lead agency may make expenditures for staff
 1002 cellular telephone allowances, contracts requiring deferred
 1003 payments and maintenance agreements, security deposits for
 1004 office leases, related agency professional membership dues other
 1005 than personal professional membership dues, promotional
 1006 materials, and grant writing services. Expenditures for food and
 1007 refreshments, other than those provided to clients in the care
 1008 of the agency or to foster parents, adoptive parents, and
 1009 caseworkers during training sessions, are not allowable.

1010 (3) A lead community-based care agency and its
 1011 subcontractors are exempt from state travel policies as provided
 1012 in s. 112.061(3)(a) for their travel expenses incurred in order
 1013 to comply with the requirements of this section.

1014 Section 17. Section 409.993, Florida Statutes, is created
 1015 to read:

586-02451-14 20141668__

1016 409.993 Lead agencies and subcontractor liability.—
 1017 (1) FINDINGS.—
 1018 (a) The Legislature finds that the state has traditionally
 1019 provided foster care services to children who have been the
 1020 responsibility of the state. As such, foster children have not
 1021 had the right to recover for injuries beyond the limitations
 1022 specified in s. 768.28. The Legislature has determined that
 1023 foster care and related services need to be outsourced pursuant
 1024 to this section and that the provision of such services is of
 1025 paramount importance to the state. The purpose for such
 1026 outsourcing is to increase the level of safety, security, and
 1027 stability of children who are or become the responsibility of
 1028 the state. One of the components necessary to secure a safe and
 1029 stable environment for such children is that private providers
 1030 maintain liability insurance. As such, insurance needs to be
 1031 available and remain available to nongovernmental foster care
 1032 and related services providers without the resources of such
 1033 providers being significantly reduced by the cost of maintaining
 1034 such insurance.

1035 (b) The Legislature further finds that, by requiring the
 1036 following minimum levels of insurance, children in outsourced
 1037 foster care and related services will gain increased protection
 1038 and rights of recovery in the event of injury as provided for in
 1039 s. 768.28.

1040 (2) LEAD AGENCY LIABILITY.—
 1041 (a) Other than an entity to which s. 768.28 applies, an
 1042 eligible community-based care lead agency, or its employees or
 1043 officers, except as otherwise provided in paragraph (b), must,
 1044 as a part of its contract, obtain a minimum of \$1 million per

586-02451-14 20141668__

1045 claim/\$3 million per incident in general liability insurance
 1046 coverage. The eligible community-based care lead agency must
 1047 also require that staff who transport client children and
 1048 families in their personal automobiles in order to carry out
 1049 their job responsibilities obtain minimum bodily injury
 1050 liability insurance in the amount of \$100,000 per claim,
 1051 \$300,000 per incident, on their personal automobiles. In lieu of
 1052 personal motor vehicle insurance, the lead agency's casualty,
 1053 liability, or motor vehicle insurance carrier may provide
 1054 nonowned automobile liability coverage. Such insurance provides
 1055 liability insurance for automobiles that the provider uses in
 1056 connection with the agency's business but does not own, lease,
 1057 rent, or borrow. Such coverage includes automobiles owned by the
 1058 employees of the lead agency or a member of the employee's
 1059 household but only while the automobiles are used in connection
 1060 with the agency's business. The nonowned automobile coverage for
 1061 the lead agency applies as excess coverage over any other
 1062 collectible insurance. The personal automobile policy for the
 1063 employee of the lead agency must be primary insurance, and the
 1064 nonowned automobile coverage of the agency acts as excess
 1065 insurance to the primary insurance. The lead agency shall
 1066 provide a minimum limit of \$1 million in nonowned automobile
 1067 coverage. In a tort action brought against such an eligible
 1068 community-based care lead agency or employee, net economic
 1069 damages shall be limited to \$1 million per liability claim and
 1070 \$100,000 per automobile claim, including, but not limited to,
 1071 past and future medical expenses, wage loss, and loss of earning
 1072 capacity, offset by any collateral source payment paid or
 1073 payable. In any tort action brought against such an eligible

586-02451-14 20141668__

1074 community-based care lead agency, noneconomic damages shall be
 1075 limited to \$200,000 per claim. A claims bill may be brought on
 1076 behalf of a claimant pursuant to s. 768.28 for any amount
 1077 exceeding the limits specified in this paragraph. Any offset of
 1078 collateral source payments made as of the date of the settlement
 1079 or judgment shall be in accordance with s. 768.76. The
 1080 community-based care lead agency is not liable in tort for the
 1081 acts or omissions of its subcontractors or the officers, agents,
 1082 or employees of its subcontractors.

(b) The liability of an eligible community-based care lead
 1083 agency described in this section shall be exclusive and in place
 1084 of all other liability of such lead agency. The same immunities
 1085 from liability enjoyed by such lead agencies shall extend as
 1086 well to each employee of the lead agency when such employee is
 1087 acting in furtherance of the agency's business, including the
 1088 transportation of clients served, as described in this
 1089 subsection, in privately owned vehicles. Such immunities are not
 1090 applicable to a lead agency or an employee who acts in a
 1091 culpably negligent manner or with willful and wanton disregard
 1092 or unprovoked physical aggression if such acts result in injury
 1093 or death or such acts proximately cause such injury or death.
 1094 Such immunities are not applicable to employees of the same lead
 1095 agency when each is operating in the furtherance of the agency's
 1096 business, but they are assigned primarily to unrelated work
 1097 within private or public employment. The same immunity
 1098 provisions enjoyed by a lead agency also apply to any sole
 1099 proprietor, partner, corporate officer or director, supervisor,
 1100 or other person who in the course and scope of his or her duties
 1101 acts in a managerial or policymaking capacity and the conduct
 1102

586-02451-14 20141668__

1103 that caused the alleged injury arose within the course and scope
 1104 of those managerial or policymaking duties. As used in this
 1105 subsection and subsection (3), the term "culpable negligence"
 1106 means reckless indifference or grossly careless disregard of
 1107 human life.

1108 (3) SUBCONTRACTOR LIABILITY.-

1109 (a) A subcontractor of an eligible community-based care
 1110 lead agency which is a direct provider of foster care and
 1111 related services to children and families, and its employees or
 1112 officers, except as otherwise provided in paragraph (b), must,
 1113 as a part of its contract, obtain a minimum of \$1 million per
 1114 claim/\$3 million per incident in general liability insurance
 1115 coverage. The subcontractor of an eligible community-based care
 1116 lead agency must also require that staff who transport client
 1117 children and families in their personal automobiles in order to
 1118 carry out their job responsibilities obtain minimum bodily
 1119 injury liability insurance in the amount of \$100,000 per claim,
 1120 \$300,000 per incident, on their personal automobiles. In lieu of
 1121 personal motor vehicle insurance, the subcontractor's casualty,
 1122 liability, or motor vehicle insurance carrier may provide
 1123 nonowned automobile liability coverage. Such insurance provides
 1124 liability insurance for automobiles that the subcontractor uses
 1125 in connection with the subcontractor's business but does not
 1126 own, lease, rent, or borrow. Such coverage includes automobiles
 1127 owned by the employees of the subcontractor or a member of the
 1128 employee's household but only while the automobiles are used in
 1129 connection with the subcontractor's business. The nonowned
 1130 automobile coverage for the subcontractor applies as excess
 1131 coverage over any other collectible insurance. The personal

586-02451-14 20141668__

1132 automobile policy for the employee of the subcontractor shall be
 1133 primary insurance, and the nonowned automobile coverage of the
 1134 subcontractor acts as excess insurance to the primary insurance.
 1135 The subcontractor shall provide a minimum limit of \$1 million in
 1136 nonowned automobile coverage. In a tort action brought against
 1137 such subcontractor or employee, net economic damages shall be
 1138 limited to \$1 million per liability claim and \$100,000 per
 1139 automobile claim, including, but not limited to, past and future
 1140 medical expenses, wage loss, and loss of earning capacity,
 1141 offset by any collateral source payment paid or payable. In a
 1142 tort action brought against such subcontractor, noneconomic
 1143 damages shall be limited to \$200,000 per claim. A claims bill
 1144 may be brought on behalf of a claimant pursuant to s. 768.28 for
 1145 any amount exceeding the limits specified in this paragraph. Any
 1146 offset of collateral source payments made as of the date of the
 1147 settlement or judgment shall be in accordance with s. 768.76.

1148 (b) The liability of a subcontractor of an eligible
 1149 community-based care lead agency that is a direct provider of
 1150 foster care and related services as described in this section
 1151 shall be exclusive and in place of all other liability of such
 1152 lead agency. The same immunities from liability enjoyed by such
 1153 subcontractor provider shall extend as well to each employee of
 1154 the subcontractor when such employee is acting in furtherance of
 1155 the subcontractor's business, including the transportation of
 1156 clients served, as described in this subsection, in privately
 1157 owned vehicles. Such immunities are not applicable to a
 1158 subcontractor or an employee who acts in a culpably negligent
 1159 manner or with willful and wanton disregard or unprovoked
 1160 physical aggression when such acts result in injury or death or

586-02451-14 20141668__

1161 such acts proximately cause such injury or death. Such
 1162 immunities are not applicable to employees of the same
 1163 subcontractor when each is operating in the furtherance of the
 1164 subcontractor's business, but they are assigned primarily to
 1165 unrelated works within private or public employment. The same
 1166 immunity provisions enjoyed by a subcontractor also apply to any
 1167 sole proprietor, partner, corporate officer or director,
 1168 supervisor, or other person who in the course and scope of his
 1169 or her duties acts in a managerial or policymaking capacity and
 1170 the conduct that caused the alleged injury arose within the
 1171 course and scope of those managerial or policymaking duties.

1172 (4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of
 1173 the increasing costs of goods and services each year and
 1174 recognizes that fixing a set amount of compensation has the
 1175 effect of a reduction in compensation each year. Accordingly,
 1176 the conditional limitations on damages in this section shall be
 1177 increased at the rate of 5 percent each year, prorated from July
 1178 1, 2014, to the date at which damages subject to such
 1179 limitations are awarded by final judgment or settlement.

1180 Section 18. Section 409.1675, Florida Statutes, is
 1181 transferred and renumbered as section 409.994, Florida Statutes,
 1182 and amended to read:

1183 409.994 409.1675 Lead Community-based care lead agencies
 1184 providers; receivership.—

1185 (1) The Department of Children and Families Family Services
 1186 may petition a court of competent jurisdiction for the
 1187 appointment of a receiver for a ~~lead~~ community-based care lead
 1188 agency provider established pursuant to s. 409.987 if s-
 1189 409.1671 when any of the following conditions exist:

Page 41 of 73

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586-02451-14 20141668__

1190 (a) The lead agency ~~community-based provider~~ is operating
 1191 without a license as a child-placing agency.

1192 (b) The lead agency ~~community-based provider~~ has given less
 1193 than 120 days' notice of its intent to cease operations, and
 1194 arrangements have not been made for another lead agency
 1195 ~~community-based provider~~ or for the department to continue the
 1196 uninterrupted provision of services.

1197 (c) The department determines that conditions exist in the
 1198 lead agency ~~community-based provider~~ which present an imminent
 1199 danger to the health, safety, or welfare of the dependent
 1200 children under that agency's ~~provider's~~ care or supervision.
 1201 Whenever possible, the department shall make a reasonable effort
 1202 to facilitate the continued operation of the program.

1203 (d) The lead agency ~~community-based provider~~ cannot meet
 1204 its current financial obligations to its employees, contractors,
 1205 or foster parents. Issuance of bad checks or the existence of
 1206 delinquent obligations for payment of salaries, utilities, or
 1207 invoices for essential services or commodities shall constitute
 1208 prima facie evidence that the lead agency ~~community-based~~
 1209 ~~provider~~ lacks the financial ability to meet its financial
 1210 obligations.

1211 (2) (a) The petition for receivership shall take precedence
 1212 over other court business unless the court determines that some
 1213 other pending proceeding, having statutory precedence, has
 1214 priority.

1215 (b) A hearing shall be conducted within 5 days after the
 1216 filing of the petition, at which time interested parties shall
 1217 have the opportunity to present evidence as to whether a
 1218 receiver should be appointed. The department shall give

Page 42 of 73

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586-02451-14 20141668__

1219 reasonable notice of the hearing on the petition to the lead
 1220 ~~agency community-based provider~~.

1221 (c) The court shall grant the petition upon finding that
 1222 one or more of the conditions in subsection (1) exists and the
 1223 continued existence of the condition or conditions jeopardizes
 1224 the health, safety, or welfare of dependent children. A receiver
 1225 may be appointed ex parte when the court determines that one or
 1226 more of the conditions in subsection (1) exists. After such
 1227 finding, the court may appoint any person, including an employee
 1228 of the department who is qualified by education, training, or
 1229 experience to carry out the duties of the receiver pursuant to
 1230 this section, except that the court ~~may shall~~ not appoint any
 1231 member of the governing board or any officer of the lead agency
 1232 ~~community-based provider~~. The receiver may be selected from a
 1233 list of persons qualified to act as receivers which is developed
 1234 by the department and presented to the court with each petition
 1235 of receivership.

1236 (d) A receiver may be appointed for up to 90 days, and the
 1237 department may petition the court for additional 30-day
 1238 extensions. Sixty days after appointment of a receiver and every
 1239 30 days thereafter until the receivership is terminated, the
 1240 department shall submit to the court an assessment of the lead
 1241 ~~agency's community-based provider's~~ ability to ensure the
 1242 health, safety, and welfare of the dependent children under its
 1243 supervision.

1244 (3) The receiver shall take such steps as are reasonably
 1245 necessary to ensure the continued health, safety, and welfare of
 1246 the dependent children under the supervision of the lead agency
 1247 ~~community-based provider~~ and shall exercise those powers and

586-02451-14 20141668__

1248 perform those duties set out by the court, including, but not
 1249 limited to:

1250 (a) Taking such action as is reasonably necessary to
 1251 protect or conserve the assets or property of the lead agency
 1252 ~~community based provider~~. The receiver may use the assets and
 1253 property and any proceeds from any transfer thereof only in the
 1254 performance of the powers and duties provided set forth in this
 1255 section and by order of the court.

1256 (b) Using the assets of the lead agency community-based
 1257 ~~provider~~ in the provision of care and services to dependent
 1258 children.

1259 (c) Entering into contracts and hiring agents and employees
 1260 to carry out the powers and duties of the receiver under this
 1261 section.

1262 (d) Having full power to direct, manage, hire, and
 1263 discharge employees of the lead agency community-based provider.
 1264 The receiver shall hire and pay new employees at the rate of
 1265 compensation, including benefits, approved by the court.

1266 (e) Honoring all leases, mortgages, and contractual
 1267 obligations of the lead agency community-based provider, but
 1268 only to the extent of payments that become due during the period
 1269 of the receivership.

1270 (4) (a) The receiver shall deposit funds received in a
 1271 separate account and shall use this account for all
 1272 disbursements.

1273 (b) A payment to the receiver of any sum owing to the lead
 1274 agency community-based provider shall discharge any obligation
 1275 to the provider to the extent of the payment.

1276 (5) A receiver may petition the court for temporary relief

586-02451-14 20141668__

1277 from obligations entered into by the lead agency community-based
 1278 ~~provider~~ if the rent, price, or rate of interest required to be
 1279 paid under the agreement was substantially in excess of a
 1280 reasonable rent, price, or rate of interest at the time the
 1281 contract was entered into, or if any material provision of the
 1282 agreement was unreasonable when compared to contracts negotiated
 1283 under similar conditions. Any relief in this form provided by
 1284 the court shall be limited to the life of the receivership,
 1285 unless otherwise determined by the court.

1286 (6) The court shall set the compensation of the receiver,
 1287 which shall be considered a necessary expense of a receivership
 1288 and may grant to the receiver such other authority necessary to
 1289 ensure the health, safety, and welfare of the children served.

1290 (7) A receiver may be held liable in a personal capacity
 1291 only for the receiver's own gross negligence, intentional acts,
 1292 or breaches of fiduciary duty. This section may ~~shall~~ not be
 1293 interpreted to be a waiver of sovereign immunity should the
 1294 department be appointed receiver.

1295 (8) If the receiver is not the department, the court may
 1296 require a receiver to post a bond to ensure the faithful
 1297 performance of these duties.

1298 (9) The court may terminate a receivership when:

1299 (a) The court determines that the receivership is no longer
 1300 necessary because the conditions that gave rise to the
 1301 receivership no longer exist; or

1302 (b) The department has entered into a contract with a new
 1303 lead agency community-based provider pursuant to s. 409.987 ~~s.~~
 1304 ~~409.1671~~, and that contractor is ready and able to assume the
 1305 duties of the previous lead agency provider.

586-02451-14 20141668__

1306 (10) Within 30 days after the termination, unless this time
 1307 period is extended by the court, the receiver shall give the
 1308 court a complete accounting of all property of which the
 1309 receiver has taken possession, of all funds collected and
 1310 disbursed, and of the expenses of the receivership.

1311 (11) ~~Nothing in~~ This section does not ~~shall be construed to~~
 1312 relieve any employee of the lead agency community-based provider
 1313 placed in receivership of any civil or criminal liability
 1314 incurred, or any duty imposed by law, by reason of acts or
 1315 omissions of the employee before ~~prior to~~ the appointment of a
 1316 receiver, and ~~nor shall anything contained in this section~~ does
 1317 not be construed to suspend during the receivership any
 1318 obligation of the employee for payment of taxes or other
 1319 operating or maintenance expenses of the lead agency community-
 1320 based provider or for the payment of mortgages or liens. The
 1321 lead agency community-based provider shall retain the right to
 1322 sell or mortgage any facility under receivership, subject to the
 1323 prior approval of the court that ordered the receivership.

1324 Section 19. Section 409.996, Florida Statutes, is created
 1325 to read:

1326 409.996 Duties of the Department of Children and Families.-
 1327 The department shall contract for the delivery, administration,
 1328 or management of care for children in the child protection and
 1329 child welfare system. In doing so, the department retains
 1330 responsibility for the quality of contracted services and
 1331 programs and shall ensure that services are delivered in
 1332 accordance with applicable federal and state statutes and
 1333 regulations.

1334 (1) The department shall enter into contracts with lead

586-02451-14 20141668__

1335 agencies to perform the duties of a lead agency pursuant to s.
 1336 409.988. At a minimum, the contracts must:

1337 (a) Provide for the services needed to accomplish the
 1338 duties established in s. 409.988 and provide information to the
 1339 department which is necessary to meet the requirements for a
 1340 quality assurance program pursuant to subsection (18) and the
 1341 child welfare results-oriented accountability system pursuant to
 1342 s. 409.997.

1343 (b) Provide for graduated penalties for failure to comply
 1344 with contract terms. Such penalties may include financial
 1345 penalties, enhanced monitoring and reporting, corrective action
 1346 plans, and early termination of contracts or other appropriate
 1347 action to ensure contract compliance.

1348 (c) Ensure that the lead agency shall furnish current and
 1349 accurate information on its activities in all cases in client
 1350 case records in the state's statewide automated child welfare
 1351 information system.

1352 (d) Specify the procedures to be used by the parties to
 1353 resolve differences in interpreting the contract or to resolve
 1354 disputes as to the adequacy of the parties' compliance with
 1355 their respective obligations under the contract.

1356 (2) The department must adopt written policies and
 1357 procedures for monitoring the contract for delivery of services
 1358 by lead agencies. These policies and procedures must, at a
 1359 minimum, address the evaluation of fiscal accountability and
 1360 program operations, including provider achievement of
 1361 performance standards, provider monitoring of subcontractors,
 1362 and timely follow up of corrective actions for significant
 1363 monitoring findings related to providers and subcontractors.

Page 47 of 73

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586-02451-14 20141668__

1364 These policies and procedures must also include provisions for
 1365 reducing the duplication of the department's program monitoring
 1366 activities both internally and with other agencies, to the
 1367 extent possible. The department's written procedures must ensure
 1368 that the written findings, conclusions, and recommendations from
 1369 monitoring the contract for services of lead agencies are
 1370 communicated to the director of the provider agency and the
 1371 community-based care alliance as expeditiously as possible.

1372 (3) The department shall receive federal and state funds as
 1373 appropriated for the operation of the child welfare system and
 1374 shall transmit these funds to the lead agencies as agreed. The
 1375 department retains responsibility for the appropriate spending
 1376 of these funds. The department shall monitor lead agencies to
 1377 assess compliance with the financial guidelines established
 1378 pursuant to s. 409.992 and other applicable state and federal
 1379 laws.

1380 (4) The department shall provide technical assistance and
 1381 consultation to lead agencies in the provision of care to
 1382 children in the child protection and child welfare system.

1383 (5) The department retains the responsibility for the
 1384 review, approval or denial, and issuances of all foster home
 1385 licenses.

1386 (6) The department shall process all applications submitted
 1387 by lead agencies for the Interstate Compact for Placement of
 1388 Children and the Interstate Compact for Adoption and Medical
 1389 Assistance.

1390 (7) The department shall assist lead agencies with access
 1391 to and coordination with other service programs within the
 1392 department.

Page 48 of 73

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586-02451-14 20141668__

1393 (8) The department shall determine Medicaid eligibility for
 1394 all referred children and will coordinate services with the
 1395 Agency for Health Care Administration.

1396 (9) The department shall develop, in cooperation with the
 1397 lead agencies, a standardized competency-based curriculum for
 1398 certification training and for administering the certification
 1399 testing program for child protection staff.

1400 (10) The department shall maintain the statewide adoptions
 1401 website and provide information and training to the lead
 1402 agencies relating to the website.

1403 (11) The department shall provide training and assistance
 1404 to lead agencies regarding the responsibility of lead agencies
 1405 relating to children receiving supplemental security income,
 1406 social security, railroad retirement, or veterans' benefits.

1407 (12) With the assistance of a lead agency, the department
 1408 shall develop and implement statewide and local interagency
 1409 agreements needed to coordinate services for children and
 1410 parents involved in the child welfare system who are also
 1411 involved with the Agency for Persons with Disabilities, the
 1412 Department of Juvenile Justice, the Department of Education, the
 1413 Department of Health, and other governmental organizations that
 1414 share responsibilities for children or parents in the child
 1415 welfare system.

1416 (13) With the assistance of a lead agency, the department
 1417 shall develop and implement a working agreement between the lead
 1418 agency and the substance abuse and mental health managing entity
 1419 to integrate services and supports for children and parents
 1420 serviced in the child welfare system.

1421 (14) The department shall work with the Agency for Health

586-02451-14 20141668__

1422 Care Administration to provide each child the services of the
 1423 Medicaid early and periodic screening, diagnosis, and treatment
 1424 entitlement including 72-hour screening, periodic child health
 1425 checkups, and prescribed followup for ordered services,
 1426 including medical, dental, and vision care.

1427 (15) The department shall assist lead agencies in
 1428 developing an array of services in compliance with the Title IV-
 1429 E Waiver and shall monitor the provision of those services.

1430 (16) The department shall provide a mechanism to allow lead
 1431 agencies to request a waiver of department policies and
 1432 procedures that create inefficiencies or inhibit the performance
 1433 of the lead agency duties.

1434 (17) The department shall directly or through contract
 1435 provide attorneys to prepare and present cases in dependency
 1436 court and shall ensure that the court is provided with adequate
 1437 information for informed decisionmaking in dependency cases,
 1438 including a fact sheet for each case which lists the names and
 1439 contact information for any child protective investigator, child
 1440 protective investigation supervisor, case manager, case manager
 1441 supervisor, and the regional department official responsible for
 1442 the lead agency contract. For the Sixth Judicial Circuit, the
 1443 department shall contract with the state attorney for the
 1444 provision of these services.

1445 (18) The department, in consultation with lead agencies,
 1446 shall establish a quality assurance program for contracted
 1447 services to dependent children. The quality assurance program
 1448 shall be based on standards established by federal and state law
 1449 and national accrediting organizations.

1450 (a) The department must evaluate each lead agency under

586-02451-14 20141668__

1451 contract at least annually. These evaluations shall cover the
 1452 programmatic, operational, and fiscal operations of the lead
 1453 agency and be consistent with the child welfare results-oriented
 1454 accountability system pursuant to s. 409.997. The department
 1455 must consult with the chief judge on the performance of the lead
 1456 agency.

1457 (b) The department shall, to the extent possible, use
 1458 independent financial audits provided by the lead agency to
 1459 eliminate or reduce the ongoing contract and administrative
 1460 reviews conducted by the department. If the department
 1461 determines that such independent financial audits are
 1462 inadequate, other audits, as necessary, may be conducted by the
 1463 department. This paragraph does not abrogate the requirements of
 1464 s. 215.97.

1465 (c) The department may suggest additional items to be
 1466 included in such independent financial audits to meet the
 1467 department's needs.

1468 (d) The department may outsource programmatic,
 1469 administrative, or fiscal monitoring oversight of lead agencies.

1470 (e) A lead agency must assure that all subcontractors are
 1471 subject to the same quality assurance activities as the lead
 1472 agency.

1473 Section 20. Section 409.997, Florida Statutes, is created
 1474 to read:

1475 409.997 Child welfare results-oriented accountability
 1476 system.—

1477 (1) The department and its contract providers, including
 1478 lead agencies, community-based care providers, and other
 1479 community partners participating in the state's child protection

586-02451-14 20141668__

1480 and child welfare system, share the responsibility for achieving
 1481 the outcome goals specified in s. 409.986(2).

1482 (2) In order to assess the achievement of the goals
 1483 specified in s. 409.986(2), the department shall maintain a
 1484 comprehensive, results-oriented accountability system that
 1485 monitors the use of resources, the quality and amount of
 1486 services provided, and the child and family outcomes through
 1487 data analysis, research review, evaluation, and quality
 1488 improvement. In maintaining the accountability system, the
 1489 department shall:

1490 (a) Identify valid and reliable outcome measures for each
 1491 of the goals specified in this subsection. The outcome data set
 1492 must consist of a limited number of understandable measures
 1493 using available data to quantify outcomes as children move
 1494 through the system of care. Such measures may aggregate multiple
 1495 variables that affect the overall achievement of the outcome
 1496 goal. Valid and reliable measures must be based on adequate
 1497 sample sizes, be gathered over suitable time periods, reflect
 1498 authentic rather than spurious results, and may not be
 1499 susceptible to manipulation.

1500 (b) Implement a monitoring system to track the identified
 1501 outcome measures on a statewide, regional, and provider-specific
 1502 basis. The monitoring system must identify trends and chart
 1503 progress toward achievement of the goals specified in this
 1504 section. The requirements of the monitoring system may be
 1505 incorporated into the quality assurance system required under s.
 1506 409.996(18).

1507 (c) Develop and maintain an analytical system that builds
 1508 on the outcomes monitoring system to assess the statistical

586-02451-14 20141668__

1509 validity of observed associations between child welfare
 1510 interventions and the measured outcomes. The analysis must use
 1511 quantitative methods to adjust for variations in demographic or
 1512 other conditions. The analysis must include longitudinal studies
 1513 to evaluate longer term outcomes such as continued safety,
 1514 family permanence, and transition to self-sufficiency. The
 1515 analysis may also include qualitative research methods to
 1516 provide insight into statistical patterns.

1517 (d) Develop and maintain a program of research review to
 1518 identify interventions that are supported by evidence as
 1519 causally linked to improved outcomes.

1520 (e) Support an ongoing process of evaluation to determine
 1521 the efficacy and effectiveness of various interventions.
 1522 Efficacy evaluation is intended to determine the validity of a
 1523 causal relationship between an intervention and an outcome.
 1524 Effectiveness evaluation is intended to determine the extent to
 1525 which the results can be generalized.

1526 (f) Develop and maintain an inclusive, interactive, and
 1527 evidence-supported program of quality improvement which promotes
 1528 individual skill building as well as organizational learning.

1529 (g) Develop and implement a method for making the results
 1530 of the accountability system transparent for all parties
 1531 involved in the child welfare system as well as policymakers and
 1532 the public. The presentation shall provide a comprehensible,
 1533 visual report card for the state and each community-based care
 1534 region, indicating the current status relative to each goal and
 1535 trends in that status over time.

1536 (3) The department shall establish a technical advisory
 1537 panel consisting of representatives from the Florida Institute

586-02451-14 20141668__

1538 for Child Welfare established pursuant to s. 1004.615, lead
 1539 agencies, community-based care providers, other contract
 1540 providers, community-based care alliances, and family
 1541 representatives. The President of the Senate and the Speaker of
 1542 the House of Representatives shall each appoint a member to
 1543 serve as a legislative liaison to the panel. The technical
 1544 advisory panel shall advise the department on meeting the
 1545 requirements of this section.

1546 (4) The accountability system may not rank or compare
 1547 performance among community-based care regions unless adequate
 1548 and specific adjustments are adopted which account for the
 1549 diversity in regions' demographics, resources, and other
 1550 relevant characteristics.

1551 (5) The results of the accountability system must provide
 1552 the basis for performance incentives if funds for such payments
 1553 are made available through the General Appropriations Act.

1554 (6) At least quarterly, the department shall make the
 1555 results of the accountability system available to the public
 1556 through publication on its website. The website must allow for
 1557 custom searches of the performance data.

1558 (7) The department shall report by October 1 of each year
 1559 the statewide and individual community-based care lead agency
 1560 results for child protection and child welfare systems. The
 1561 department shall use the accountability system and consult with
 1562 the community-based care alliance and the chief judge or judges
 1563 in the community-based care service area to prepare the report
 1564 to the Governor, the President of the Senate, and the Speaker of
 1565 the House of Representatives.

1566 Section 21. Section 409.998, Florida Statutes, is created

586-02451-14 20141668__

1567 to read:

1568 409.998 Community-based care alliances.-

1569 (1) The department shall, in consultation with local
 1570 communities, establish at least one alliance in each community-
 1571 based care service area to provide a focal point for community
 1572 participation and governance of child protection and child
 1573 welfare services. The alliance shall be administratively housed
 1574 within the department.

1575 (2) The primary duty of the alliance is to provide
 1576 independent, community-focused oversight of child welfare
 1577 services and the local system of community-based care. To
 1578 perform this duty, the community alliance shall, with the
 1579 assistance of the department, perform the following activities:

1580 (a) Conduct a needs assessment and establishment of
 1581 community priorities for child protection and child welfare
 1582 services.

1583 (b) Advise the department on the programmatic or financial
 1584 performance of the lead agency.

1585 (c) Recommend a competitive procurement for the lead agency
 1586 if programmatic or financial performance is poor.

1587 (d) Recommend a contract extension for the lead agency if
 1588 programmatic or financial performance is superior.

1589 (e) Make recommendations on the development of the
 1590 procurement document. The alliance may suggest specific
 1591 requirements relating to local needs and services.

1592 (f) Make recommendations to the department on selection of
 1593 a community-based care lead agency.

1594 (g) Review the programmatic and financial performance of a
 1595 lead agency at least quarterly.

586-02451-14 20141668__

1596 (h) In partnership with the Florida Institute for Child
 1597 Welfare established under s. 1004.615, develop recommendations
 1598 to the department and the community-based care lead agency to
 1599 improve child protection and child welfare policies and
 1600 practices.

1601 (i) Promote greater community involvement in community-
 1602 based care through participation in community-based care lead
 1603 agency services and activities, solicitation of local financial
 1604 and in-kind resources, recruitment and retention of community
 1605 volunteers, and public awareness efforts.

1606 (3) The membership of the alliance shall be composed of the
 1607 following:

1608 (a) A representative from county government chosen by
 1609 mutual agreement by the county boards of commission in the
 1610 service area.

1611 (b) A representative from the school district chosen by
 1612 mutual agreement by the county school boards in the service
 1613 area.

1614 (c) A representative from the county sheriff's office
 1615 chosen by mutual agreement by the county sheriffs in the service
 1616 area.

1617 (d) A representative from the circuit court chosen by the
 1618 chief judge of the judicial circuit.

1619 (e) An advocate for persons receiving child protection and
 1620 child welfare services chosen by the secretary.

1621 (f) One member appointed by the President of the Senate.

1622 (g) One member appointed by the Speaker of the House of
 1623 Representatives.

1624 (h) Three other members chosen by the secretary of the

586-02451-14 20141668__

1625 department based on their expertise in child protection and
 1626 child welfare.

1627 (4) A member of the alliance may not receive payment for
 1628 contractual services from the department or a community-based
 1629 care lead agency.

1630 (5) A member of the alliance shall serve without
 1631 compensation but is entitled to receive reimbursement for per
 1632 diem and travel expenses as provided in s. 112.061. Payment may
 1633 also be authorized for preapproved child care expenses or lost
 1634 wages for members who are consumers of the department's services
 1635 and for preapproved child care expenses for other members who
 1636 demonstrate hardship.

1637 (6) A member of the alliance is subject to part III of
 1638 chapter 112, the Code of Ethics for Public Officers and
 1639 Employees.

1640 (7) Actions taken by an alliance must be consistent with
 1641 department, state, and federal laws, rules, and regulations.

1642 (8) A member of the alliance shall annually submit a
 1643 disclosure statement of services interests to the department's
 1644 inspector general. A member who has an interest in a matter
 1645 under consideration by the alliance must abstain from voting on
 1646 that matter.

1647 (9) (a) Authority to create a direct-support organization.-
 1648 The alliance is authorized to create a direct-support
 1649 organization.

1650 1. The direct-support organization must be a Florida
 1651 corporation, not for profit, incorporated under the provisions
 1652 of chapter 617. The direct-support organization shall be exempt
 1653 from paying fees under s. 617.0122.

586-02451-14 20141668__

1654 2. The direct-support organization shall be organized and
 1655 operated to conduct programs and activities; raise funds;
 1656 request and receive grants, gifts, and bequests of moneys;
 1657 acquire, receive, hold, invest, and administer, in its own name,
 1658 securities, funds, objects of value, or other property, real or
 1659 personal; and make expenditures to or for the direct or indirect
 1660 benefit of the lead agency.

1661 3. If the Secretary of Children and Families determines
 1662 that the direct-support organization is operating in a manner
 1663 that is inconsistent with the goals and purposes of community-
 1664 based care or not acting in the best interest of the community,
 1665 the secretary may terminate the contract and thereafter the
 1666 organization may not use the name of the community-based care
 1667 alliance.

1668 (b) Contract.-The direct-support organization shall operate
 1669 under a written contract with the department. The written
 1670 contract must, at a minimum, provide for:

1671 1. Approval of the articles of incorporation and bylaws of
 1672 the direct-support organization by the secretary.

1673 2. Submission of an annual budget for the approval by the
 1674 secretary or his or her designee.

1675 3. The reversion without penalty to the department of all
 1676 moneys and property held in trust by the direct-support
 1677 organization for the community-based care alliance if the
 1678 direct-support organization ceases to exist or if the contract
 1679 is terminated.

1680 4. The fiscal year of the direct-support organization,
 1681 which must begin July 1 of each year and end June 30 of the
 1682 following year.

586-02451-14 20141668__

1683 5. The disclosure of material provisions of the contract
 1684 and the distinction between the community-based care alliance
 1685 and the direct-support organization to donors of gifts,
 1686 contributions, or bequests, as well as on all promotional and
 1687 fundraising publications.

1688 (c) Board of directors.—The secretary or his or her
 1689 designee shall appoint a board of directors for the direct-
 1690 support organization. The secretary or his or her designee may
 1691 designate members of the alliance or employees of the department
 1692 and the lead agency to serve on the board of directors. Members
 1693 of the board shall serve at the pleasure of the secretary or his
 1694 or her designee.

1695 (d) Use of property and services.—The secretary or his or
 1696 her designee may:

1697 1. Authorize the use of facilities and property other than
 1698 moneys that are owned by the state to be used by the direct-
 1699 support organization.

1700 2. Authorize the use of personal services provided by
 1701 employees of the department. For the purposes of this section,
 1702 the term “personal services” includes full-time personnel and
 1703 part-time personnel as well as payroll processing.

1704 3. Prescribe the conditions by which the direct-support
 1705 organization may use property, facilities, or personal services
 1706 of the office.

1707 4. Not authorize the use of property, facilities, or
 1708 personal services of the direct-support organization if the
 1709 organization does not provide equal employment opportunities to
 1710 all persons, regardless of race, color, religion, sex, age, or
 1711 national origin.

586-02451-14 20141668__

1712 (e) Moneys.—Moneys of the direct-support organization may
 1713 be held in a separate depository account in the name of the
 1714 direct-support organization and subject to the provisions of the
 1715 contract with the department.

1716 (f) Annual audit.—The direct-support organization shall
 1717 provide for an annual financial audit in accordance with s.
 1718 215.981.

1719 (g) Limits on the direct-support organization.—The direct-
 1720 support organization may not exercise any power under s.
 1721 617.0302(12) or (16). A state employee may not receive
 1722 compensation from the direct-support organization for service on
 1723 the board of directors or for services rendered to the direct-
 1724 support organization.

1725 (h) Repeal.—The authority to create a direct-support
 1726 organization expires October 1, 2019, unless saved from repeal
 1727 by reenactment by the Legislature.

1728 (10) All alliance meetings are open to the public pursuant
 1729 to s. 286.011 and the public records provision of s. 119.07(1).

1730 Section 22. Subsection (4) of section 20.19, Florida
 1731 Statutes, is repealed.

1732 Section 23. Sections 409.1671, 409.16715, and 409.16745,
 1733 Florida Statutes, are repealed.

1734 Section 24. Paragraph (g) of subsection (1) of section
 1735 39.201, Florida Statutes, is amended to read:

1736 39.201 Mandatory reports of child abuse, abandonment, or
 1737 neglect; mandatory reports of death; central abuse hotline.—

1738 (1)

1739 (g) Nothing in this chapter or in the contracting with
 1740 community-based care providers for foster care and related

586-02451-14 20141668__

1741 services as specified in s. 409.987 ~~s. 409.1671~~ shall be
 1742 construed to remove or reduce the duty and responsibility of any
 1743 person, including any employee of the community-based care
 1744 provider, to report a suspected or actual case of child abuse,
 1745 abandonment, or neglect or the sexual abuse of a child to the
 1746 department's central abuse hotline.

1747 Section 25. Subsections (1), (3), and (5) of section
 1748 409.1676, Florida Statutes, are amended to read:

1749 409.1676 Comprehensive residential group care services to
 1750 children who have extraordinary needs.—

1751 (1) It is the intent of the Legislature to provide
 1752 comprehensive residential group care services, including
 1753 residential care, case management, and other services, to
 1754 children in the child protection system who have extraordinary
 1755 needs. These services are to be provided in a residential group
 1756 care setting by a not-for-profit corporation or a local
 1757 government entity under a contract with the Department of
 1758 Children and Families ~~Family Services~~ or by a lead agency as
 1759 described in s. 409.986 ~~s. 409.1671~~. These contracts should be
 1760 designed to provide an identified number of children with access
 1761 to a full array of services for a fixed price. Further, it is
 1762 the intent of the Legislature that the Department of Children
 1763 and Families ~~Family Services~~ and the Department of Juvenile
 1764 Justice establish an interagency agreement by December 1, 2002,
 1765 which describes respective agency responsibilities for referral,
 1766 placement, service provision, and service coordination for
 1767 dependent and delinquent youth who are referred to these
 1768 residential group care facilities. The agreement must require
 1769 interagency collaboration in the development of terms,

Page 61 of 73

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586-02451-14 20141668__

1770 conditions, and performance outcomes for residential group care
 1771 contracts serving the youth referred who have been adjudicated
 1772 both dependent and delinquent.

1773 (3) The department, in accordance with a specific
 1774 appropriation for this program, shall contract with a not-for-
 1775 profit corporation, a local government entity, or the lead
 1776 agency that has been established in accordance with s. 409.987
 1777 ~~s. 409.1671~~ for the performance of residential group care
 1778 services described in this section. A lead agency that is
 1779 currently providing residential care may provide this service
 1780 directly with the approval of the local community alliance. The
 1781 department or a lead agency may contract for more than one site
 1782 in a county if that is determined to be the most effective way
 1783 to achieve the goals set forth in this section.

1784 (5) The department may transfer all casework
 1785 responsibilities for children served under this program to the
 1786 entity that provides this service, including case management and
 1787 development and implementation of a case plan in accordance with
 1788 current standards for child protection services. When the
 1789 department establishes this program in a community that has a
 1790 lead agency as described in s. 409.986 ~~s. 409.1671~~, the casework
 1791 responsibilities must be transferred to the lead agency.

1792 Section 26. Subsection (2) of section 409.1677, Florida
 1793 Statutes, is amended to read:

1794 409.1677 Model comprehensive residential services
 1795 programs.—

1796 (2) The department shall establish a model comprehensive
 1797 residential services program in Manatee and Miami-Dade Counties
 1798 through a contract with the designated lead agency established

Page 62 of 73

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586-02451-14

20141668__

1799 in accordance with s. 409.987 ~~s. 409.1671~~ or with a private
 1800 entity capable of providing residential group care and home-
 1801 based care and experienced in the delivery of a range of
 1802 services to foster children, if no lead agency exists. These
 1803 model programs are to serve that portion of eligible children
 1804 within each county which is specified in the contract, based on
 1805 funds appropriated, to include a full array of services for a
 1806 fixed price. The private entity or lead agency is responsible
 1807 for all programmatic functions necessary to carry out the intent
 1808 of this section.

1809 Section 27. Subsection (24) of section 409.906, Florida
 1810 Statutes, is amended to read:

1811 409.906 Optional Medicaid services.—Subject to specific
 1812 appropriations, the agency may make payments for services which
 1813 are optional to the state under Title XIX of the Social Security
 1814 Act and are furnished by Medicaid providers to recipients who
 1815 are determined to be eligible on the dates on which the services
 1816 were provided. Any optional service that is provided shall be
 1817 provided only when medically necessary and in accordance with
 1818 state and federal law. Optional services rendered by providers
 1819 in mobile units to Medicaid recipients may be restricted or
 1820 prohibited by the agency. Nothing in this section shall be
 1821 construed to prevent or limit the agency from adjusting fees,
 1822 reimbursement rates, lengths of stay, number of visits, or
 1823 number of services, or making any other adjustments necessary to
 1824 comply with the availability of moneys and any limitations or
 1825 directions provided for in the General Appropriations Act or
 1826 chapter 216. If necessary to safeguard the state's systems of
 1827 providing services to elderly and disabled persons and subject

Page 63 of 73

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586-02451-14

20141668__

1828 to the notice and review provisions of s. 216.177, the Governor
 1829 may direct the Agency for Health Care Administration to amend
 1830 the Medicaid state plan to delete the optional Medicaid service
 1831 known as "Intermediate Care Facilities for the Developmentally
 1832 Disabled." Optional services may include:

1833 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for
 1834 Health Care Administration, in consultation with the Department
 1835 of Children and Families ~~Family Services~~, may establish a
 1836 targeted case-management project in those counties identified by
 1837 the Department of Children and Families ~~Family Services~~ and for
 1838 all counties with a community-based child welfare project, as
 1839 authorized under s. 409.987 ~~s. 409.1671~~, which have been
 1840 specifically approved by the department. The covered group of
 1841 individuals who are eligible to receive targeted case management
 1842 include children who are eligible for Medicaid; who are between
 1843 the ages of birth through 21; and who are under protective
 1844 supervision or postplacement supervision, under foster-care
 1845 supervision, or in shelter care or foster care. The number of
 1846 individuals who are eligible to receive targeted case management
 1847 is limited to the number for whom the Department of Children and
 1848 Families ~~Family Services~~ has matching funds to cover the costs.
 1849 The general revenue funds required to match the funds for
 1850 services provided by the community-based child welfare projects
 1851 are limited to funds available for services described under s.
 1852 409.990 ~~s. 409.1671~~. The Department of Children and Families
 1853 ~~Family Services~~ may transfer the general revenue matching funds
 1854 as billed by the Agency for Health Care Administration.

1855 Section 28. Paragraph (b) of subsection (4) of section
 1856 409.912, Florida Statutes, is amended to read:

Page 64 of 73

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586-02451-14

20141668__

1857 409.912 Cost-effective purchasing of health care.—The
 1858 agency shall purchase goods and services for Medicaid recipients
 1859 in the most cost-effective manner consistent with the delivery
 1860 of quality medical care. To ensure that medical services are
 1861 effectively utilized, the agency may, in any case, require a
 1862 confirmation or second physician's opinion of the correct
 1863 diagnosis for purposes of authorizing future services under the
 1864 Medicaid program. This section does not restrict access to
 1865 emergency services or poststabilization care services as defined
 1866 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 1867 shall be rendered in a manner approved by the agency. The agency
 1868 shall maximize the use of prepaid per capita and prepaid
 1869 aggregate fixed-sum basis services when appropriate and other
 1870 alternative service delivery and reimbursement methodologies,
 1871 including competitive bidding pursuant to s. 287.057, designed
 1872 to facilitate the cost-effective purchase of a case-managed
 1873 continuum of care. The agency shall also require providers to
 1874 minimize the exposure of recipients to the need for acute
 1875 inpatient, custodial, and other institutional care and the
 1876 inappropriate or unnecessary use of high-cost services. The
 1877 agency shall contract with a vendor to monitor and evaluate the
 1878 clinical practice patterns of providers in order to identify
 1879 trends that are outside the normal practice patterns of a
 1880 provider's professional peers or the national guidelines of a
 1881 provider's professional association. The vendor must be able to
 1882 provide information and counseling to a provider whose practice
 1883 patterns are outside the norms, in consultation with the agency,
 1884 to improve patient care and reduce inappropriate utilization.
 1885 The agency may mandate prior authorization, drug therapy

Page 65 of 73

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586-02451-14

20141668__

1886 management, or disease management participation for certain
 1887 populations of Medicaid beneficiaries, certain drug classes, or
 1888 particular drugs to prevent fraud, abuse, overuse, and possible
 1889 dangerous drug interactions. The Pharmaceutical and Therapeutics
 1890 Committee shall make recommendations to the agency on drugs for
 1891 which prior authorization is required. The agency shall inform
 1892 the Pharmaceutical and Therapeutics Committee of its decisions
 1893 regarding drugs subject to prior authorization. The agency is
 1894 authorized to limit the entities it contracts with or enrolls as
 1895 Medicaid providers by developing a provider network through
 1896 provider credentialing. The agency may competitively bid single-
 1897 source-provider contracts if procurement of goods or services
 1898 results in demonstrated cost savings to the state without
 1899 limiting access to care. The agency may limit its network based
 1900 on the assessment of beneficiary access to care, provider
 1901 availability, provider quality standards, time and distance
 1902 standards for access to care, the cultural competence of the
 1903 provider network, demographic characteristics of Medicaid
 1904 beneficiaries, practice and provider-to-beneficiary standards,
 1905 appointment wait times, beneficiary use of services, provider
 1906 turnover, provider profiling, provider licensure history,
 1907 previous program integrity investigations and findings, peer
 1908 review, provider Medicaid policy and billing compliance records,
 1909 clinical and medical record audits, and other factors. Providers
 1910 are not entitled to enrollment in the Medicaid provider network.
 1911 The agency shall determine instances in which allowing Medicaid
 1912 beneficiaries to purchase durable medical equipment and other
 1913 goods is less expensive to the Medicaid program than long-term
 1914 rental of the equipment or goods. The agency may establish rules

Page 66 of 73

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586-02451-14 20141668__

1915 to facilitate purchases in lieu of long-term rentals in order to
 1916 protect against fraud and abuse in the Medicaid program as
 1917 defined in s. 409.913. The agency may seek federal waivers
 1918 necessary to administer these policies.

1919 (4) The agency may contract with:

1920 (b) An entity that is providing comprehensive behavioral
 1921 health care services to certain Medicaid recipients through a
 1922 capitated, prepaid arrangement pursuant to the federal waiver
 1923 provided for by s. 409.905(5). Such entity must be licensed
 1924 under chapter 624, chapter 636, or chapter 641, or authorized
 1925 under paragraph (c) or paragraph (d), and must possess the
 1926 clinical systems and operational competence to manage risk and
 1927 provide comprehensive behavioral health care to Medicaid
 1928 recipients. As used in this paragraph, the term "comprehensive
 1929 behavioral health care services" means covered mental health and
 1930 substance abuse treatment services that are available to
 1931 Medicaid recipients. The secretary of the Department of Children
 1932 and Families ~~Family Services~~ shall approve provisions of
 1933 procurements related to children in the department's care or
 1934 custody before enrolling such children in a prepaid behavioral
 1935 health plan. Any contract awarded under this paragraph must be
 1936 competitively procured. In developing the behavioral health care
 1937 prepaid plan procurement document, the agency shall ensure that
 1938 the procurement document requires the contractor to develop and
 1939 implement a plan to ensure compliance with s. 394.4574 related
 1940 to services provided to residents of licensed assisted living
 1941 facilities that hold a limited mental health license. Except as
 1942 provided in subparagraph 5., and except in counties where the
 1943 Medicaid managed care pilot program is authorized pursuant to s.

586-02451-14 20141668__

1944 409.91211, the agency shall seek federal approval to contract
 1945 with a single entity meeting these requirements to provide
 1946 comprehensive behavioral health care services to all Medicaid
 1947 recipients not enrolled in a Medicaid managed care plan
 1948 authorized under s. 409.91211, a provider service network
 1949 authorized under paragraph (d), or a Medicaid health maintenance
 1950 organization in an AHCA area. In an AHCA area where the Medicaid
 1951 managed care pilot program is authorized pursuant to s.
 1952 409.91211 in one or more counties, the agency may procure a
 1953 contract with a single entity to serve the remaining counties as
 1954 an AHCA area or the remaining counties may be included with an
 1955 adjacent AHCA area and are subject to this paragraph. Each
 1956 entity must offer a sufficient choice of providers in its
 1957 network to ensure recipient access to care and the opportunity
 1958 to select a provider with whom they are satisfied. The network
 1959 shall include all public mental health hospitals. To ensure
 1960 unimpaired access to behavioral health care services by Medicaid
 1961 recipients, all contracts issued pursuant to this paragraph must
 1962 require 80 percent of the capitation paid to the managed care
 1963 plan, including health maintenance organizations and capitated
 1964 provider service networks, to be expended for the provision of
 1965 behavioral health care services. If the managed care plan
 1966 expends less than 80 percent of the capitation paid for the
 1967 provision of behavioral health care services, the difference
 1968 shall be returned to the agency. The agency shall provide the
 1969 plan with a certification letter indicating the amount of
 1970 capitation paid during each calendar year for behavioral health
 1971 care services pursuant to this section. The agency may reimburse
 1972 for substance abuse treatment services on a fee-for-service

586-02451-14 20141668__

1973 basis until the agency finds that adequate funds are available
 1974 for capitated, prepaid arrangements.

1975 1. The agency shall modify the contracts with the entities
 1976 providing comprehensive inpatient and outpatient mental health
 1977 care services to Medicaid recipients in Hillsborough, Highlands,
 1978 Hardee, Manatee, and Polk Counties, to include substance abuse
 1979 treatment services.

1980 2. Except as provided in subparagraph 5., the agency and
 1981 the Department of Children and Families ~~Family Services~~ shall
 1982 contract with managed care entities in each AHCA area except
 1983 area 6 or arrange to provide comprehensive inpatient and
 1984 outpatient mental health and substance abuse services through
 1985 capitated prepaid arrangements to all Medicaid recipients who
 1986 are eligible to participate in such plans under federal law and
 1987 regulation. In AHCA areas where eligible individuals number less
 1988 than 150,000, the agency shall contract with a single managed
 1989 care plan to provide comprehensive behavioral health services to
 1990 all recipients who are not enrolled in a Medicaid health
 1991 maintenance organization, a provider service network authorized
 1992 under paragraph (d), or a Medicaid capitated managed care plan
 1993 authorized under s. 409.91211. The agency may contract with more
 1994 than one comprehensive behavioral health provider to provide
 1995 care to recipients who are not enrolled in a Medicaid capitated
 1996 managed care plan authorized under s. 409.91211, a provider
 1997 service network authorized under paragraph (d), or a Medicaid
 1998 health maintenance organization in AHCA areas where the eligible
 1999 population exceeds 150,000. In an AHCA area where the Medicaid
 2000 managed care pilot program is authorized pursuant to s.
 2001 409.91211 in one or more counties, the agency may procure a

586-02451-14 20141668__

2002 contract with a single entity to serve the remaining counties as
 2003 an AHCA area or the remaining counties may be included with an
 2004 adjacent AHCA area and shall be subject to this paragraph.
 2005 Contracts for comprehensive behavioral health providers awarded
 2006 pursuant to this section shall be competitively procured. Both
 2007 for-profit and not-for-profit corporations are eligible to
 2008 compete. Managed care plans contracting with the agency under
 2009 subsection (3) or paragraph (d) shall provide and receive
 2010 payment for the same comprehensive behavioral health benefits as
 2011 provided in AHCA rules, including handbooks incorporated by
 2012 reference. In AHCA area 11, the agency shall contract with at
 2013 least two comprehensive behavioral health care providers to
 2014 provide behavioral health care to recipients in that area who
 2015 are enrolled in, or assigned to, the MediPass program. One of
 2016 the behavioral health care contracts must be with the existing
 2017 provider service network pilot project, as described in
 2018 paragraph (d), for the purpose of demonstrating the cost-
 2019 effectiveness of the provision of quality mental health services
 2020 through a public hospital-operated managed care model. Payment
 2021 shall be at an agreed-upon capitated rate to ensure cost
 2022 savings. Of the recipients in area 11 who are assigned to
 2023 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those
 2024 MediPass-enrolled recipients shall be assigned to the existing
 2025 provider service network in area 11 for their behavioral care.

2026 3. Children residing in a statewide inpatient psychiatric
 2027 program, or in a Department of Juvenile Justice or a Department
 2028 of Children and Families ~~Family Services~~ residential program
 2029 approved as a Medicaid behavioral health overlay services
 2030 provider may not be included in a behavioral health care prepaid

586-02451-14 20141668__

2031 health plan or any other Medicaid managed care plan pursuant to
 2032 this paragraph.

2033 4. Traditional community mental health providers under
 2034 contract with the Department of Children and Families ~~Family~~
 2035 ~~Services~~ pursuant to part IV of chapter 394, child welfare
 2036 providers under contract with the Department of Children and
 2037 Families ~~Family Services~~ in areas 1 and 6, and inpatient mental
 2038 health providers licensed pursuant to chapter 395 must be
 2039 offered an opportunity to accept or decline a contract to
 2040 participate in any provider network for prepaid behavioral
 2041 health services.

2042 5. All Medicaid-eligible children, except children in area
 2043 1 and children in Highlands County, Hardee County, Polk County,
 2044 or Manatee County of area 6, which that are open for child
 2045 welfare services in the statewide automated child welfare
 2046 information system, shall receive their behavioral health care
 2047 services through a specialty prepaid plan operated by community-
 2048 based lead agencies through a single agency or formal agreements
 2049 among several agencies. The agency shall work with the specialty
 2050 plan to develop clinically effective, evidence-based
 2051 alternatives as a downward substitution for the statewide
 2052 inpatient psychiatric program and similar residential care and
 2053 institutional services. The specialty prepaid plan must result
 2054 in savings to the state comparable to savings achieved in other
 2055 Medicaid managed care and prepaid programs. Such plan must
 2056 provide mechanisms to maximize state and local revenues. The
 2057 specialty prepaid plan shall be developed by the agency and the
 2058 Department of Children and Families ~~Family Services~~. The agency
 2059 may seek federal waivers to implement this initiative. Medicaid-

586-02451-14 20141668__

2060 eligible children whose cases are open for child welfare
 2061 services in the statewide automated child welfare information
 2062 system and who reside in AHCA area 10 shall be enrolled in a
 2063 capitated provider service network or other capitated managed
 2064 care plan, which, in coordination with available community-based
 2065 care providers specified in s. 409.987 ~~s. 409.1671~~, shall
 2066 provide sufficient medical, developmental, and behavioral health
 2067 services to meet the needs of these children.

2068

2069 Effective July 1, 2012, in order to ensure continuity of care,
 2070 the agency is authorized to extend or modify current contracts
 2071 based on current service areas or on a regional basis, as
 2072 determined appropriate by the agency, with comprehensive
 2073 behavioral health care providers as described in this paragraph
 2074 during the period prior to its expiration. This paragraph
 2075 expires October 1, 2014.

2076 Section 29. Paragraph (dd) of subsection (3) of section
 2077 409.91211, Florida Statutes, is amended to read:
 2078 409.91211 Medicaid managed care pilot program.—
 2079 (3) The agency shall have the following powers, duties, and
 2080 responsibilities with respect to the pilot program:
 2081 (dd) To implement service delivery mechanisms within a
 2082 specialty plan in area 10 to provide behavioral health care
 2083 services to Medicaid-eligible children whose cases are open for
 2084 child welfare services in the HomeSafeNet system. These services
 2085 must be coordinated with community-based care providers as
 2086 specified in s. 409.986 ~~s. 409.1671~~, where available, and be
 2087 sufficient to meet the developmental, behavioral, and emotional
 2088 needs of these children. Children in area 10 who have an open

586-02451-14

20141668__

2089 case in the HomeSafeNet system shall be enrolled into the
2090 specialty plan. These service delivery mechanisms must be
2091 implemented no later than July 1, 2011, in AHCA area 10 in order
2092 for the children in AHCA area 10 to remain exempt from the
2093 statewide plan under s. 409.912(4)(b)5. An administrative fee
2094 may be paid to the specialty plan for the coordination of
2095 services based on the receipt of the state share of that fee
2096 being provided through intergovernmental transfers.

2097 Section 30. Paragraph (d) of subsection (1) of section
2098 420.628, Florida Statutes, is amended to read:

2099 420.628 Affordable housing for children and young adults
2100 leaving foster care; legislative findings and intent.—

2101 (1)

2102 (d) The Legislature intends that the Florida Housing
2103 Finance Corporation, agencies within the State Housing
2104 Initiative Partnership Program, local housing finance agencies,
2105 public housing authorities, and their agents, and other
2106 providers of affordable housing coordinate with the Department
2107 of Children and Families ~~Family Services~~, their agents, and
2108 community-based care providers who provide services under s.
2109 409.986 ~~s. 409.1671~~ to develop and implement strategies and
2110 procedures designed to make affordable housing available
2111 whenever and wherever possible to young adults who leave the
2112 child welfare system.

2113 Section 31. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: March 14, 2014

I respectfully request that **Senate Bill #1668**, relating to Child Welfare, be placed on the:

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

A handwritten signature in black ink, reading "Nancy Detert".

Senator Nancy C. Detert
Florida Senate, District 28

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 1670

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

SUBJECT: Medically Complex Children

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Sanford</u>	<u>Hendon</u>		CF SPB 7076 as introduced
1.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Pre-meeting
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1670 amends statutes relating to the care of medically complex children and their continued placement in their homes with appropriate services. The bill defines “medical neglect” and describes the requirements for the investigation of medical neglect. It requires Child Protection Teams involved in cases alleging abuse, neglect, or abandonment of a medically complex child to consult with a physician with experience in treating that child’s condition.

The bill requires the Department of Children and Families (DCF) to work with the Department of Health and the Agency for Health Care Administration to provide care for medically complex children. It allows placement of such children in medical foster homes and requires placement to be made in the least restrictive, most nurturing environment. The bill clarifies statutes that require services to be offered in the child’s home or in the home of relatives if such care can meet the needs of the child.

The bill clarifies the definition of the term “provider service network” and the conditions for a provider service network’s procurement and contracting in the Medicaid program.

The bill requires Medicaid managed care plans to provide defined information to the DCF on children who are under DCF care and who are enrolled in Medicaid managed care.

The bill has no fiscal impact.

II. Present Situation:

Care of Medically Complex Children

Current law requires that children in this state be provided with the following:

- Protections from abuse, abandonment, neglect, and exploitation;

- A permanent and stable home;
- A safe and nurturing environment, which will preserve a sense of personal dignity and integrity;
- Adequate nutrition, shelter, and clothing;
- Effective treatment to address physical, social, and emotional needs, regardless of geographical location;
- Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities;
- Access to preventive services; and
- An independent, trained advocate, when intervention is necessary, and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.¹

Special provisions for medically complex children are not currently provided in statute.

Section 39.01(43), F.S., provides a definition of “necessary medical treatment” as care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child’s condition or to alleviate immediate pain of a child. Additionally, s. 39.01(44), F.S., sets out the circumstances for neglect of a child. The statute specifically provides that certain circumstances may not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered and rejected by a parent. Also, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or specific religious organization who does not provide specific medical treatment for a child, may not, for that reason alone, be considered a negligent parent or legal guardian. However, ch. 39, F.S., does not include a definition of “medical neglect” or special provisions related to the investigation of allegations of abuse, neglect, or abandonment when children with serious medical conditions are the reported victims.

Suspected child abuse, neglect, or abandonment may be reported to the Department of Children and Families (DCF) child abuse hotline regarding children with significant medical issues, as with any other children. Child Protection Teams, operated by the Department of Health (DOH), provide medical expertise to the DCF if there are medical issues associated with child abuse or neglect. However, current statute does not require the teams to coordinate their findings with physicians who have special knowledge of the medical condition of the child who is alleged to be the victim of abuse or neglect. Without the information possessed by those familiar with a particular disease or disability processes, parents can be found to be neglectful or abusive even when observed problems are related to insufficient services or a natural change in medical conditions.

In order to maintain these children in a safe environment that is the least restrictive, families with children who have medical issues need access to various medical and social services. These services are sometimes most readily available to the child in placements outside of the home. It is the current policy of the state, supported by federal and state law, that the parent or legal guardian decides what is best for the child. The state respects the parent or legal guardian’s

¹ See s. 39.001, F.S.

decision made in consultation with medical professionals. Many children with complex medical needs live safely in their homes with supportive services through the Florida Medicaid program.

Florida Medicaid has a comprehensive medical service package to accommodate families that choose to care for their medically complex child at home. Medical services are made available in the home, including private duty nursing, personal care assistance, home health aide services, and occupational, physical, and speech therapy when medically necessary, in unlimited amounts or durations for children in the Medicaid program.

The DCF requires foster care caseworkers to obtain high-level approval before placing any dependent child in a nursing home. Foster children already placed in nursing homes are reviewed monthly by the AHCA in an effort to return the children to their birth parents or place them in foster homes run by parents with specialized medical training.

The state is currently a party to a lawsuit related to the placement of medically complex children in settings such as nursing homes. The U.S. Department of Justice joined the lawsuit that alleges that the state violated the Americans with Disabilities Act (ADA).² The AHCA has worked with the families of over 200 children in nursing homes under the Medicaid program to ensure they are aware of in-home health services and have been offered those services. In addition, the DCF and the Agency for Persons with Disabilities (APD) have worked with the families of medically complex children served by APD to ensure the least restrictive placement.

Statewide Medicaid Managed Care

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized by two federal Medicaid waivers, is designed for the Agency for Health Care Administration (AHCA) to issue invitations to negotiate³ and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and is scheduled to complete its statewide roll-out in March 2014.⁴ The MMA component is scheduled to begin enrolling Medicaid recipients in May 2014 and finish its roll-out in August 2014.⁵

² *A.R. et al. v. Dudek et al, United States V. Florida*, Consolidated Case No. 0:12-cv-60460-RSR, U.S. District Court for the Southern District of Florida.

³ An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012(17), F.S.

⁴ *See* < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#LTCMC >, last visited March 20, 2014.

⁵ *See* < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#MMA >, last visited March 20, 2014.

Provider Service Networks in SMMC

Types of managed care plans that are eligible for SMMC include health insurers, exclusive provider organizations, health maintenance organizations, provider service networks (PSNs), and federally-authorized accountable care organizations, among other entities.⁶

A PSN is defined as a type of managed care plan of which a controlling interest is owned by a health care provider, or group of affiliated providers, or a public agency or entity that delivers health services. For the purpose of this definition, “health care provider” includes Florida-licensed health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.⁷

The AHCA is required to procure a specified number of managed care plans per region or a number of plans that range between a minimum and maximum specified for each region. At least two plans per region must be procured, and at least one plan per region must be a PSN, if a PSN submits a responsive bid during the procurement. If no PSN submits a responsive bid for a region, the AHCA is required to procure no more than one less than the maximum number of plans for that region during the initial procurement and, within 12 months after the initial invitation to negotiate, attempt once again to procure a PSN for that region.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 39.001, F.S., to underscore the responsibility of the Department of Children and Families (DCF) to maximize contact between siblings removed from their homes together. The bill makes explicit the requirement for the DCF to preserve and strengthen families who are caring for medically complex children. The bill also requires that among the protections provided to children in this state is access to sufficient home and community-based support for medically complex children to allow them to remain in the least restrictive and most nurturing environment, including sufficient home and community-based services in an amount and scope comparable to those the child would receive in an out-of-home placement.

The DCF is directed to maintain a program of family-centered services and supports for medically complex children to prevent abuse and neglect while enhancing the ability of families to provide for their children’s needs. Services for medically complex children must include outreach, early intervention, and provision of home and community-based services such as care coordination, respite care, and direct home care. The DCF is directed to work with the Agency for Health Care Administration (AHCA) and the Department of Health (DOH) to provide needed services.

Section 2 amends s. 39.01, F.S., to define “medical neglect” as the failure to provide or to allow needed care as recommended by a health care practitioner for a physical injury, illness, medical condition, or impairment, or the failure to seek timely and appropriate medical care for a serious health problem that a reasonable person would have recognized as requiring professional medical attention. The definition also provides circumstances under which medical neglect will not

⁶ See s. 409.962(6), F.S.

⁷ See s. 409.962(13), F.S.

⁸ See s. 409.974(1), F.S.

statutorily occur, including cases in which the parent or legal guardian has made reasonable efforts to obtain health care services, the immediate health condition giving rise to an allegation of neglect is a known and expected complication of the child's diagnosis or treatment, or the recommended care offers limited benefit and the side effects may be considered worse than the anticipated benefit.

Section 3 amends s. 39.303, F.S., to require that a DOH Child Protection Team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child must consult with a physician who has experience treating children with the same condition.

Section 4 creates s. 39.3068, F.S., to require that reports of medical neglect must be investigated by staff with specialized training in medical neglect and medically complex children. The bill requires that the investigation identify immediate medical needs of the child and use a family-centered approach to assess the capacity of the family to meet those needs. The bill describes the attributes of a family-centered approach and requires that any investigation of cases involving medically complex children include determination of Medicaid coverage for needed services and coordination with the AHCA to access such covered services.

Section 5 amends s. 409.165, F.S., to clarify that funds appropriated for the alternative care of children may be used to meet the needs of children in their own homes or the homes of relatives if the children can be safely served in such settings and the expenditure of funds in such a manner is equal to or less than the cost of out-of-home placement. The bill requires the DCF to cooperate with all child service institutions or agencies within the state which meet DCF standards in order to maintain a comprehensive, coordinated, and inclusive system for promoting and protecting the well-being of children set forth in s. 409.986, F.S. The bill also requires the DCF to work with the DOH in the development, utilization, and monitoring of medical foster homes for medically complex children and to work with the AHCA to provide such home and community-based services as may be necessary to maintain medically complex children in the least restrictive and most nurturing environment. It adds medical foster homes to the list of placements available to the DCF in placing medically complex children. It provides that placements of children in their own homes or in the homes or relatives may be made if the child can be safely served in such a placement and the cost of the placement is equal to or less than the cost of out-of-home placement.

Section 6 amends s. 409.962(13), F.S., to revise the definition of "provider service network" (PSN) within the Statewide Medicaid Managed Care program (SMMC). The bill requires that a group of affiliated health care providers that owns a controlling interest in a PSN must be affiliated for the purpose of providing health care.

Section 7 amends s. 409.967, F.S., to require that under SMMC, managed care plans serving children in the care and custody of the DCF must maintain complete medical, dental, and behavioral health information and provide that information to the DCF for inclusion in the state's child welfare data system. The AHCA and the DCF are required to use this managed care plan data to determine each plan's compliance with standards for access to medical, dental, and behavioral health services, the use of psychotropic medications, and follow-up on all medically necessary services recommended as a result of early and periodic screening, diagnosis, and treatment.

Section 8 amends s. 409.974, F.S., to require the AHCA to procure and contract with managed care plans in each SMMC region under specified parameters regarding the number of PSNs and total plans per region. The bill also provides that in a region containing only one contracted PSN, if changes in the PSN's ownership or business structure result in the PSN no longer meeting the definition of a PSN, the AHCA is required to terminate that plan's contract and provide notice of another invitation to negotiate.

Section 9 amends s. 39.302, F.S., to correct a cross-reference.

Section 10 amends s. 39.524, F.S., to correct a cross-reference.

Section 11 amends s. 316.613, F.S., to correct a cross-reference.

Section 12 amends s. 409.1678, F.S., to correct a reference.

Section 13 amends s. 960.065, F.S., to correct a reference.

Section 14 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.

D. Other Constitutional Issues:

Placement of medically complex and medically fragile children in nursing homes is the subject of current litigation, *A.R. et al. v. Dudek et al, United States V. Florida*, Consolidated Case No. 0:12-cv-60460-RSR, U.S. District Court for the Southern District of Florida.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 1670 may encourage families to access services which will enable them to care for their medically complex children in their own homes.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.001, 39.01, 39.302, 39.303, 39.524, 316.613, 409.165, 409.1678, 409.962, 409.967, 409.974, and 960.065.

This bill creates s. 39.3068 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Grimsley

586-02452-14

20141670__

1 A bill to be entitled
2 An act relating to medically complex children;
3 amending s. 39.001, F.S.; revising the purposes of ch.
4 39, F.S.; providing for the provision of services for
5 medically complex children; conforming cross-
6 references; amending s. 39.01, F.S.; defining the term
7 "medical neglect"; conforming cross-references;
8 amending s. 39.303, F.S.; revising legislative intent;
9 providing requirements for a child protection team
10 that evaluates a report of medical neglect and
11 assesses the health care needs of a medically complex
12 child; creating s. 39.3068, F.S.; providing
13 requirements for an investigation of medical neglect;
14 amending s. 409.165, F.S.; revising provisions
15 relating to the cost of services; requiring the
16 Department of Children and Families to work with the
17 Department of Health and the Agency for Health Care
18 Administration to care for medically complex children;
19 allowing the Department of Children and Families to
20 place children in a medical foster home; conforming
21 provisions to changes made by the act; amending s.
22 409.962, F.S.; redefining the term "provider service
23 network"; amending s. 409.967, F.S.; requiring
24 Medicaid managed care plans to provide specified
25 information on children under the care of the
26 Department of Children and Families; amending s.
27 409.974, F.S.; providing for contracting with eligible
28 plans; revising provisions relating to negotiation
29 with a provider service network; providing

Page 1 of 24

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586-02452-14

20141670__

30 requirements for termination of a contract with a
31 provider service network; amending ss. 39.302, 39.524,
32 316.613, 409.1678, and 960.065, F.S.; conforming
33 cross-references; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Paragraph (o) is added to subsection (1) of
38 section 39.001, Florida Statutes, and paragraph (k) of that
39 subsection is amended, present paragraphs (f) through (h) of
40 subsection (3) of that section are redesignated as paragraphs
41 (g) through (i), respectively, and a new paragraph (f) is added
42 to that subsection, and present subsections (4) through (11) of
43 that section are redesignated as subsections (5) through (12),
44 respectively, a new subsection (4) is added to that section, and
45 paragraph (c) of present subsection (8) and paragraph (b) of
46 present subsection (10) of that section are amended, to read:

47 39.001 Purposes and intent; personnel standards and
48 screening.-

49 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

50 (k) To make every possible effort, ~~if when~~ two or more
51 children who are in the care or under the supervision of the
52 department are siblings, to place the siblings in the same home;
53 and in the event of permanent placement of the siblings, to
54 place them in the same adoptive home or, if the siblings are
55 separated while under the care or supervision of the department
56 or in a permanent placement, to keep them in contact with each
57 other.

58 (o) To preserve and strengthen families who are caring for

Page 2 of 24

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586-02452-14

20141670__

59 medically complex children.

60 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
61 the Legislature that the children of this state be provided with
62 the following protections:

63 (f) Access to sufficient home and community-based support
64 for medically complex children to allow them to remain in the
65 least restrictive and most nurturing environment, which includes
66 sufficient home and community-based services in an amount and
67 scope comparable to those the child would receive in out-of-home
68 care placement.

69 (4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department
70 shall maintain a program of family-centered services and
71 supports for medically complex children. The purpose of the
72 program is to prevent abuse and neglect of medically complex
73 children while enhancing the capacity of families to provide for
74 their children's needs. Program services must include outreach,
75 early intervention, and provision of home and community-based
76 services such as care coordination, respite care, and direct
77 home care. The department shall work with the Agency for Health
78 Care Administration and the Department of Health to provide
79 needed services.

80 ~~(9)(8)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

81 (c) The office is authorized and directed to:

82 1. Oversee the preparation and implementation of the state
83 plan established under subsection ~~(10)~~ ~~(9)~~ and revise and update
84 the state plan as necessary.

85 2. Provide for or make available continuing professional
86 education and training in the prevention of child abuse and
87 neglect.

586-02452-14

20141670__

88 3. Work to secure funding in the form of appropriations,
89 gifts, and grants from the state, the Federal Government, and
90 other public and private sources in order to ensure that
91 sufficient funds are available for the promotion of adoption,
92 support of adoptive families, and child abuse prevention
93 efforts.

94 4. Make recommendations pertaining to agreements or
95 contracts for the establishment and development of:

96 a. Programs and services for the promotion of adoption,
97 support of adoptive families, and prevention of child abuse and
98 neglect.

99 b. Training programs for the prevention of child abuse and
100 neglect.

101 c. Multidisciplinary and discipline-specific training
102 programs for professionals with responsibilities affecting
103 children, young adults, and families.

104 d. Efforts to promote adoption.

105 e. Postadoptive services to support adoptive families.

106 5. Monitor, evaluate, and review the development and
107 quality of local and statewide services and programs for the
108 promotion of adoption, support of adoptive families, and
109 prevention of child abuse and neglect and shall publish and
110 distribute an annual report of its findings on or before January
111 1 of each year to the Governor, the Speaker of the House of
112 Representatives, the President of the Senate, the head of each
113 state agency affected by the report, and the appropriate
114 substantive committees of the Legislature. The report shall
115 include:

116 a. A summary of the activities of the office.

586-02452-14

20141670__

117 b. A summary of the adoption data collected and reported to
118 the federal Adoption and Foster Care Analysis and Reporting
119 System (AFCARS) and the federal Administration for Children and
120 Families.

121 c. A summary of the child abuse prevention data collected
122 and reported to the National Child Abuse and Neglect Data System
123 (NCANDS) and the federal Administration for Children and
124 Families.

125 d. A summary detailing the timeliness of the adoption
126 process for children adopted from within the child welfare
127 system.

128 e. Recommendations, by state agency, for the further
129 development and improvement of services and programs for the
130 promotion of adoption, support of adoptive families, and
131 prevention of child abuse and neglect.

132 f. Budget requests, adoption promotion and support needs,
133 and child abuse prevention program needs by state agency.

134 6. Work with the direct-support organization established
135 under s. 39.0011 to receive financial assistance.

136 ~~(11)-(10)~~ FUNDING AND SUBSEQUENT PLANS.—

137 (b) The office and the other agencies and organizations
138 listed in paragraph (10)(a) ~~(9)(a)~~ shall readdress the state
139 plan and make necessary revisions every 5 years, at a minimum.
140 Such revisions shall be submitted to the Speaker of the House of
141 Representatives and the President of the Senate no later than
142 June 30 of each year divisible by 5. At least biennially, the
143 office shall review the state plan and make any necessary
144 revisions based on changing needs and program evaluation
145 results. An annual progress report shall be submitted to update

Page 5 of 24

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586-02452-14

20141670__

146 the state plan in the years between the 5-year intervals. In
147 order to avoid duplication of effort, these required plans may
148 be made a part of or merged with other plans required by either
149 the state or Federal Government, so long as the portions of the
150 other state or Federal Government plan that constitute the state
151 plan for the promotion of adoption, support of adoptive
152 families, and prevention of child abuse, abandonment, and
153 neglect are clearly identified as such and are provided to the
154 Speaker of the House of Representatives and the President of the
155 Senate as required above.

156 Section 2. Present subsections (42) through (76) of section
157 39.01, Florida Statutes, are redesignated as subsections (43)
158 through (77), respectively, a new subsection (42) is added to
159 that section, and subsections (10) and (33) are amended, to
160 read:

161 39.01 Definitions.—When used in this chapter, unless the
162 context otherwise requires:

163 (10) "Caregiver" means the parent, legal custodian,
164 permanent guardian, adult household member, or other person
165 responsible for a child's welfare as defined in subsection (48)
166 ~~(47)~~.

167 (33) "Institutional child abuse or neglect" means
168 situations of known or suspected child abuse or neglect in which
169 the person allegedly perpetrating the child abuse or neglect is
170 an employee of a private school, public or private day care
171 center, residential home, institution, facility, or agency or
172 any other person at such institution responsible for the child's
173 care as defined in subsection (48) ~~(47)~~.

174 (42) "Medical neglect" means the failure to provide or to

Page 6 of 24

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586-02452-14

20141670__

175 allow needed care as recommended by a health care practitioner
 176 for a physical injury, illness, medical condition, or
 177 impairment, or the failure to seek timely and appropriate
 178 medical care for a serious health problem that a reasonable
 179 person would have recognized as requiring professional medical
 180 attention. Medical neglect does not occur if:

181 (a) The parent or legal custodian of the child has made
 182 reasonable attempts to obtain necessary health care services or
 183 the immediate health condition giving rise to the allegation of
 184 neglect is a known and expected complication of the child's
 185 diagnosis or treatment; and

186 (b) The recommended care offers limited net benefit to the
 187 child and the morbidity or other side effects of the treatment
 188 may be considered to be greater than the anticipated benefit.

189 Section 3. Section 39.303, Florida Statutes, is amended to
 190 read:

191 39.303 Child protection teams; services; eligible cases.—
 192 The Children's Medical Services Program in the Department of
 193 Health shall develop, maintain, and coordinate the services of
 194 one or more multidisciplinary child protection teams in each of
 195 the service districts of the Department of Children and Family
 196 Services. Such teams may be composed of appropriate
 197 representatives of school districts and appropriate health,
 198 mental health, social service, legal service, and law
 199 enforcement agencies. ~~The Legislature finds that optimal~~
 200 ~~coordination of child protection teams and sexual abuse~~
 201 ~~treatment programs requires collaboration between~~ The Department
 202 of Health and the Department of Children and Families Family
 203 Services. ~~The two departments~~ shall maintain an interagency

586-02452-14

20141670__

204 agreement that establishes protocols for oversight and
 205 operations of child protection teams and sexual abuse treatment
 206 programs. The State Surgeon General and the Deputy Secretary for
 207 Children's Medical Services, in consultation with the Secretary
 208 of Children and Family Services, shall maintain the
 209 responsibility for the screening, employment, and, if necessary,
 210 the termination of child protection team medical directors, at
 211 headquarters and in the 15 districts. Child protection team
 212 medical directors shall be responsible for oversight of the
 213 teams in the districts.

214 (1) The Department of Health shall use utilize and convene
 215 the teams to supplement the assessment and protective
 216 supervision activities of the family safety and preservation
 217 program of the Department of Children and Families Family
 218 Services. ~~Nothing in This section does not shall be construed to~~
 219 ~~remove or reduce the duty and responsibility of any person to~~
 220 ~~report pursuant to this chapter all suspected or actual cases of~~
 221 ~~child abuse, abandonment, or neglect or sexual abuse of a child.~~
 222 The role of the teams shall be to support activities of the
 223 program and to provide services deemed by the teams to be
 224 necessary and appropriate to abused, abandoned, and neglected
 225 children upon referral. The specialized diagnostic assessment,
 226 evaluation, coordination, consultation, and other supportive
 227 services that a child protection team shall be capable of
 228 providing include, but are not limited to, the following:

229 (a) Medical diagnosis and evaluation services, including
 230 provision or interpretation of X rays and laboratory tests, and
 231 related services, as needed, and documentation of related
 232 ~~findings relative thereto.~~

586-02452-14

20141670__

233 (b) Telephone consultation services in emergencies and in
234 other situations.

235 (c) Medical evaluation related to abuse, abandonment, or
236 neglect, as defined by policy or rule of the Department of
237 Health.

238 (d) Such psychological and psychiatric diagnosis and
239 evaluation services for the child or the child's parent or
240 parents, legal custodian or custodians, or other caregivers, or
241 any other individual involved in a child abuse, abandonment, or
242 neglect case, as the team may determine to be needed.

243 (e) Expert medical, psychological, and related professional
244 testimony in court cases.

245 (f) Case staffings to develop treatment plans for children
246 whose cases have been referred to the team. A child protection
247 team may provide consultation with respect to a child who is
248 alleged or is shown to be abused, abandoned, or neglected. ~~The,~~
249 ~~which~~ consultation shall be provided at the request of a
250 representative of the family safety and preservation program or
251 at the request of any other professional involved with a child
252 or the child's parent or parents, legal custodian or custodians,
253 or other caregivers. In every such child protection team case
254 staffing, consultation, or staff activity involving a child, a
255 family safety and preservation program representative shall
256 attend and participate.

257 (g) Case service coordination and assistance, including the
258 location of services available from other public and private
259 agencies in the community.

260 (h) Such training services for program and other employees
261 of the Department of Children and ~~Families~~ Family Services,

586-02452-14

20141670__

262 employees of the Department of Health, and other medical
263 professionals as is deemed appropriate to enable them to develop
264 and maintain their professional skills and abilities in handling
265 child abuse, abandonment, and neglect cases.

266 (i) Educational and community awareness campaigns on child
267 abuse, abandonment, and neglect in an effort to enable citizens
268 more successfully to prevent, identify, and treat child abuse,
269 abandonment, and neglect in the community.

270 (j) Child protection team assessments that include, as
271 appropriate, medical evaluations, medical consultations, family
272 psychosocial interviews, specialized clinical interviews, or
273 forensic interviews.

274
275 All medical personnel participating on a child protection team
276 must successfully complete the required child protection team
277 training curriculum as set forth in protocols determined by the
278 Deputy Secretary for Children's Medical Services and the
279 Statewide Medical Director for Child Protection. A child
280 protection team that is evaluating a report of medical neglect
281 and assessing the health care needs of a medically complex child
282 shall consult with a physician who has experience in treating
283 children with the same condition.

284 (2) The child abuse, abandonment, and neglect reports that
285 must be referred by the department to child protection teams of
286 the Department of Health for an assessment and other appropriate
287 available support services as set forth in subsection (1) must
288 include cases involving:

289 (a) Injuries to the head, bruises to the neck or head,
290 burns, or fractures in a child of any age.

586-02452-14

20141670__

- 291 (b) Bruises anywhere on a child 5 years of age or under.
 292 (c) Any report alleging sexual abuse of a child.
 293 (d) Any sexually transmitted disease in a prepubescent
 294 child.
 295 (e) Reported malnutrition of a child and failure of a child
 296 to thrive.
 297 (f) Reported medical neglect of a child.
 298 (g) Any family in which one or more children have been
 299 pronounced dead on arrival at a hospital or other health care
 300 facility, or have been injured and later died, as a result of
 301 suspected abuse, abandonment, or neglect, when any sibling or
 302 other child remains in the home.
 303 (h) Symptoms of serious emotional problems in a child when
 304 emotional or other abuse, abandonment, or neglect is suspected.
 305 (3) All abuse and neglect cases transmitted for
 306 investigation to a district by the hotline must be
 307 simultaneously transmitted to the Department of Health child
 308 protection team for review. For the purpose of determining
 309 whether face-to-face medical evaluation by a child protection
 310 team is necessary, all cases transmitted to the child protection
 311 team which meet the criteria in subsection (2) must be timely
 312 reviewed by:
 313 (a) A physician licensed under chapter 458 or chapter 459
 314 who holds board certification in pediatrics and is a member of a
 315 child protection team;
 316 (b) A physician licensed under chapter 458 or chapter 459
 317 who holds board certification in a specialty other than
 318 pediatrics, who may complete the review only when working under
 319 the direction of a physician licensed under chapter 458 or

586-02452-14

20141670__

- 320 chapter 459 who holds board certification in pediatrics and is a
 321 member of a child protection team;
 322 (c) An advanced registered nurse practitioner licensed
 323 under chapter 464 who has a specialty ~~speciality~~ in pediatrics
 324 or family medicine and is a member of a child protection team;
 325 (d) A physician assistant licensed under chapter 458 or
 326 chapter 459, who may complete the review only when working under
 327 the supervision of a physician licensed under chapter 458 or
 328 chapter 459 who holds board certification in pediatrics and is a
 329 member of a child protection team; or
 330 (e) A registered nurse licensed under chapter 464, who may
 331 complete the review only when working under the direct
 332 supervision of a physician licensed under chapter 458 or chapter
 333 459 who holds certification in pediatrics and is a member of a
 334 child protection team.
 335 (4) A face-to-face medical evaluation by a child protection
 336 team is not necessary when:
 337 (a) The child was examined for the alleged abuse or neglect
 338 by a physician who is not a member of the child protection team,
 339 and a consultation between the child protection team board-
 340 certified pediatrician, advanced registered nurse practitioner,
 341 physician assistant working under the supervision of a child
 342 protection team board-certified pediatrician, or registered
 343 nurse working under the direct supervision of a child protection
 344 team board-certified pediatrician, and the examining physician
 345 concludes that a further medical evaluation is unnecessary;
 346 (b) The child protective investigator, with supervisory
 347 approval, has determined, after conducting a child safety
 348 assessment, that there are no indications of injuries as

586-02452-14

20141670__

349 described in paragraphs (2) (a)-(h) as reported; or

350 (c) The child protection team board-certified pediatrician,
351 as authorized in subsection (3), determines that a medical
352 evaluation is not required.

353
354 Notwithstanding paragraphs (a), (b), and (c), a child protection
355 team pediatrician, as authorized in subsection (3), may
356 determine that a face-to-face medical evaluation is necessary.

357 (5) In all instances in which a child protection team is
358 providing certain services to abused, abandoned, or neglected
359 children, other offices and units of the Department of Health,
360 and offices and units of the Department of Children and Families
361 ~~Family Services~~, shall avoid duplicating the provision of those
362 services.

363 (6) The Department of Health child protection team quality
364 assurance program and the Department of Children and Families'
365 ~~Family Services'~~ Family Safety Program Office quality assurance
366 program shall collaborate to ensure referrals and responses to
367 child abuse, abandonment, and neglect reports are appropriate.
368 Each quality assurance program shall include a review of records
369 in which there are no findings of abuse, abandonment, or
370 neglect, and the findings of these reviews shall be included in
371 each department's quality assurance reports.

372 Section 4. Section 39.3068, Florida Statutes, is created to
373 read:

374 39.3068 Reports of medical neglect.—

375 (1) A report of medical neglect as defined in s. 39.01 must
376 be investigated by staff who have specialized training in
377 medical neglect and medically complex children.

Page 13 of 24

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586-02452-14

20141670__

378 (2) The investigation must identify any immediate medical
379 needs of the child and must use a family-centered approach to
380 assess the capacity of the family to meet those needs.

381 (3) A family-centered approach is intended to increase
382 independence on the part of the family, accessibility to
383 programs and services within the community, and collaboration
384 between families and their service providers. The ethnic,
385 cultural, economic, racial, social, and religious diversity of
386 families must be respected and considered in the development and
387 provision of services.

388 (4) An investigation of cases involving medically complex
389 children must include determination of Medicaid coverage for
390 needed services and coordination with the Agency for Health Care
391 Administration to secure such covered services.

392 Section 5. Section 409.165, Florida Statutes, is amended to
393 read:

394 409.165 Alternate care for children.—

395 (1) Within funds appropriated, the department shall
396 establish and supervise a program of emergency shelters, runaway
397 shelters, foster homes, group homes, agency-operated group
398 treatment homes, nonpsychiatric residential group care
399 facilities, psychiatric residential treatment facilities, and
400 other appropriate facilities to provide shelter and care for
401 dependent children who must be placed away from their families.
402 The department, in accordance with outcome established goals
403 established in s. 409.986, shall contract for the provision of
404 such shelter and care by counties, municipalities, nonprofit
405 corporations, and other entities capable of providing needed
406 services if:

Page 14 of 24

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586-02452-14

20141670__

407 (a) The services so provided comply with all department
 408 standards, policies, and procedures ~~are available;~~

409 (b) The services ~~can be~~ ~~so~~ provided at a reasonable cost
 410 ~~are more cost-effective than those provided by the department;~~
 411 and

412 (c) Unless otherwise provided by law, such providers of
 413 shelter and care are licensed by the department.

414

415 ~~It is the legislative intent that the~~

416 (2) Funds appropriated for the alternate care of children
 417 as described in this section may be used to meet the needs of
 418 children in their own homes or those of relatives if the
 419 children can be safely served in such settings ~~their own homes,~~
 420 ~~or the homes of relatives,~~ and the expenditure of funds in such
 421 manner is equal to or less than the cost of out-of-home
 422 placement ~~calculated by the department to be an eventual cost~~
 423 ~~savings over placement of children.~~

424 (3)(2) The department shall ~~may~~ cooperate with all child
 425 service institutions or agencies within the state which meet the
 426 department's standards in order to maintain a comprehensive,
 427 coordinated, and inclusive system for promoting and protecting
 428 the well-being of children, consistent with the goals
 429 established in s. 409.986 ~~rules for proper care and supervision~~
 430 ~~prescribed by the department for the well-being of children.~~

431 (a) The department shall work with the Department of Health
 432 in the development, utilization, and monitoring of medical
 433 foster homes for medically complex children.

434 (b) The department shall work with the Agency for Health
 435 Care Administration to provide such home and community-based

586-02452-14

20141670__

436 services as may be necessary to maintain medically complex
 437 children in the least restrictive and most nurturing
 438 environment.

439 (4)(3) With the written consent of parents, custodians, or
 440 guardians, or in accordance with those provisions in chapter 39
 441 that relate to dependent children, the department, under rules
 442 properly adopted, may place a child:

443 (a) With a relative;

444 (b) With an adult nonrelative approved by the court for
 445 long-term custody;

446 (c) With a person who is considering the adoption of a
 447 child in the manner provided for by law;

448 (d) When limited, except as provided in paragraph (b), to
 449 temporary emergency situations, with a responsible adult
 450 approved by the court;

451 (e) With a person or family approved by the department to
 452 serve as a medical foster home;

453 (f)(e) With a person or agency licensed by the department
 454 in accordance with s. 409.175; or

455 (g)(f) In a subsidized independent living situation,
 456 subject to the provisions of s. 409.1451(4)(c),

457

458 under such conditions as are determined to be for the best
 459 interests or the welfare of the child. Any child placed in an
 460 institution or in a family home by the department or its agency
 461 may be removed by the department or its agency, and such other
 462 disposition may be made as is for the best interest of the
 463 child, including transfer of the child to another institution,
 464 another home, or the home of the child. Expenditure of funds

586-02452-14 20141670__
 465 appropriated for out-of-home care can be used to meet the needs
 466 of a child in the child's own home or the home of a relative if
 467 the child can be safely served in the child's own home or that
 468 of a relative if placement can be avoided by the expenditure of
 469 such funds, and if the expenditure of such funds in this manner
 470 is equal to or less than the cost of out-of-home placement
 471 ~~calculated by the department to be a potential cost savings.~~

472 Section 6. Subsection (13) of section 409.962, Florida
 473 Statutes, is amended to read:

474 409.962 Definitions.—As used in this part, except as
 475 otherwise specifically provided, the term:

476 (13) "Provider service network" means an entity qualified
 477 pursuant to s. 409.912(4)(d) of which a controlling interest is
 478 owned by a health care provider, or group of affiliated
 479 providers affiliated for the purpose of providing health care,
 480 or a public agency or entity that delivers health services.
 481 Health care providers include Florida-licensed health care
 482 professionals or licensed health care facilities, federally
 483 qualified health care centers, and home health care agencies.

484 Section 7. Paragraph (c) of subsection (2) of section
 485 409.967, Florida Statutes, is amended to read:

486 409.967 Managed care plan accountability.—

487 (2) The agency shall establish such contract requirements
 488 as are necessary for the operation of the statewide managed care
 489 program. In addition to any other provisions the agency may deem
 490 necessary, the contract must require:

491 (c) Access.—

492 1. The agency shall establish specific standards for the
 493 number, type, and regional distribution of providers in managed

586-02452-14 20141670__
 494 care plan networks to ensure access to care for both adults and
 495 children. Each plan must maintain a regionwide network of
 496 providers in sufficient numbers to meet the access standards for
 497 specific medical services for all recipients enrolled in the
 498 plan. The exclusive use of mail-order pharmacies may not be
 499 sufficient to meet network access standards. Consistent with the
 500 standards established by the agency, provider networks may
 501 include providers located outside the region. A plan may
 502 contract with a new hospital facility before the date the
 503 hospital becomes operational if the hospital has commenced
 504 construction, will be licensed and operational by January 1,
 505 2013, and a final order has issued in any civil or
 506 administrative challenge. Each plan shall establish and maintain
 507 an accurate and complete electronic database of contracted
 508 providers, including information about licensure or
 509 registration, locations and hours of operation, specialty
 510 credentials and other certifications, specific performance
 511 indicators, and such other information as the agency deems
 512 necessary. The database must be available online to both the
 513 agency and the public and have the capability to compare the
 514 availability of providers to network adequacy standards and to
 515 accept and display feedback from each provider's patients. Each
 516 plan shall submit quarterly reports to the agency identifying
 517 the number of enrollees assigned to each primary care provider.

518 2. Each managed care plan must publish any prescribed drug
 519 formulary or preferred drug list on the plan's website in a
 520 manner that is accessible to and searchable by enrollees and
 521 providers. The plan must update the list within 24 hours after
 522 making a change. Each plan must ensure that the prior

586-02452-14

20141670__

523 authorization process for prescribed drugs is readily accessible
 524 to health care providers, including posting appropriate contact
 525 information on its website and providing timely responses to
 526 providers. For Medicaid recipients diagnosed with hemophilia who
 527 have been prescribed anti-hemophilic-factor replacement
 528 products, the agency shall provide for those products and
 529 hemophilia overlay services through the agency's hemophilia
 530 disease management program.

531 3. Managed care plans, and their fiscal agents or
 532 intermediaries, must accept prior authorization requests for any
 533 service electronically.

534 4. Managed care plans serving children in the care and
 535 custody of the Department of Children and Families must maintain
 536 complete medical, dental, and behavioral health information and
 537 provide such information to the department for inclusion in the
 538 state's child welfare data system. Using such documentation, the
 539 agency and the department shall determine the plan's compliance
 540 with standards for access to medical, dental, and behavioral
 541 health services, the use of psychotropic medications, and
 542 followup on all medically necessary services recommended as a
 543 result of early and periodic screening diagnosis and treatment.

544 Section 8. Subsection (1) of section 409.974, Florida
 545 Statutes, is amended to read:

546 409.974 Eligible plans.—

547 (1) ELIGIBLE PLAN SELECTION AND CONTRACTING.—The agency
 548 shall select eligible plans through the procurement process
 549 described in s. 409.966. The agency shall notice invitations to
 550 negotiate no later than January 1, 2013.

551 (a) The agency shall procure and contract with two plans

586-02452-14

20141670__

552 for Region 1. At least one plan shall be a provider service
 553 network if any provider service networks submit a responsive
 554 bid.

555 (b) The agency shall procure and contract with two plans
 556 for Region 2. At least one plan shall be a provider service
 557 network if any provider service networks submit a responsive
 558 bid.

559 (c) The agency shall procure and contract with at least
 560 three plans and up to five plans for Region 3. At least one plan
 561 must be a provider service network if any provider service
 562 networks submit a responsive bid.

563 (d) The agency shall procure and contract with at least
 564 three plans and up to five plans for Region 4. At least one plan
 565 must be a provider service network if any provider service
 566 networks submit a responsive bid.

567 (e) The agency shall procure and contract with at least two
 568 plans and up to four plans for Region 5. At least one plan must
 569 be a provider service network if any provider service networks
 570 submit a responsive bid.

571 (f) The agency shall procure and contract with at least
 572 four plans and up to seven plans for Region 6. At least one plan
 573 must be a provider service network if any provider service
 574 networks submit a responsive bid.

575 (g) The agency shall procure and contract with at least
 576 three plans and up to six plans for Region 7. At least one plan
 577 must be a provider service network if any provider service
 578 networks submit a responsive bid.

579 (h) The agency shall procure and contract with at least two
 580 plans and up to four plans for Region 8. At least one plan must

586-02452-14 20141670__

581 be a provider service network if any provider service networks
582 submit a responsive bid.

583 (i) The agency shall procure and contract with at least two
584 plans and up to four plans for Region 9. At least one plan must
585 be a provider service network if any provider service networks
586 submit a responsive bid.

587 (j) The agency shall procure and contract with at least two
588 plans and up to four plans for Region 10. At least one plan must
589 be a provider service network if any provider service networks
590 submit a responsive bid.

591 (k) The agency shall procure and contract with at least
592 five plans and up to 10 plans for Region 11. At least one plan
593 must be a provider service network if any provider service
594 networks submit a responsive bid.

595
596 If no provider service network submits a responsive bid, the
597 agency shall procure and contract with no more than one less
598 than the maximum number of eligible plans permitted in that
599 region, and, within the next 12 months after the initial
600 invitation to negotiate, the agency shall issue an invitation to
601 negotiate in order ~~attempt~~ to procure and contract with a
602 provider service network. The agency shall terminate the
603 contract and provide notice for another invitation to negotiate
604 when changes in the corporate ownership and structure of the
605 only with provider service network networks in a region causes
606 the managed care plan to no longer meet the definition of a
607 provider service network under s. 409.962(13) those regions
608 where no provider service network has been selected.

609 Section 9. Subsection (1) of section 39.302, Florida

586-02452-14 20141670__

610 Statutes, is amended to read:

611 39.302 Protective investigations of institutional child
612 abuse, abandonment, or neglect.—

613 (1) The department shall conduct a child protective
614 investigation of each report of institutional child abuse,
615 abandonment, or neglect. Upon receipt of a report that alleges
616 that an employee or agent of the department, or any other entity
617 or person covered by s. 39.01(33) or (48) (47), acting in an
618 official capacity, has committed an act of child abuse,
619 abandonment, or neglect, the department shall initiate a child
620 protective investigation within the timeframe established under
621 s. 39.201(5) and notify the appropriate state attorney, law
622 enforcement agency, and licensing agency, which shall
623 immediately conduct a joint investigation, unless independent
624 investigations are more feasible. When conducting investigations
625 or having face-to-face interviews with the child, investigation
626 visits shall be unannounced unless it is determined by the
627 department or its agent that unannounced visits threaten the
628 safety of the child. If a facility is exempt from licensing, the
629 department shall inform the owner or operator of the facility of
630 the report. Each agency conducting a joint investigation is
631 entitled to full access to the information gathered by the
632 department in the course of the investigation. A protective
633 investigation must include an interview with the child's parent
634 or legal guardian. The department shall make a full written
635 report to the state attorney within 3 working days after making
636 the oral report. A criminal investigation shall be coordinated,
637 whenever possible, with the child protective investigation of
638 the department. Any interested person who has information

586-02452-14

20141670__

639 regarding the offenses described in this subsection may forward
 640 a statement to the state attorney as to whether prosecution is
 641 warranted and appropriate. Within 15 days after the completion
 642 of the investigation, the state attorney shall report the
 643 findings to the department and shall include in the report a
 644 determination of whether or not prosecution is justified and
 645 appropriate in view of the circumstances of the specific case.

646 Section 10. Subsection (1) of section 39.524, Florida
 647 Statutes, is amended to read:

648 39.524 Safe-harbor placement.—

649 (1) Except as provided in s. 39.407 or s. 985.801, a
 650 dependent child 6 years of age or older who has been found to be
 651 a victim of sexual exploitation as defined in s. 39.01(68)(g) ~~s.~~
 652 ~~39.01(67)(g)~~ must be assessed for placement in a safe house as
 653 provided in s. 409.1678. The assessment shall be conducted by
 654 the department or its agent and shall incorporate and address
 655 current and historical information from any law enforcement
 656 reports; psychological testing or evaluation that has occurred;
 657 current and historical information from the guardian ad litem,
 658 if one has been assigned; current and historical information
 659 from any current therapist, teacher, or other professional who
 660 has knowledge of the child and has worked with the child; and
 661 any other information concerning the availability and
 662 suitability of safe-house placement. If such placement is
 663 determined to be appropriate as a result of this assessment, the
 664 child may be placed in a safe house, if one is available. As
 665 used in this section, the term "available" as it relates to a
 666 placement means a placement that is located within the circuit
 667 or otherwise reasonably accessible.

Page 23 of 24

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586-02452-14

20141670__

668 Section 11. Subsection (6) of section 316.613, Florida
 669 Statutes, is amended to read:

670 316.613 Child restraint requirements.—

671 (6) The child restraint requirements imposed by this
 672 section do not apply to a chauffeur-driven taxi, limousine,
 673 sedan, van, bus, motor coach, or other passenger vehicle if the
 674 operator and the motor vehicle are hired and used for the
 675 transportation of persons for compensation. It is the obligation
 676 and responsibility of the parent, guardian, or other person
 677 responsible for a child's welfare, ~~as defined in s. 39.01(47),~~
 678 to comply with the requirements of this section.

679 Section 12. Paragraph (d) of subsection (1) of section
 680 409.1678, Florida Statutes, is amended to read:

681 409.1678 Safe harbor for children who are victims of sexual
 682 exploitation.—

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

684 (d) "Sexually exploited child" means a dependent child who
 685 has suffered sexual exploitation as defined in s. 39.01(68)(g)
 686 ~~s. 39.01(67)(g)~~ and is ineligible for relief and benefits under
 687 the federal Trafficking Victims Protection Act, 22 U.S.C. ss.
 688 7101 et seq.

689 Section 13. Subsection (5) of section 960.065, Florida
 690 Statutes, is amended to read:

691 960.065 Eligibility for awards.—

692 (5) A person is not ineligible for an award pursuant to
 693 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
 694 person is a victim of sexual exploitation of a child as defined
 695 in s. 39.01(68)(g) ~~s. 39.01(67)(g)~~.

696 Section 14. This act shall take effect July 1, 2014.

Page 24 of 24

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657682

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Sobel)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (d) and (e) of subsection (3) and
subsections (4), (5), and (6) of section 1004.435, Florida
Statutes, are amended to read:

1004.435 Cancer control and research.—

(3) DEFINITIONS.—The following words and phrases when used
in this section have, unless the context clearly indicates



657682

11 otherwise, the meanings given to them in this subsection:

12 ~~(d) "Fund" means the Florida Cancer Control and Research~~
13 ~~Fund established by this section.~~

14 ~~(e) "Qualified nonprofit association" means any~~
15 ~~association, incorporated or unincorporated, that has received~~
16 ~~tax-exempt status from the Internal Revenue Service.~~

17 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL;
18 CREATION; COMPOSITION.—

19 (a) There is created within the H. Lee Moffitt Cancer
20 Center and Research Institute, Inc., the Florida Cancer Control
21 and Research Advisory Council. The council shall consist of 15
22 ~~35~~ members, which includes the chairperson, all of whom must be
23 residents of this state. The State Surgeon General or his or her
24 designee within the Department of Health shall be one of the 15
25 members. ~~All~~ Members, except those appointed by the Governor,
26 the Speaker of the House of Representatives, or ~~and~~ the
27 President of the Senate, must be appointed by the chief
28 executive officer of the institution or organization
29 represented, or his or her designee ~~Governor.~~ ~~At least one of~~
30 ~~the members appointed by the Governor must be 60 years of age or~~
31 ~~older.~~ One member must be a representative of the American
32 Cancer Society; ~~one member must be a representative of the~~
33 ~~Florida Tumor Registrars Association;~~ one member must be a
34 representative of the Sylvester Comprehensive Cancer Center of
35 the University of Miami; ~~one member must be a representative of~~
36 ~~the Department of Health;~~ one member must be a representative of
37 the University of Florida Shands Cancer Center; ~~one member must~~
38 ~~be a representative of the Agency for Health Care~~
39 ~~Administration;~~ one member must be a representative of the



657682

40 Florida Nurses Association who specializes in the field of
41 oncology and is not from an institution or organization already
42 represented on the council; one member must be a representative
43 of the Florida Osteopathic Medical Association who specializes
44 in the field of oncology; ~~one member must be a representative of~~
45 ~~the American College of Surgeons; one member must be a~~
46 ~~representative of the School of Medicine of the University of~~
47 ~~Miami; one member must be a representative of the College of~~
48 ~~Medicine of the University of Florida; one member must be a~~
49 ~~representative of NOVA Southeastern College of Osteopathic~~
50 ~~Medicine; one member must be a representative of the College of~~
51 ~~Medicine of the University of South Florida; one member must be~~
52 ~~a representative of the College of Public Health of the~~
53 ~~University of South Florida; one member must be a representative~~
54 ~~of the Florida Society of Clinical Oncology; one member must be~~
55 ~~a representative of the Florida Obstetric and Gynecologic~~
56 ~~Society who has had training in the specialty of gynecologic~~
57 ~~oncology; one member must be a representative of the Florida~~
58 ~~Ovarian Cancer Alliance Speaks (FOCAS) organization; one member~~
59 ~~must be a~~ member ~~representative~~ of the Florida Medical
60 Association who specializes in the field of oncology and who
61 represents a cancer center not already represented on the
62 council; ~~one member must be a member of the Florida Pediatric~~
63 ~~Society; one member must be a representative of the Florida~~
64 ~~Radiological Society; one member must be a representative of the~~
65 ~~Florida Society of Pathologists; one member must be a~~
66 ~~representative of the H. Lee Moffitt Cancer Center and Research~~
67 ~~Institute, Inc.;~~ one member must be a member of the Florida
68 Hospital Association who specializes in the field of oncology



657682

69 and who represents a comprehensive cancer center not already
70 represented on the council; one member must be a representative
71 of the Association of Community Cancer Centers; one member must
72 specialize in pediatric oncology research or clinical care
73 appointed by the Governor; one member must specialize in
74 oncology clinical care or research appointed by the President of
75 the Senate; one member must be a current or former cancer
76 patient or a current or former caregiver to a cancer patient
77 appointed by the Speaker of the House of Representatives ~~three~~
78 ~~members must be representatives of the general public acting as~~
79 ~~consumer advocates; one member must be a member of the House of~~
80 ~~Representatives appointed by the Speaker of the House of~~
81 ~~Representatives; and one member must be a member of the Senate~~
82 ~~appointed by the President of the Senate; one member must be a~~
83 ~~representative of the Florida Dental Association; one member~~
84 ~~must be a representative of the Florida Hospital Association;~~
85 ~~one member must be a representative of the Association of~~
86 ~~Community Cancer Centers; one member shall be a representative~~
87 ~~from a statutory teaching hospital affiliated with a community-~~
88 ~~based cancer center; one member must be a representative of the~~
89 ~~Florida Association of Pediatric Tumor Programs, Inc.; one~~
90 ~~member must be a representative of the Cancer Information~~
91 ~~Service; one member must be a representative of the Florida~~
92 ~~Agricultural and Mechanical University Institute of Public~~
93 ~~Health; and one member must be a representative of the Florida~~
94 ~~Society of Oncology Social Workers. Of the members of the~~
95 council appointed by the Governor, At least four of the members
96 ~~10~~ must be individuals who are minority persons as defined by s.
97 288.703.



657682

98 (b) The terms of the members shall be 4 years from their
99 respective dates of appointment with the option of renewal.

100 (c) A chairperson shall be selected by the council
101 ~~appointed by the Governor~~ for a term of 2 years. The chairperson
102 shall appoint an executive committee of no fewer than three
103 persons to serve at the pleasure of the chairperson. This
104 committee will prepare material for the council but make no
105 final decisions.

106 (d) The council shall meet no less than semiannually at the
107 call of the chairperson or, in his or her absence or incapacity,
108 at the call of the State Surgeon General. Eight ~~Sixteen~~ members
109 constitute a quorum for the purpose of exercising all of the
110 powers of the council. A vote of the majority of the members
111 present is sufficient for all actions of the council.

112 (e) The council members shall serve without pay. Pursuant
113 to the provisions of s. 112.061, the council members may be
114 entitled to be reimbursed for ~~per diem and~~ travel expenses by
115 the institution or organization the member represents. If a
116 member is not affiliated with an institution or organization,
117 the member shall be reimbursed for travel expenses by the H. Lee
118 Moffitt Cancer Center and Research Institute, Inc.

119 ~~(f) No member of the council shall participate in any~~
120 ~~discussion or decision to recommend grants or contracts to any~~
121 ~~qualified nonprofit association or to any agency of this state~~
122 ~~or its political subdivisions with which the member is~~
123 ~~associated as a member of the governing body or as an employee~~
124 ~~or with which the member has entered into a contractual~~
125 ~~arrangement.~~

126 (f)(g) The council may prescribe, amend, and repeal bylaws



657682

127 governing the manner in which the business of the council is
128 conducted.

129 (g)~~(h)~~ The council shall advise the Board of Governors, the
130 State Surgeon General, and the Legislature with respect to
131 cancer control and research in this state.

132 (h)~~(i)~~ The council shall approve each year a program for
133 cancer control and research to be known as the "Florida Cancer
134 Control and Research Plan" which shall be consistent with the
135 State Health Plan and integrated and coordinated with existing
136 programs in this state.

137 (i)~~(j)~~ The council shall collaborate with the Florida
138 Biomedical Research Advisory Council to formulate and annually
139 review and recommend to the State Surgeon General a statewide
140 research plan. Additionally, the council shall develop and
141 annually review a statewide "Florida Cancer Treatment Plan" plan
142 for the care and treatment of persons suffering from cancer. The
143 council shall ~~and~~ recommend the establishment of standard
144 requirements for the organization, equipment, and conduct of
145 cancer units or departments in hospitals and clinics in this
146 state. The council may recommend to the State Surgeon General
147 the designation of cancer units following a survey of the needs
148 and facilities for treatment of cancer in the various localities
149 throughout the state. The State Surgeon General shall consider
150 the plans ~~plan~~ in developing departmental priorities and funding
151 priorities and standards under chapter 395.

152 (j)~~(k)~~ The council is responsible for including in the
153 Florida Cancer Control and Research Plan recommendations for the
154 coordination and integration of medical, nursing, paramedical,
155 lay, and other plans concerned with cancer control and research.



657682

156 Committees shall be formed by the council so that the following
157 areas will be established as entities for actions:

158 1. Cancer plan evaluation: tumor registry, data retrieval
159 systems, and epidemiology of cancer in the state and its
160 relation to other areas.

161 2. Cancer prevention.

162 3. Cancer detection.

163 4. Cancer patient management: treatment, rehabilitation,
164 terminal care, and other patient-oriented activities.

165 5. Cancer education: lay and professional.

166 6. Unproven methods of cancer therapy: quackery and
167 unorthodox therapies.

168 7. Investigator-initiated project research.

169 ~~(l) In order to implement in whole or in part the Florida
170 Cancer Plan, the council shall recommend to the Board of
171 Governors or the State Surgeon General the awarding of grants
172 and contracts to qualified profit or nonprofit associations or
173 governmental agencies in order to plan, establish, or conduct
174 programs in cancer control or prevention, cancer education and
175 training, and cancer research.~~

176 ~~(m) If funds are specifically appropriated by the
177 Legislature, the council shall develop or purchase standardized
178 written summaries, written in layperson's terms and in language
179 easily understood by the average adult patient, informing actual
180 and high-risk breast cancer patients, prostate cancer patients,
181 and men who are considering prostate cancer screening of the
182 medically viable treatment alternatives available to them in the
183 effective management of breast cancer and prostate cancer;
184 describing such treatment alternatives; and explaining the~~



657682

185 ~~relative advantages, disadvantages, and risks associated~~
186 ~~therewith. The breast cancer summary, upon its completion, shall~~
187 ~~be printed in the form of a pamphlet or booklet and made~~
188 ~~continuously available to physicians and surgeons in this state~~
189 ~~for their use in accordance with s. 458.324 and to osteopathic~~
190 ~~physicians in this state for their use in accordance with s.~~
191 ~~459.0125. The council shall periodically update both summaries~~
192 ~~to reflect current standards of medical practice in the~~
193 ~~treatment of breast cancer and prostate cancer. The council~~
194 ~~shall develop and implement educational programs, including~~
195 ~~distribution of the summaries developed or purchased under this~~
196 ~~paragraph, to inform citizen groups, associations, and voluntary~~
197 ~~organizations about early detection and treatment of breast~~
198 ~~cancer and prostate cancer.~~

199 (k)~~(n)~~ The council shall have the responsibility to advise
200 the Board of Governors and the State Surgeon General on methods
201 of enforcing and implementing laws already enacted and concerned
202 with cancer control, research, and education.

203 (l)~~(o)~~ The council may recommend to the Board of Governors
204 or the State Surgeon General rules not inconsistent with law as
205 it may deem necessary for the performance of its duties and the
206 proper administration of this section.

207 (m)~~(p)~~ The council shall formulate and put into effect a
208 continuing educational program for the prevention of cancer and
209 its early diagnosis and disseminate to hospitals, cancer
210 patients, and the public information concerning the proper
211 treatment of cancer.

212 (n)~~(q)~~ The council shall be physically located at the H.
213 Lee Moffitt Cancer Center and Research Institute, Inc., at the



657682

214 University of South Florida.

215 ~~(o)~~ ~~(r)~~ The council shall select, by majority vote, seven
216 members of the council who must combine with six members of the
217 Biomedical Research Advisory Council to form a joint committee
218 to develop performance measures, a rating system, a rating
219 standard, and an application form for the Cancer Center of
220 Excellence Award created in s. 381.925.

221 ~~(p)~~ ~~(s)~~ On February 15 of each year, the council shall
222 report to the Governor and to the Legislature.

223 (5) RESPONSIBILITIES OF ~~THE BOARD OF GOVERNORS,~~ THE H. LEE
224 MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., ~~AND THE~~
225 ~~STATE SURGEON GENERAL.~~

226 ~~(a) The Board of Governors or the State Surgeon General,~~
227 ~~after consultation with the council, shall award grants and~~
228 ~~contracts to qualified nonprofit associations and governmental~~
229 ~~agencies in order to plan, establish, or conduct programs in~~
230 ~~cancer control and prevention, cancer education and training,~~
231 ~~and cancer research.~~

232 ~~(b)~~ The H. Lee Moffitt Cancer Center and Research
233 Institute, Inc., shall provide such staff, information, and
234 other assistance as reasonably necessary for the completion of
235 the responsibilities of the council.

236 ~~(c) The department may furnish to citizens of this state~~
237 ~~who are afflicted with cancer financial aid to the extent of the~~
238 ~~appropriation provided for that purpose in a manner which in its~~
239 ~~opinion will afford the greatest benefit to those afflicted and~~
240 ~~may make arrangements with hospitals, laboratories, or clinics~~
241 ~~to afford proper care and treatment for cancer patients in this~~
242 ~~state.~~



657682

243 ~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.—~~
244 ~~(a) There is created the Florida Cancer Control and~~
245 ~~Research Fund consisting of funds appropriated therefor from the~~
246 ~~General Revenue Fund and any gifts, grants, or funds received~~
247 ~~from other sources.~~
248 ~~(b) The fund shall be used exclusively for grants and~~
249 ~~contracts to qualified nonprofit associations or governmental~~
250 ~~agencies for the purpose of cancer control and prevention,~~
251 ~~cancer education and training, cancer research, and all expenses~~
252 ~~incurred in connection with the administration of this section~~
253 ~~and the programs funded through the grants and contracts~~
254 ~~authorized by the State Board of Education or the State Surgeon~~
255 ~~General.~~
256 Section 2. Subsections (1) and (2) of section 458.324,
257 Florida Statutes, are amended to read:
258 458.324 Breast cancer; information on treatment
259 alternatives.—
260 (1) DEFINITION.—As used in this section, the term
261 “medically viable,” as applied to treatment alternatives, means
262 modes of treatment generally considered by the medical
263 profession to be within the scope of current, acceptable
264 standards,~~including treatment alternatives described in the~~
265 ~~written summary prepared by the Florida Cancer Control and~~
266 ~~Research Advisory Council in accordance with s. 1004.435(4)(m).~~
267 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—
268 (a) Each physician treating a patient who is, or in the
269 judgment of the physician is at high risk of being, diagnosed as
270 having breast cancer shall inform such patient of the medically
271 viable treatment alternatives available to such patient; shall



657682

272 describe such treatment alternatives; and shall explain the
273 relative advantages, disadvantages, and risks associated with
274 the treatment alternatives to the extent deemed necessary to
275 allow the patient to make a prudent decision regarding such
276 treatment options. In compliance with this subsection, ~~÷~~

277 ~~(a) the physician may, in his or her discretion, ÷~~

278 ~~1. orally communicate such information directly to the~~
279 ~~patient or the patient's legal representative;~~

280 ~~2. Provide the patient or the patient's legal~~
281 ~~representative with a copy of the written summary prepared in~~
282 ~~accordance with s. 1004.435(4) (m) and express a willingness to~~
283 ~~discuss the summary with the patient or the patient's legal~~
284 ~~representative; or~~

285 ~~3. Both communicate such information directly and provide a~~
286 ~~copy of the written summary to the patient or the patient's~~
287 ~~legal representative for further consideration and possible~~
288 ~~later discussion.~~

289 (b) In providing such information, the physician shall take
290 into consideration the emotional state of the patient, the
291 physical state of the patient, and the patient's ability to
292 understand the information.

293 (c) The physician may, in his or her discretion and without
294 restriction, recommend any mode of treatment which is in his or
295 her judgment the best treatment for the patient.

296
297 Nothing in this subsection shall reduce other provisions of law
298 regarding informed consent.

299 Section 3. Subsections (1) and (2) of section 459.0125,
300 Florida Statutes, are amended to read:



657682

301 459.0125 Breast cancer; information on treatment
302 alternatives.-

303 (1) DEFINITION.—As used in this section, the term
304 “medically viable,” as applied to treatment alternatives, means
305 modes of treatment generally considered by the medical
306 profession to be within the scope of current, acceptable
307 standards, ~~including treatment alternatives described in the~~
308 ~~written summary prepared by the Florida Cancer Control and~~
309 ~~Research Advisory Council in accordance with s. 1004.435(4)(m).~~

310 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

311 (a) It is the obligation of every physician treating a
312 patient who is, or in the judgment of the physician is at high
313 risk of being, diagnosed as having breast cancer to inform such
314 patient of the medically viable treatment alternatives available
315 to such patient; to describe such treatment alternatives; and to
316 explain the relative advantages, disadvantages, and risks
317 associated with the treatment alternatives to the extent deemed
318 necessary to allow the patient to make a prudent decision
319 regarding such treatment options. In compliance with this
320 subsection, ~~÷~~

321 ~~(a)~~ the physician may, in her or his discretion, ~~÷~~

322 ~~1.~~ orally communicate such information directly to the
323 patient or the patient’s legal representative; ~~÷~~

324 ~~2.~~ Provide the patient or the patient’s legal
325 representative with a copy of the written summary prepared in
326 accordance with s. 1004.435(4)(m) and express her or his
327 willingness to discuss the summary with the patient or the
328 patient’s legal representative; or

329 ~~3.~~ Both communicate such information directly and provide a



657682

330 ~~copy of the written summary to the patient or the patient's~~
331 ~~legal representative for further consideration and possible~~
332 ~~later discussion.~~

333 (b) In providing such information, the physician shall take
334 into consideration the emotional state of the patient, the
335 physical state of the patient, and the patient's ability to
336 understand the information.

337 (c) The physician may, in her or his discretion and without
338 restriction, recommend any mode of treatment which is in the
339 physician's judgment the best treatment for the patient.

340
341 Nothing in this subsection shall reduce other provisions of law
342 regarding informed consent.

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

344
345 ===== T I T L E A M E N D M E N T =====

346 And the title is amended as follows:

347 Delete everything before the enacting clause
348 and insert:

349 A bill to be entitled
350 An act relating to cancer control and research;
351 amending s. 1004.435, F.S.; revising definitions;
352 revising the membership of the Florida Cancer Control
353 and Research Advisory Council and selection of the
354 council chairperson; authorizing renewal of member
355 terms; revising compensation of council members;
356 renaming the Florida Cancer Plan; requiring the
357 council to collaborate with the Florida Biomedical
358 Research Advisory Council to formulate and review a



657682

359 statewide research plan; requiring the council to
360 develop and review a statewide treatment plan;
361 deleting council, Board of Governors, and State
362 Surgeon General duties relating to the awarding of
363 grants and contracts for cancer-related programs;
364 deleting council duties relating to the development of
365 written summaries of treatment alternatives; deleting
366 financial aid provisions and the Florida Cancer
367 Control and Research Fund; amending ss. 458.324 and
368 459.0125, F.S.; conforming provisions; providing an
369 effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 734

INTRODUCER: Appropriations Subcommittee on Health and Human Services and Senators Sobel and
Abruzzo

SUBJECT: Cancer Control and Research

DATE: April 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>Brown/Loe</u>	<u>Pigott</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

CS/SB 734 reduces the number of members of the Cancer Control and Research Advisory Council (CCRAB) from 35 to 15 and revises which organizations are represented on the CCRAB, as well as how CCRAB members and the chairperson of the CCRAB are appointed. The bill also revises the duties of the CCRAB by eliminating the CCRAB's responsibility for recommending the awarding of grants and contracts to private entities and government agencies for cancer control, prevention, education, or research. The bill requires the CCRAB to recommend to the state surgeon general a statewide research plan.

The bill has no fiscal impact.

II. Present Situation:

The Florida Cancer Control and Research Advisory Council was established by the Legislature in 1979 to advise the Legislature, governor, and state surgeon general on how to reduce the cancer burden in Florida.¹ The CCRAB is housed within the H. Lee Moffitt Cancer Center and Research Institute, Inc. (Moffitt).² The CCRAB:

- Advises the Board of Governors, the state surgeon general, and the Legislature on cancer control and research in Florida;
- Annually approves the Florida Cancer Plan;
- Provides recommendations for the Florida Cancer Plan to include the coordination and integration of plans concerned with cancer control and research provided by other stakeholders;

¹ Florida Cancer Control and Research Advisory Council, *What is CCRAB?*, found at <http://www.ccrab.org/>, last visited on March 7, 2014.

² See s. 1004.435(4), F.S.

- Formulates and recommends to the state surgeon general:
 - A plan for the care and treatment of persons suffering from cancer,
 - Standard requirements for organization, equipment, and conduct of cancer units or departments in hospitals and clinics, and
 - The designation of cancer units following a survey of needs and facilities for treatment of cancer throughout the state;
- Recommends grant awards and contracts to qualified recipients;³
- Develops educational materials and programs; and
- Recommends rules and methods of implementing or enforcing laws concerned with cancer control, research, and education.

The CCRAB consists of 35 members, including appointees by the speaker of the House of Representatives, the president of the Senate, the governor, and other persons. Members represent:

- American Cancer Society,
- Florida Tumor Registrars Association,
- Sylvester Comprehensive Cancer Center of the University of Miami,
- Department of Health (DOH),
- University of Florida Shands Cancer Center,
- Agency for Health Care Administration,
- Florida Nurses Association,
- Florida Osteopathic Medical Association,
- American College of Surgeons,
- School of Medicine of the University of Miami,
- College of Medicine of the University of Florida,
- Nova Southeastern University College of Osteopathic Medicine,
- College of Medicine of the University of South Florida,
- College of Public Health of the University of South Florida,
- Florida Society of Clinical Oncology,
- Florida Obstetric and Gynecologic Society,
- Florida Ovarian Cancer Alliance Speaks,
- Florida Medical Association,
- Florida Pediatric Society,
- Florida Radiological Society,
- Florida Society of Pathologists,
- Moffitt,
- Florida Dental Association,
- Florida Hospital Association,
- Association of Community Cancer Centers,
- Statutory teaching hospitals,⁴

³ According to a phone conversation with Susan Fleming at the DOH on Mar. 10, 2014, the Florida Cancer Control Research Fund, from which the council was supposed to grant the awards and contracts, was never implemented or funded.

⁴ See s. 408.07(45), F.S. "Teaching hospital" means any Florida hospital officially affiliated with an accredited Florida medical school which participates in graduate medical education as reflected by at least seven different graduate medical

- Florida Association of Pediatric Tumor Programs, Inc.,
- Cancer Information Services,
- Florida Agricultural and Mechanical University Institute of Public Health,
- Florida Society of Oncology Social Workers, and
- Consumer advocates from the general public.

In 2013, the Legislature passed 2013-50, L.O.F., which created the Cancer Center of Excellence Award and amended s. 1004.435(4), F.S., to require the CCRAB, along with the Biomedical Research Advisory Council (BRAC), to develop performance measures, a rating system, a rating standard, and an application for the Cancer Center of Excellence Award. The CCRAB is required to select by majority vote seven members to form a joint committee with six members of the BRAC in order to implement the Cancer Center of Excellence Award.

The Florida Cancer Control and Research Fund

The Florida Cancer Control and Research Fund is not an official trust fund of the state of Florida. The fund was created by ch. 2002-387, L.O.F., and is authorized to consist of appropriations from the General Revenue Fund and any gifts, grants, or funds received from other sources. The fund is statutorily required to be used exclusively for grants and contracts to qualified non-profit associations of governmental agencies for the purpose of cancer control and prevention, cancer education and training, cancer research, and all expenses incurred in connection with the administration of s. 1004.435, F.S., and programs funded through grants and contracts authorized by the Board of Education or the state surgeon general.⁵

The General Appropriations Act has never contained an appropriation for the Florida Cancer Control and Research Fund since the fund was created in 2002.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 1004.435, F.S., to revise the membership of the CCRAB and reduce its membership from 35 to 15 members⁶ consisting of:

- One member appointed by the state surgeon general;
- One member appointed by the chief executive officer (CEO), or the CEO's designee, from each of the following institutions:
 - The American Cancer Society;
 - The Sylvester Comprehensive Cancer Center of the University of Miami;

education programs accredited by the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association and the presence of 100 or more full-time equivalent resident physicians.

⁵ See s. 1004.435(6), F.S.

⁶ Organizations that are no longer included in council membership include: The Florida Tumor Registration Association, the Agency for Health Care Administration, the American College of Surgeons, the University of Miami College of Medicine, the University of Florida College of Medicine, the NOVA Southeastern College of Osteopathic Medicine, the University of South Florida College of Public Health, the Florida Society of Clinical Oncology, the Florida Obstetric and Gynecologic Society, the Florida Ovarian Cancer Alliance Speaks organization, the Florida Pediatric Society, the Florida Radiological Society, the Florida Society of Pathologists, the Florida Dental Association, the Association of Community Cancer Centers, the Florida Association of Pediatric Tumor Programs, Inc., a statutory teaching hospital affiliated with a community-based cancer center, the Cancer Information Service, the Florida Agricultural and Mechanical University Institute of Public Health, and the Florida Society of Oncology Social Workers.

- The University of Florida Shands Cancer Center;
- The Florida Nurses Association who specializes in the field of oncology and is not from an institution or organization already represented on the CCRAB;
- The Florida Osteopathic Medical Association who specializes in the field of oncology;
- The Florida Medical Association (FMA) who is a member of the FMA, specializes in the field of oncology, and represents a cancer center not already represented on the CCRAB;
- The H. Lee Moffitt Cancer Center and Research Institute;
- The Florida Hospital Association (FHA) who specializes in the field of oncology, is a member of the FHA, and represents a comprehensive cancer center not already represented on the CCRAB; and
- The Association of Community Cancer Centers.
- One member, appointed by the governor, who specializes in pediatric oncology;
- One member, appointed by the president of the Senate, who specializes in oncology clinical care and research;
- One member, appointed by the speaker of the House of Representatives, who is a current or former cancer patient or caregiver;
- One member of the House of Representatives appointed by the speaker of the House of Representatives; and,
- One member of the Senate, appointed by the president of the Senate.

Regarding CCRAB membership, the bill also provides that:

- At least four members must be minority persons;⁷
- A member's term is four years with the option of reappointment;
- Members of the CCRAB select the chairperson;
- Eight members constitute a quorum; and
- The institution that a member represents may reimburse that member for travel expenses, or if a member does not represent an institution, then Moffitt is required to reimburse that member for travel expenses.

The bill renames the "Florida Cancer Plan" that the CCRAB is required to approve each year, consisting of a program for cancer control and research, as the "Florida Cancer Control and Research Plan."

The bill requires that the CCRAB must collaborate with the Florida Biomedical Research Advisory Council to annually recommend to the state surgeon general a statewide research plan, in addition to the plan for the care and treatment of persons suffering from cancer that is required of the CCRAB under current law. The latter plan is named the "Florida Cancer Treatment Plan" under the bill.

⁷ Defined in s. 288.703, F.S., to mean a lawful, permanent resident of Florida who is an African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin; a Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race; an Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778; a Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or, an American woman.

The bill removes from statute:

- Requirements for the CCRAB to recommend the awarding of grants and contracts to qualified associations or government agencies;
- The CCRAB's duty to create summaries of the treatment options available to persons suffering from breast and prostate cancer;
- The authorization for the DOH to furnish financial aid to Florida citizens who are afflicted with cancer; and
- The Florida Cancer Control and Research Fund.

Sections 2 and 3 of the bill amend ss. 458.324 and 459.0125, F.S., to conform those sections to the changes made in Section 1 of the bill relating to summaries of treatment alternatives and to make other technical revisions.

Section 4 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:

Under CS/SB 734, organizations represented on the CCRAB may be required to pay their representative's travel expenses under the provisions of ss. 1004.435(4)(e) and 112.061, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill in delineating the membership of the CCRAB, indicates one member must be a member of the Florida Medical Association who represents a cancer center not already represented on the CCRAB. The bill also indicates one member must be a member of the Florida Hospital Association who represents a comprehensive cancer center not already represented on the CCRAB. The bill does not specify what differentiates a “cancer center” from a “comprehensive cancer center,” and that differentiation is also not found under current law in s. 1004.435, F.S.

The bill’s intent is not clear regarding the requirement that one CCRAB member be a “member of the Florida Hospital Association” (FHA). The FHA’s membership is not composed of individual persons. Organizations such as hospitals and health systems constitute the membership of the FHA.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 458.324, 459.0125, and 1004.435.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on April 2, 2014:

The CS:

- Provides additional requirements for members of the CCRAB who represent the Florida Nurses Association, the Florida Medical Association, and the Florida Hospital Association;
- Renames the Florida Cancer Plan as the Florida Cancer Control and Research Plan;
- Requires the CCRAB to collaborate with the Florida Biomedical Research Advisory Council to recommend to the state surgeon general a statewide research plan; and
- Requires that the statewide research plan must be reviewed and recommended annually.

B. Amendments:

None.

By Senator Sobel

33-00984-14

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1 A bill to be entitled
 2 An act relating to cancer control and research;
 3 amending s. 1004.435, F.S.; revising definitions;
 4 revising the membership of the Florida Cancer Control
 5 and Research Advisory Council; requiring that the
 6 council chairperson be selected by the council;
 7 authorizing renewal of member terms; revising the
 8 compensation of council members; requiring a statewide
 9 research plan; deleting the duties of the council,
 10 Board of Governors, and State Surgeon General relating
 11 to the awarding of grants and contracts for cancer-
 12 related programs; deleting council duties relating to
 13 the development of written summaries of treatment
 14 alternatives; deleting financial aid provisions and
 15 the Florida Cancer Control and Research Fund; amending
 16 ss. 458.324, and 459.0125, F.S.; conforming provisions
 17 to changes made by the act; making technical changes;
 18 providing an effective date.

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

20 Section 1. Paragraphs (d) and (e) of subsection (3) and
 21 subsections (4) through (6) of section 1004.435, Florida
 22 Statutes, are amended to read:

23 1004.435 Cancer control and research.—

24 (3) DEFINITIONS.—The following words and phrases when used
 25 in this section have, unless the context clearly indicates
 26 otherwise, the meanings given to them in this subsection:

27 (d) "Fund" means the Florida Cancer Control and Research
 28
 29

Page 1 of 13

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

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30 Fund established by this section.
 31 (e) ~~"Qualified nonprofit association" means any~~
 32 ~~association, incorporated or unincorporated, that has received~~
 33 ~~tax-exempt status from the Internal Revenue Service.~~
 34 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL;
 35 CREATION; COMPOSITION.—
 36 (a) There is created within the H. Lee Moffitt Cancer
 37 Center and Research Institute, Inc., the Florida Cancer Control
 38 and Research Advisory Council. The council shall consist of 15
 39 35 members, which includes the chairperson, all of whom must be
 40 residents of this state. The State Surgeon General or his or her
 41 designee within the Department of Health shall be one of the 15
 42 members. All Members, except those appointed by the Governor,
 43 the Speaker of the House of Representatives, or and the
 44 President of the Senate, must be appointed by the chief
 45 executive officer of the institution or organization
 46 represented, or his or her designee Governor. At least one of
 47 the members appointed by the Governor must be 60 years of age or
 48 older. One member must be a representative of the American
 49 Cancer Society; one member must be a representative of the
 50 Florida Tumor Registrars Association; one member must be a
 51 representative of the Sylvester Comprehensive Cancer Center of
 52 the University of Miami; one member must be a representative of
 53 the Department of Health; one member must be a representative of
 54 the University of Florida Shands Cancer Center; one member must
 55 be a representative of the Agency for Health Care
 56 Administration; one member must be a representative of the
 57 Florida Nurses Association who specializes in the field of
 58 oncology; one member must be a representative of the Florida

Page 2 of 13

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

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59 Osteopathic Medical Association who specializes in the field of
 60 oncology; one member must be a representative of the American
 61 College of Surgeons; one member must be a representative of the
 62 School of Medicine of the University of Miami; one member must
 63 be a representative of the College of Medicine of the University
 64 of Florida; one member must be a representative of NOVA
 65 Southeastern College of Osteopathic Medicine; one member must be
 66 a representative of the College of Medicine of the University of
 67 South Florida; one member must be a representative of the
 68 College of Public Health of the University of South Florida; one
 69 member must be a representative of the Florida Society of
 70 Clinical Oncology; one member must be a representative of the
 71 Florida Obstetric and Gynecologic Society who has had training
 72 in the specialty of gynecologic oncology; one member must be a
 73 representative of the Florida Ovarian Cancer Alliance Speaks
 74 (FOCAS) organization; one member must be a representative of the
 75 Florida Medical Association who specializes in the field of
 76 oncology; one member must be a member of the Florida Pediatric
 77 Society; one member must be a representative of the Florida
 78 Radiological Society; one member must be a representative of the
 79 Florida Society of Pathologists; one member must be a
 80 representative of the H. Lee Moffitt Cancer Center and Research
 81 Institute, Inc.; one member must be a representative of the
 82 Florida Hospital Association who specializes in the field of
 83 oncology; one member must be a representative of the Association
 84 of Community Cancer Centers; one member, who shall be appointed
 85 by the Governor, must specialize in pediatric oncology research
 86 or clinical care; one member, who shall be appointed by the
 87 President of the Senate, must specialize in oncology clinical

Page 3 of 13

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33-00984-14

2014734

88 care or research; one member, who shall be appointed by the
 89 Speaker of the House of Representatives, must be a current or
 90 former cancer patient or a current or former caregiver to a
 91 cancer patient three members must be representatives of the
 92 general public acting as consumer advocates; one member must be
 93 a member of the House of Representatives appointed by the
 94 Speaker of the House of Representatives; and one member must be
 95 a member of the Senate appointed by the President of the Senate;
 96 one member must be a representative of the Florida Dental
 97 Association; one member must be a representative of the Florida
 98 Hospital Association; one member must be a representative of the
 99 Association of Community Cancer Centers; one member shall be a
 100 representative from a statutory teaching hospital affiliated
 101 with a community-based cancer center; one member must be a
 102 representative of the Florida Association of Pediatric Tumor
 103 Programs, Inc.; one member must be a representative of the
 104 Cancer Information Service; one member must be a representative
 105 of the Florida Agricultural and Mechanical University Institute
 106 of Public Health; and one member must be a representative of the
 107 Florida Society of Oncology Social Workers. Of the members of
 108 the council appointed by the Governor, At least four members ~~10~~
 109 must be individuals who are minority persons as defined under by
 110 s. 288.703.

111 (b) The terms of the members shall be 4 years from their
 112 respective dates of appointment with the option of
 113 reappointment.

114 (c) A chairperson shall be selected by the council
 115 appointed by the Governor for a term of 2 years. The chairperson
 116 shall appoint an executive committee of at least no fewer than

Page 4 of 13

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33-00984-14

2014734__

117 three persons to serve at the pleasure of the chairperson. This
 118 committee ~~shall will~~ prepare material for the council but make
 119 no final decisions.

120 (d) The council shall meet at least no less than
 121 semiannually at the call of the chairperson or, in his or her
 122 absence or incapacity, at the call of the State Surgeon General.
 123 Eight sixteen members constitute a quorum for the purpose of
 124 exercising ~~all of~~ the powers of the council. A vote of the
 125 majority of the members present is sufficient for all actions of
 126 the council.

127 (e) The council members ~~shall~~ serve without pay. Pursuant
 128 to ~~the provisions of s. 112.061, a~~ the council member members
 129 may be entitled to be reimbursed for ~~per diem and~~ travel
 130 expenses by the institution or organization he or she
 131 represents. A member who is not affiliated with an institution
 132 or organization shall be reimbursed for travel expenses by the
 133 H. Lee Moffitt Cancer Center and Research Institute, Inc.

134 ~~(f) No member of the council shall participate in any~~
 135 ~~discussion or decision to recommend grants or contracts to any~~
 136 ~~qualified nonprofit association or to any agency of this state~~
 137 ~~or its political subdivisions with which the member is~~
 138 ~~associated as a member of the governing body or as an employee~~
 139 ~~or with which the member has entered into a contractual~~
 140 ~~arrangement.~~

141 ~~(f)(g)~~ The council may prescribe, amend, and repeal bylaws
 142 governing the manner in which the business of the council is
 143 conducted.

144 ~~(g)(h)~~ The council shall advise the Board of Governors, the
 145 State Surgeon General, and the Legislature with respect to

33-00984-14

2014734__

146 cancer control and research in this state.

147 ~~(h)(i)~~ The council shall annually approve ~~each year~~ a
 148 program for cancer control and research to be known as the
 149 "Florida Cancer Plan," which shall be consistent with the State
 150 Health Plan and integrated and coordinated with existing
 151 programs in this state.

152 ~~(i)(j)~~ The council shall formulate and recommend to the
 153 State Surgeon General a statewide research plan and a plan for
 154 the care and treatment of persons suffering from cancer and
 155 shall recommend the establishment of standard requirements for
 156 the organization, equipment, and conduct of cancer units or
 157 departments in hospitals and clinics in this state. The council
 158 may recommend to the State Surgeon General the designation of
 159 cancer units following a survey of the needs and facilities for
 160 treatment of cancer in the various localities throughout the
 161 state. The State Surgeon General shall consider the plan in
 162 developing departmental priorities and funding priorities and
 163 standards under chapter 395.

164 ~~(j)(k)~~ The council shall include ~~is responsible for~~
 165 ~~including~~ in the Florida Cancer Plan recommendations for the
 166 coordination and integration of medical, nursing, paramedical,
 167 lay, and other plans concerned with cancer control and research.
 168 The council shall form committees ~~shall be formed by the council~~
 169 so that the following areas will be established as entities for
 170 actions:

171 1. Cancer plan evaluation: tumor registry, data retrieval
 172 systems, and epidemiology of cancer in the state and its
 173 relation to other areas.

174 2. Cancer prevention.

33-00984-14

2014734__

175 3. Cancer detection.

176 4. Cancer patient management, including treatment,
177 rehabilitation, terminal care, and other patient-oriented
178 activities.

179 5. Lay and professional cancer education; ~~lay and~~
180 ~~professional~~.

181 6. Unproven methods of cancer therapy, including quackery
182 and unorthodox therapies.

183 7. Investigator-initiated project research.

184 ~~(l) In order to implement in whole or in part the Florida~~
185 ~~Cancer Plan, the council shall recommend to the Board of~~
186 ~~Governors or the State Surgeon General the awarding of grants~~
187 ~~and contracts to qualified profit or nonprofit associations or~~
188 ~~governmental agencies in order to plan, establish, or conduct~~
189 ~~programs in cancer control or prevention, cancer education and~~
190 ~~training, and cancer research.~~

191 ~~(m) If funds are specifically appropriated by the~~
192 ~~Legislature, the council shall develop or purchase standardized~~
193 ~~written summaries, written in layperson's terms and in language~~
194 ~~easily understood by the average adult patient, informing actual~~
195 ~~and high-risk breast cancer patients, prostate cancer patients,~~
196 ~~and men who are considering prostate cancer screening of the~~
197 ~~medically viable treatment alternatives available to them in the~~
198 ~~effective management of breast cancer and prostate cancer;~~
199 ~~describing such treatment alternatives; and explaining the~~
200 ~~relative advantages, disadvantages, and risks associated~~
201 ~~therewith. The breast cancer summary, upon its completion, shall~~
202 ~~be printed in the form of a pamphlet or booklet and made~~
203 ~~continuously available to physicians and surgeons in this state~~

Page 7 of 13

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33-00984-14

2014734__

204 ~~for their use in accordance with s. 458.324 and to osteopathic~~
205 ~~physicians in this state for their use in accordance with s.~~
206 ~~459.0125. The council shall periodically update both summaries~~
207 ~~to reflect current standards of medical practice in the~~
208 ~~treatment of breast cancer and prostate cancer. The council~~
209 ~~shall develop and implement educational programs, including~~
210 ~~distribution of the summaries developed or purchased under this~~
211 ~~paragraph, to inform citizen groups, associations, and voluntary~~
212 ~~organizations about early detection and treatment of breast~~
213 ~~cancer and prostate cancer.~~

214 ~~(k)(n)~~ The council shall have the responsibility to advise
215 the Board of Governors and the State Surgeon General on methods
216 of enforcing and implementing laws already enacted and concerned
217 with cancer control, research, and education.

218 ~~(l)(e)~~ The council may recommend to the Board of Governors
219 or the State Surgeon General rules not inconsistent with law as
220 it may deem necessary for the performance of its duties and the
221 proper administration of this section.

222 ~~(m)(p)~~ The council shall formulate and put into effect a
223 continuing educational program for the prevention of cancer and
224 its early diagnosis and disseminate to hospitals, cancer
225 patients, and the public information concerning the proper
226 treatment of cancer.

227 ~~(n)(q)~~ The council shall be physically located at the H.
228 Lee Moffitt Cancer Center and Research Institute, Inc., at the
229 University of South Florida.

230 ~~(o)(r)~~ The council shall select, by majority vote, seven
231 members of the council who, ~~must combine~~ with six members of the
232 Biomedical Research Advisory Council, shall ~~to~~ form a joint

Page 8 of 13

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33-00984-14

2014734

233 committee to develop performance measures, a rating system, a
 234 rating standard, and an application form for the Cancer Center
 235 of Excellence Award created in s. 381.925.

236 (p) ~~(e)~~ On ~~February 15 of each year~~, The council shall
 237 report to the Governor and ~~to~~ the Legislature on February 15 of
 238 each year.

239 (5) RESPONSIBILITIES OF ~~THE BOARD OF GOVERNORS, THE H. LEE~~
 240 ~~MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., AND THE~~
 241 ~~STATE SURGEON GENERAL.~~

242 ~~(a) The Board of Governors or the State Surgeon General,~~
 243 ~~after consultation with the council, shall award grants and~~
 244 ~~contracts to qualified nonprofit associations and governmental~~
 245 ~~agencies in order to plan, establish, or conduct programs in~~
 246 ~~cancer control and prevention, cancer education and training,~~
 247 ~~and cancer research.~~

248 ~~(b)~~ The H. Lee Moffitt Cancer Center and Research
 249 Institute, Inc., shall provide such staff, information, and
 250 other assistance as reasonably necessary for the completion of
 251 the responsibilities of the council.

252 ~~(c) The department may furnish to citizens of this state~~
 253 ~~who are afflicted with cancer financial aid to the extent of the~~
 254 ~~appropriation provided for that purpose in a manner which in its~~
 255 ~~opinion will afford the greatest benefit to those afflicted and~~
 256 ~~may make arrangements with hospitals, laboratories, or clinics~~
 257 ~~to afford proper care and treatment for cancer patients in this~~
 258 ~~state.~~

259 ~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.~~

260 ~~(a) There is created the Florida Cancer Control and~~
 261 ~~Research Fund consisting of funds appropriated therefor from the~~

33-00984-14

2014734

262 ~~General Revenue Fund and any gifts, grants, or funds received~~
 263 ~~from other sources.~~

264 ~~(b) The fund shall be used exclusively for grants and~~
 265 ~~contracts to qualified nonprofit associations or governmental~~
 266 ~~agencies for the purpose of cancer control and prevention,~~
 267 ~~cancer education and training, cancer research, and all expenses~~
 268 ~~incurred in connection with the administration of this section~~
 269 ~~and the programs funded through the grants and contracts~~
 270 ~~authorized by the State Board of Education or the State Surgeon~~
 271 ~~General.~~

272 Section 2. Subsections (1) and (2) of section 458.324,
 273 Florida Statutes, are amended to read:

274 458.324 Breast cancer; information on treatment
 275 alternatives.—

276 (1) DEFINITION.—As used in this section, the term
 277 "medically viable," as applied to treatment alternatives, means
 278 modes of treatment generally considered by the medical
 279 profession to be within the scope of current, acceptable
 280 standards, ~~including treatment alternatives described in the~~
 281 ~~written summary prepared by the Florida Cancer Control and~~
 282 ~~Research Advisory Council in accordance with s. 1004.435(4)(m).~~

283 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

284 (a) Each physician treating a patient who is, or in the
 285 judgment of the physician is at high risk of being, diagnosed as
 286 having breast cancer shall inform such patient of the medically
 287 viable treatment alternatives available to such patient; shall
 288 describe such treatment alternatives; and shall explain the
 289 relative advantages, disadvantages, and risks associated with
 290 the treatment alternatives to the extent deemed necessary to

33-00984-14

2014734__

291 allow the patient to make a prudent decision regarding such
 292 treatment options. In compliance with this subsection,⁺
 293 ~~(a) the physician may, in his or her discretion:~~
 294 ~~1. orally communicate such information directly to the~~
 295 ~~patient or the patient's legal representative;~~
 296 ~~2. Provide the patient or the patient's legal~~
 297 ~~representative with a copy of the written summary prepared in~~
 298 ~~accordance with s. 1004.435(4) (m) and express a willingness to~~
 299 ~~discuss the summary with the patient or the patient's legal~~
 300 ~~representative; or~~
 301 ~~3. Both communicate such information directly and provide a~~
 302 ~~copy of the written summary to the patient or the patient's~~
 303 ~~legal representative for further consideration and possible~~
 304 ~~later discussion.~~
 305 (b) In providing such information, the physician shall
 306 consider ~~take into consideration~~ the emotional and physical
 307 state of the patient, ~~the physical state of the patient,~~ and the
 308 patient's ability to understand the information.
 309 (c) The physician may, ~~in his or her discretion and~~ without
 310 restriction, recommend any mode of treatment which is in his or
 311 her judgment the best treatment for the patient.
 312
 313 ~~Nothing in~~ This subsection ~~does not shall~~ reduce other
 314 provisions of law regarding informed consent.
 315 Section 3. Subsections (1) and (2) of section 459.0125,
 316 Florida Statutes, are amended to read:
 317 459.0125 Breast cancer; information on treatment
 318 alternatives.—
 319 (1) DEFINITION.—As used in this section, the term

Page 11 of 13

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33-00984-14

2014734__

320 "medically viable," as applied to treatment alternatives, means
 321 modes of treatment generally considered by the medical
 322 profession to be within the scope of current, acceptable
 323 standards, ~~including treatment alternatives described in the~~
 324 ~~written summary prepared by the Florida Cancer Control and~~
 325 ~~Research Advisory Council in accordance with s. 1004.435(4) (m).~~
 326 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—
 327 (a) It is the obligation of every physician treating a
 328 patient who is, or in the judgment of the physician is at high
 329 risk of being, diagnosed as having breast cancer to inform such
 330 patient of the medically viable treatment alternatives available
 331 to such patient; to describe such treatment alternatives; and to
 332 explain the relative advantages, disadvantages, and risks
 333 associated with the treatment alternatives to the extent deemed
 334 necessary to allow the patient to make a prudent decision
 335 regarding such treatment options. In compliance with this
 336 subsection,⁺
 337 ~~(a) the physician may, in her or his discretion:~~
 338 ~~1. orally communicate such information directly to the~~
 339 ~~patient or the patient's legal representative;~~
 340 ~~2. Provide the patient or the patient's legal~~
 341 ~~representative with a copy of the written summary prepared in~~
 342 ~~accordance with s. 1004.435(4) (m) and express her or his~~
 343 ~~willingness to discuss the summary with the patient or the~~
 344 ~~patient's legal representative; or~~
 345 ~~3. Both communicate such information directly and provide a~~
 346 ~~copy of the written summary to the patient or the patient's~~
 347 ~~legal representative for further consideration and possible~~
 348 ~~later discussion.~~

Page 12 of 13

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33-00984-14

2014734__

349 (b) In providing such information, the physician shall
350 consider ~~take into consideration~~ the emotional and physical
351 state of the patient, ~~the physical state of the patient,~~ and the
352 patient's ability to understand the information.

353 (c) The physician may, ~~in her or his discretion and~~ without
354 restriction, recommend any mode of treatment which is in the
355 physician's judgment the best treatment for the patient.

356

357 ~~Nothing in~~ This subsection does not ~~shall~~ reduce other
358 provisions of law regarding informed consent.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Ethics and Elections, *Vice Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Regulated Industries
Rules

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act, *Vice Chair*

SENATOR ELEANOR SOBEL

33rd District

March 17, 2014

Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services
306 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Grimsley:

This letter is to request that **SB 734** relating to the **Florida Cancer Control and Research Advisory Council (CCRAB)** be placed on the agenda of the next scheduled meeting of the committee.

The proposed legislation would **revise the membership of the Florida Cancer Control and Research Advisory Council (15 from 35 to reach a quorum)**. It also requires a statewide research plan. Further, it deletes the duties of the Council, Board of Governors, and State Surgeon General relating to the awarding of grants and contracts for cancer-related programs, and deletes the Council duties relating to the development of written summaries of treatment alternatives. Lastly, it deletes the financial aid provisions and the Florida Cancer Control and Research Fund.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in black ink that reads "Eleanor Sobel".

Eleanor Sobel
State Senator, 33rd District

Cc: Robin Auber, Scarlet Pigott

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

March 17, 2014
Page 2



434510

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Bean)
recommended the following:

Senate Amendment

Delete lines 145 - 170
and insert:

(5) IMMUNITY FROM LIABILITY.-Any person, as defined in s.
1.01, including an authorized health care practitioner, a
dispensing health care practitioner or pharmacist, an individual
conducting training pursuant to s. 381.88(5), and a person
certified pursuant to s. 381.88(7), who possesses, administers,
or stores an epinephrine auto-injector in compliance with this



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11 act; and an uncertified person who administers an epinephrine
12 auto-injector as authorized under subsection (4) in compliance
13 with this act, is afforded the civil liability immunity
14 protection provided under s. 768.13.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/CS/SB 1122

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Health Policy Committee;
and Senator Bean and others

SUBJECT: Emergency Allergy Treatment

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Brown/Loe</u>	<u>Pigott</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1122 renames the Insect Sting Emergency Treatment Act to the Emergency Allergy Treatment Act and expands the scope to include all emergency allergy reactions.

The educational training for certification of those who may administer epinephrine must be conducted by a nationally recognized organization or an individual or entity approved by the Department of Health (DOH), rather than a physician. Eligible persons include, but are not limited to, camp counselors, scout leaders, school teachers, forest rangers, tour guides, and chaperones who successfully complete the training program.

The bill replaces references to outdated epinephrine delivery devices and specifies the use and prescription of epinephrine auto-injectors.

The bill provides immunity from civil liability to certain persons who possess, administer, or store an epinephrine auto-injector in compliance with the Emergency Allergy Treatment Act under specified parameters.

The bill has an insignificant fiscal impact.

II. Present Situation:

Anaphylaxis is a severe, whole-body allergic reaction to a chemical that has become an allergen.¹ The human body releases chemicals during anaphylaxis that can cause shock, resulting in a sudden drop in blood pressure and the release of histamines, which may restrict breathing.² Symptoms of anaphylaxis include rapid, weak pulse; skin rash; nausea; and vomiting.³ Common causes include certain medications, some foods, insect bites or stings, and exposure to latex.⁴ Food allergies alone affect approximately 3.8 percent of all United States children, and the prevalence of such allergies has increased by 18 percent from 1997 to 2007.⁵ Food allergies are also the most common cause of anaphylaxis cases in hospital emergency rooms.⁶

Anaphylaxis is an emergency situation that requires immediate medical attention. If anaphylaxis is not treated, it will lead to unconsciousness and possible death. Symptoms can vary but can include hives, itching, flushing, swelling of the lips, tongue, and roof of the mouth, tightness of the throat and chest, dizziness, and headaches.

Initial treatment of anaphylaxis includes the administration of epinephrine, also known as adrenaline. Epinephrine is classified as a sympathomimetic drug, meaning its effects mimic those of the stimulated sympathetic nervous system, which stimulates the heart and narrows the blood vessels. It is available through a prescription from a physician.

Many individuals with severe allergies that have resulted in, or can result in, anaphylaxis carry a pre-filled, auto-injector that contains one dose of epinephrine such as an EpiPen or Twinject.⁷ Epinephrine acts quickly by stimulating the heart to improve breathing, relaxing muscles in the airways, and tightening blood vessels to reduce swelling of the face, lips, and throat. The effects of epinephrine are rapid, but not long-lasting.⁸ When injected, epinephrine eases the symptoms until professional medical treatment is obtained.

In 2012, the Legislature authorized pharmacists to administer – in the event of an allergic reaction – epinephrine using an auto-injection delivery system within the framework of an established protocol with a physician. This provision was included in legislation that expanded pharmacists' existing authority to administer certain vaccinations under a protocol with a supervising physician.⁹ The legislation further required any participating pharmacist to complete

¹ U.S. National Library of Medicine, National Institute of Health, *Anaphylaxis*, <http://www.nlm.nih.gov/medlineplus/ency/article/000844.htm> (last visited Mar. 6, 2014).

² Mayo Foundation for Medical Education and Research, *First Aid: Anaphylaxis*, <http://www.mayoclinic.org/first-aid/first-aid-anaphylaxis/basics/art-20056608> (last visited Mar. 6, 2014).

³ *Id.*

⁴ Mayo Clinic, *Anaphylaxis - Definition*, <http://www.mayoclinic.org/diseases-conditions/anaphylaxis/basics/definition/con-20014324> (last visited: Mar. 6, 2014).

⁵ McWilliams, Laurie, et al, *Future Therapies for Food Allergy*, landesbioscience.com, Human Vaccines and Immunotherapeutics, (October 2012), available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3660769/pdf/hvi-8-1479.pdf> (last visited Mar. 6, 2014).

⁶ *Id.*

⁷ U.S. National Library of Medicine, National Institute of Health, *Epinephrine Injection*, <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a603002.html> (last visited: Mar. 6, 2014).

⁸ *Id.*

⁹ Chapter Law 2012-60, s. 1, Laws of Florida.

a three-hour continuing education course as part of his or her re-licensure or recertification on the safe and effective administration of vaccines and epinephrine.¹⁰

For public and private schools, the 2013 Legislature authorized the purchase and maintenance of a supply of epinephrine auto-injectors in a secure, locked location on school premises for use if a student has an anaphylactic reaction.¹¹ Any participating school district or private school is required to adopt a protocol developed by a licensed physician for administration of the epinephrine by school personnel. The epinephrine auto-injectors may be administered by school personnel or self-administered by the student.

The state Board of Education's rule for the use of epinephrine auto-injectors is based solely on self-administration.¹² The rule provides that the auto-injector is a prescription medication in a specific dose-for-weight device that is packaged for self-delivery in the event of a life threatening allergic reaction. Written authorization is required from the physician and parent for the student to carry an epinephrine auto-injector and to self-administer epinephrine. The rule requires a school nurse to develop an annual child-specific action plan for an anticipated health emergency in the school setting.¹³

In November 2013, Congress passed and the President Barack Obama signed the School Access to Emergency Epinephrine Act.¹⁴ The federal legislation provides a financial incentive for schools to maintain a supply of the medication and permit trained personnel to administer it. Participating schools will be given additional preference for receiving federal asthma-treatment grants. The federal act also requires that a state attorney general certify that the state's liability protections are adequate for school personnel. Currently, five states require or will require schools to stock epinephrine in the next school year.¹⁵

The marketer and distributor of the EpiPen, Mylan Specialty, offers four free auto-injectors to qualifying public and private kindergarten, elementary, middle, and high schools in the United States with a valid prescription.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 381.88, F.S. This section, and newly created s. 381.885, F.S., may be cited as the Emergency Allergy Treatment Act. Section 381.88, F.S., was previously the Insect Sting Emergency Treatment Act. Definitions for the re-titled act are created for:

- Administrator
- Authorized entity

¹⁰ Chapter Law 2012-60, s. 3, Laws of Florida.

¹¹ Chapter Law 2013-63, ss. 1 and 3, Laws of Florida.

¹² Rule 6A-6.0251, F.A.C.; Effective March 24, 2008.

¹³ *Id.* The annual plan is developed in cooperation with the student, parent, healthcare provider, and school personnel for the student with life threatening allergies and must specify that the emergency number 911 will be called immediately for an anaphylaxis event. It must also describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.

¹⁴ Pub. Law 113-48, H.R. 2094, 113th Cong. (Nov. 13, 2013)

¹⁵ The five states that require epinephrine are Maryland, Michigan, Nebraska, Nevada and Virginia. Another 26 states permit schools to stock epinephrine but do not mandate stocking.

¹⁶ See EpiPen4Schools Program, <http://epipen4schools.com/> (last visited Mar. 6, 2014).

- Authorized health care practitioner
- Department
- Epinephrine auto-injector
- Self-administration

Under this section, references to “insect stings” are revised to “allergic” reactions to reflect the broader scope of the bill. References to the prescription or administration of epinephrine are clarified to specifically identify the epinephrine auto-injector.

Under the bill, the educational training program required for a layperson to obtain a certificate to obtain, produce, or administer epinephrine must be conducted by a nationally recognized organization with experience in training laypersons in emergency health treatment or an entity approved by the DOH, rather than a physician licensed in this state.

The list of eligible persons to whom a certificate of training under this section may be awarded is clarified to include, but not be limited to, a camp counselor, a scout leader, school teacher, forest ranger, tour guide, or chaperone who successfully completes the training program. The current list is an exclusive list of eligible entities.

Under the bill, a certificate holder is authorized to:

- Receive a prescription for epinephrine auto-injectors from either an authorized health care practitioner or the DOH;
- Possess the prescribed epinephrine auto-injector; and
- Administer the prescribed epinephrine auto-injector to a person experiencing a severe allergic reaction when a physician is not immediately available.

Section 2 creates s. 381.885, F.S., to permit an authorized health care practitioner to prescribe epinephrine auto-injectors to an authorized entity and authorizes pharmacists to dispense the prescription in the name of the authorized entity. The authorized entity is permitted to acquire and maintain a supply of epinephrine auto-injectors in accordance with the auto-injectors’ instructions and any additional requirements established by the DOH. The authorized entity is also permitted to designate employees or agents who hold a certificate that is issued under s. 381.88, F.S., to be responsible for the storage, maintenance, and oversight of the epinephrine auto-injector supply.

The bill provides authorization for individuals who hold a certificate from the training program to use the epinephrine auto-injectors to:

- Provide to a person who the certified individual believes, in good faith, is experiencing a severe allergic reaction for that person’s immediate self-administration; or
- Administer the epinephrine auto-injector to a person who the certified individual believes, in good faith, is experiencing a severe allergic reaction.

Use of the epinephrine auto-injector by the certified individual under either scenario may occur under the bill regardless of whether the affected person has a prescription or has been previously diagnosed with an allergy.

An authorized entity that acquires a stock supply of epinephrine auto-injectors via prescription from an authorized health care practitioner may also make the auto-injectors available to non-certified individuals. These non-certified individuals may administer the auto-injector in the following circumstances:

- Non-certified individual believes, in good faith, that a person is experiencing severe allergic reaction;
- The auto-injector is stored in a locked, secure container; and
- The auto-injectors can only be accessed upon remote authorization by an authorized health care provider after consultation with the authorized health care practitioner by audio, televideo, or other electronic communication. The bill provides that this consultation is not the practice of telemedicine or a violation of professional practice standards.

The administration of epinephrine auto-injectors under this section is specifically identified as not the practice of medicine.

The bill provides immunity from civil liability to any person, as defined in s. 1.01,¹⁷ who possesses, administers, or stores an epinephrine auto-injectors under the bill, including:

- An authorized health care practitioner;
- A dispensing health care practitioner or pharmacist;
- Any person certified under the Emergency Allergy Treatment Act;
- Any non-certified individual who receives an epinephrine auto-injectors from an authorized entity for purposes of administering it to another person suffering from a severe allergic reaction; and
- A trainer who conducts an educational training program for recognizing the symptoms of a severe allergic reaction and administering an epinephrine auto-injectors.

The immunity granted under CS/CS/SB 1122 is, by reference, identical to the immunity provided under s. 768.13, F.S. This section is known as Florida's *Good Samaritan Act* and provides, in part:

(2)(a) Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, a state of emergency which has been declared pursuant to s. 252.36, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

(b)1. Any health care provider, including a hospital licensed under chapter 395, providing emergency services pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s. 395.1041, s. 395.401, or s. 401.45

¹⁷ Section 1.01, F.S., defines "person" to include individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

shall not be held liable for any civil damages as a result of such medical care or treatment unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

Section 3 provides that the bill's effective date is 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:

Under CS/CS/SB 1122, private "authorized entities," such as restaurants, camps, youth sports, private schools, theme parks, and sports arenas could incur costs to stock and maintain the epinephrine auto-injectors. This is voluntary and the cost is indeterminate.

Immunity from civil liability has also been provided under the bill to certified organizations and certificate holders to encourage participation.

C. Government Sector Impact:

The DOH is required to establish rules and indicates that these costs can be absorbed within existing resources.

Other governmental agencies that may be impacted are any local municipalities or school boards that elect certification as an authorized entity for storage and maintenance of epinephrine auto-injectors. School districts, individual schools, parks, and recreation departments would likely be entities that participate in the program.

There is a cost to acquire the epinephrine auto-injectors and it is unclear who would bear the cost of the prescription. At least one distributor of the medication provides a limited, free supply of auto-injectors to schools.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are three other state statutes that address administration of epinephrine auto-injectors:

- Section 1002.20, F.S., relating to epinephrine supplies and authorization for student self-administration in public schools;
- Section 1002.42, F.S., relating to epinephrine supplies and authorization for student self-administration in private schools; and,
- Section 465.189, F.S.; relating to pharmacist administration of vaccines and epinephrine auto-injections.

All of these statutes require the third party (the school or the pharmacist) to have an approved protocol with a supervising physician prior to administration of epinephrine auto-injectors. The school-related statutes address only self-administered injections by a student authorized to self-administer, and by rule, the state Board of Education has required written authorization from the physician and the student's parent for the student to carry and self-administer epinephrine.

The bill describes a school as an authorized entity only for the purposes of s. 381.88(5), F.S., which refers to the bill's provisions for educational training programs. Section 1002.20(3)(i), F.S., already authorizes schools to purchase epinephrine auto-injectors from wholesale distributors and to maintain a supply of injectors in a secure, locked location for student use. It is unclear if the intent of the bill is to limit the role of the schools to only being an authorized entity for training and preclude them as sites for storage, administration, or distribution to certified individuals as created under this bill. A certificate of training may still be issued to a school teacher under the bill, yet the schools appear to be limited to student self-administration under s. 1002.20, F.S., since they are authorized entities only for training.

For pharmacists administering epinephrine auto-injectors, the bill also requires continuing education credit on the safe and effective administration of vaccines and epinephrine auto-injection as part of their biennial re-licensure or recertification. It is unclear whether a pharmacist – who is not precluded under the bill from being recognized as an authorized entity or certificate holder – would be required to complete both the continuing education requirements under s. 465.009(6)(a), F.S., and the education training program, or whether completion of one of the requirements would be sufficient.

In lines 123 to 127, the person who is believed to be suffering an adverse allergic reaction is not required to provide consent for treatment, if he or she is capable. The student self-administration requirements specifically require parental and physician authorization for the epinephrine auto-injector. In any other situation where medical care is rendered, authorization for medical treatment is required if the person who is believed to need treatment is capable.

VIII. Statutes Affected:

This bill substantially amends section 381.88 of the Florida Statutes.

This bill creates section 381.885 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on April 2, 2014:

The CS revises the bill's civil liability immunity provisions and makes the bill's liability protections identical to those under s. 768.13, F.S.

CS by Health Policy on March 11, 2014:

The CS makes technical corrections to update a cross reference that was re-numbered and to clarify who is authorized to possess and administer a prescription of an epinephrine auto-injector to a person suffering a severe allergic reaction.

B. Amendments:

None.

By the Committee on Health Policy; and Senators Bean, Gibson,
and Bradley

588-02479-14

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1 A bill to be entitled
2 An act relating to emergency allergy treatment;
3 amending s. 381.88, F.S.; defining terms; expanding
4 provisions to apply to all emergency allergy
5 reactions, rather than to insect bites only; creating
6 s. 381.885, F.S.; authorizing certain health care
7 practitioners to prescribe epinephrine auto-injectors
8 to an authorized entity; authorizing such entities to
9 maintain a supply of epinephrine auto-injectors;
10 authorizing certified individuals to use epinephrine
11 auto-injectors; authorizing uncertified individuals to
12 use epinephrine auto-injectors under certain
13 circumstances; providing immunity from liability;
14 providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Section 381.88, Florida Statutes, is amended to
19 read:
20 381.88 ~~Insect-sting~~ Emergency allergy treatment.-
21 (1) This section and s. 381.885 may be cited as the "~~Insect~~
22 ~~Sting~~ Emergency Allergy Treatment Act."
23 (2) As used in this section and s. 381.885, the term:
24 (a) "Administer" means to directly apply an epinephrine
25 auto-injector to the body of an individual.
26 (b) "Authorized entity" means an entity or organization at
27 or in connection with which allergens capable of causing a
28 severe allergic reaction may be present. The term includes, but
29 is not limited to, restaurants, recreation camps, youth sports

Page 1 of 6

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30 leagues, theme parks and resorts, and sports arenas. However, a
31 school as described in s. 1002.20(3)(i) is an authorized entity
32 for the purposes of subsection (5) only.
33 (c) "Authorized health care practitioner" means a licensed
34 practitioner authorized by the laws of the state to prescribe
35 drugs.
36 (d) "Department" means the Department of Health.
37 (e) "Epinephrine auto-injector" means a single-use device
38 used for the automatic injection of a premeasured dose of
39 epinephrine into the human body.
40 (f) "Self-administration" means an individual's
41 discretionary administration of an epinephrine auto-injector on
42 herself or himself.
43 (3)~~(2)~~ The purpose of this section is to provide for the
44 certification of persons who administer lifesaving treatment to
45 persons who have severe allergic adverse reactions ~~to insect~~
46 ~~stings~~ when a physician is not immediately available.
47 (4)~~(3)~~ The department ~~of Health~~ may:
48 (a) Adopt rules necessary to administer this section.
49 (b) Conduct educational training programs as described in
50 subsection (5) ~~(4)~~, and approve programs conducted by other
51 persons or governmental agencies.
52 (c) Issue and renew certificates of training to persons who
53 have complied with this section and the rules adopted by the
54 department.
55 (d) Collect fees necessary to administer this section.
56 (5)~~(4)~~ Educational training programs required by this
57 section must be conducted by a nationally recognized
58 organization experienced in training laypersons in emergency

Page 2 of 6

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588-02479-14

20141122c1

59 health treatment or an entity or individual approved by the
 60 department physician licensed to practice medicine in this
 61 state. The curriculum must include at a minimum:

62 (a) Recognition of the symptoms of systemic reactions to
 63 food, insect stings, and other allergens; and

64 (b) The proper administration of an a subcutaneous
 65 injection of epinephrine auto-injector.

66 ~~(6)(5)~~ A certificate of training may be given to a person
 67 who:

68 (a) Is 18 years of age or older;

69 (b) Has, or reasonably expects to have, responsibility for
 70 or contact with at least one other person who has severe adverse
 71 reactions to insect stings as a result of his or her
 72 occupational or volunteer status, including, but not limited to,
 73 a camp counselor, scout leader, school teacher, forest ranger,
 74 tour guide, or chaperone; and

75 (c) Has successfully completed an educational training
 76 program as described in subsection (5) (4).

77 ~~(7)(6)~~ A person who successfully completes an educational
 78 training program may obtain a certificate upon payment of an
 79 application fee of \$25.

80 ~~(8)(7)~~ A certificate issued pursuant to this section
 81 authorizes the holder ~~thereof~~ to receive, upon presentment of
 82 the certificate, ~~from any physician licensed in this state or~~
 83 ~~from the department,~~ a prescription for ~~premeasured doses of~~
 84 epinephrine auto-injectors from an authorized health care
 85 practitioner or the department and the necessary paraphernalia
 86 for administration. The certificate also authorizes the holder
 87 thereof to possess and administer, in an emergency situation

588-02479-14

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88 when a physician is not immediately available, to administer a
 89 the prescribed epinephrine auto-injector to a person
 90 experiencing suffering a severe allergic adverse reaction to an
 91 insect sting.

92 Section 2. Section 381.885, Florida Statutes, is created to
 93 read:

94 381.885 Epinephrine auto-injectors; emergency
 95 administration.—

96 (1) PRESCRIBING TO AN AUTHORIZED ENTITY.—An authorized
 97 health care practitioner may prescribe epinephrine auto-
 98 injectors in the name of an authorized entity for use in
 99 accordance with this section, and pharmacists may dispense
 100 epinephrine auto-injectors pursuant to a prescription issued in
 101 the name of an authorized entity.

102 (2) MAINTENANCE OF SUPPLY.—An authorized entity may acquire
 103 and stock a supply of epinephrine auto-injectors pursuant to a
 104 prescription issued in accordance with this section. Such
 105 epinephrine auto-injectors must be stored in accordance with the
 106 epinephrine auto-injector's instructions for use and with any
 107 additional requirements that may be established by the
 108 department. An authorized entity shall designate employees or
 109 agents who hold a certificate issued pursuant to s. 381.88 to be
 110 responsible for the storage, maintenance, and general oversight
 111 of epinephrine auto-injectors acquired by the authorized entity.

112 (3) USE OF EPINEPHRINE AUTO-INJECTORS.—An individual who
 113 holds a certificate issued pursuant to s. 381.88 may, on the
 114 premises of or in connection with the authorized entity, use
 115 epinephrine auto-injectors prescribed pursuant to subsection (1)
 116 to:

588-02479-14

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117 (a) Provide an epinephrine auto-injector to a person who
 118 the certified individual in good faith believes is experiencing
 119 a severe allergic reaction for that person's immediate self-
 120 administration, regardless of whether the person has a
 121 prescription for an epinephrine auto-injector or has previously
 122 been diagnosed with an allergy.

123 (b) Administer an epinephrine auto-injector to a person who
 124 the certified individual in good faith believes is experiencing
 125 a severe allergic reaction, regardless of whether the person has
 126 a prescription for an epinephrine auto-injector or has
 127 previously been diagnosed with an allergy.

128 (4) EXPANDED AVAILABILITY.—An authorized entity that
 129 acquires a stock supply of epinephrine auto-injectors pursuant
 130 to a prescription issued by an authorized health care
 131 practitioner in accordance with this section may make the auto-
 132 injectors available to individuals other than certified
 133 individuals identified in subsection (3) who may administer the
 134 auto-injector to a person believed in good faith to be
 135 experiencing a severe allergic reaction if the epinephrine auto-
 136 injectors are stored in a locked, secure container and are made
 137 available only upon remote authorization by an authorized health
 138 care practitioner after consultation with the authorized health
 139 care practitioner by audio, televideo, or other similar means of
 140 electronic communication. Consultation with an authorized health
 141 care practitioner for this purpose is not considered the
 142 practice of telemedicine or otherwise construed as violating any
 143 law or rule regulating the authorized health care practitioner's
 144 professional practice.

145 (5) IMMUNITY FROM LIABILITY.—

Page 5 of 6

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146 (a) The administration of an epinephrine auto-injector in
 147 accordance with this section is not the practice of medicine.

148 (b) Any authorized health care practitioner who prescribes
 149 epinephrine auto-injectors to an authorized entity or to an
 150 individual that holds a certificate issued pursuant to s.
 151 381.88; any authorized entity that possesses and makes available
 152 epinephrine auto-injectors; any individual who holds a
 153 certificate issued pursuant to s. 381.88; any noncertified
 154 individual under subsection (4); and any person that conducts
 155 the training under s. 381.88 is not liable for civil damages
 156 that result from the administration or self-administration of an
 157 epinephrine auto-injector, the failure to administer an
 158 epinephrine auto-injector, or any other act or omission
 159 committed, in good faith, pursuant to this section or s. 381.88.

160 (c) An authorized entity doing business in this state is
 161 not liable for injuries or related damages that result from the
 162 provision or administration of an epinephrine auto-injector by
 163 its employees or agents outside this state if the entity or its
 164 employees or agents would not have been liable for such injuries
 165 or related damages had the provision or administration occurred
 166 within this state, or would not have been liable under the law
 167 of the state in which such provision or administration occurred.

168 (d) This section does not eliminate, limit, or reduce any
 169 other immunity or defense that may be available under state law,
 170 including the immunity provided under s. 768.13.

171 Section 3. This act shall take effect July 1, 2014.

Page 6 of 6

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The Florida Senate

Committee Agenda Request

To: Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: March 14, 2014

I respectfully request that **Senate Bill # 1122**, relating to Emergency Allergy Treatment, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/CS/SB 268

INTRODUCER: Children, Families, and Elder Affairs Committee; Health Policy Committee; and
Senators Grimsley and Diaz de la Portilla

SUBJECT: Certificates of Need

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	<u>Favorable</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 268 amends various sections of the Florida Statutes related to nursing home certificates of need (CON) in order to, among other provisions:

- Repeal the moratorium on CONs for new nursing homes and for adding additional nursing home beds to an existing nursing home;
- Establish a positive CON application factor under certain conditions;
- Allow contiguous sub-districts that each have a need for nursing home beds to aggregate their need for the construction of one nursing home;
- Allow for an expedited CON review for the replacement of a nursing home;
- Allow for an expedited CON review for a nursing home to relocate a portion of its beds to an existing facility or a new facility under certain conditions;
- Create a new exemption to the CON process for an existing nursing home to add beds under certain conditions; and
- Restrict the Agency for Healthcare Administration from issuing any further CONs for nursing home beds once 3,750 total, new beds have been approved.

The bill has an indeterminate fiscal impact.

II. Present Situation:

Certificates of Need (CON)

A CON is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice.¹ Under this regulatory program, the AHCA must provide approval through the CON review and approval process prior to a provider establishing a new nursing home or adding nursing home beds.

The Florida CON program has three levels of review: full, expedited, and exempt.² The nursing home projects that require CONs are as follows:

Projects Subject to Full Comparative Review

- Adding beds in community nursing homes; and
- Constructing or establishing new health care facilities, which include skilled nursing facilities (SNF).³

Projects Subject to Expedited Review

- Replacing a nursing home within the same district;
- Relocating a portion of a nursing home's licensed beds to a facility within the same district; and
- The new construction of a nursing home in a retirement community if certain population and bed need criteria are met.⁴

Exemptions from CON Review

- Converting licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital;
- Adding nursing home beds at a SNF that is part of a retirement community which had been in operation for at least 65 years on or before July 1, 1994, for the exclusive use of the community residents;
- Combining licensed beds from two or more licensed nursing homes within a district into a single nursing home within that district if 50 percent of the beds are transferred from the only nursing home in a county and that nursing home had less than a 75-percent occupancy rate;⁵
- State veteran's nursing homes operated by or on behalf of the Florida Department of Veterans' Affairs;
- Combining the beds or services authorized by two or more CONs issued in the same planning sub-district into one nursing home;

¹ Section 408.032(3), F.S.

² Section 408.036, F.S.

³ Section 408.032(16), F.S., defines an SNF as an institution, or a distinct part of an institution, which is primarily engaged in providing, to inpatients, skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

⁴ These provisions, laid out in s. 408.036(2)(d), F.S., are excepted from the moratorium on CONs for new nursing homes in s. 408.0435, F.S.

⁵ This exemption is repealed upon the expiration of the moratorium by operation of s. 408.036(3)(f), F.S.

- Separating the beds or services that are authorized by one CON into two or more nursing homes in the sub-district;
- Adding no more than 10 total beds or 10 percent of the licensed nursing home beds of that facility, whichever is greater, or, if the nursing home is designated as a Gold Seal nursing home, no more than 20 total beds or 10 percent of the licensed nursing home beds of that facility for a facility with a prior-12-month occupancy rate of 96 percent or greater; and
- Replacing a licensed nursing home on the same site, or within three miles of the same site, if the number of licensed beds does not increase.

The CON program applies to all nursing home beds, regardless of the source of payment for the beds (private funds, insurance, Medicare, Medicaid, or other funding sources).

Determination of Need

The granting of a CON is based on need. The future need for community nursing home beds is determined twice a year and published by the AHCA as a fixed bed-need pool for the applicable planning horizon. The planning horizon for CON applications is three years. Need determinations are calculated for sub-districts within the agency's 11 service districts⁶ based on a formula⁷ and estimates of current and projected population as published by the Executive Office of the Governor.

Moratorium on Nursing Home CONs

Under the provisions of s. 408.0435, F.S., no CONs for additional community nursing home beds may be approved by the AHCA until the moratorium on nursing home CONs expires. The Legislature first enacted this moratorium in 2001 to last until July 1, 2006.⁸ The Legislature then reenacted the moratorium in 2006,⁹ and again in 2011.¹⁰ The current moratorium lasts until October 1, 2016, or until statewide Medicaid managed care is fully implemented. Full implementation of the statewide Medicaid managed care program is statutorily required to be completed by October 1, 2014.¹¹

The Legislature provided for additional exceptions to the moratorium to address occupancy needs that might arise, including:

- The addition of sheltered nursing home beds;¹²
- The addition of beds in a county that has no community nursing home beds and the lack of beds is the result of the closure of nursing homes that were licensed on July 1, 2001;¹³
- Adding the greater of no more than 10 total beds or 10 percent of the licensed nursing home beds of a nursing home located in a county having up to 50,000 residents, if:

⁶ The nursing home sub-districts are set forth in Rule 59C-2.200, F.A.C. and generally consist of 1 to 2 counties. Duval County is divided between several sub-districts of district 4.

⁷ Rule 59C-1.036, F.A.C.

⁸ Chapter 2001-45, s. 52, Laws of Florida.

⁹ Chapter 2006-161, Laws of Florida.

¹⁰ Chapter 2011-135, Laws of Florida.

¹¹ Sections 409.971 and 409.978, F.S.

¹² Sheltered nursing home bed is defined in s. 651.118, F.S., as a nursing home bed within a continuing care facility.

¹³ The request to add beds under this exception to the moratorium is subject to the full competitive review process for CONs.

- The nursing home has not had any class I or class II deficiencies within the 30 months preceding the request for addition;
- The prior-12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has not had any class I or class II deficiencies since its initial licensure; and
- For a facility that has been licensed for less than 24 months, the prior-6-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has not had any class I or class II deficiencies since its initial licensure;
- The addition of the greater of no more than 10 total beds or 10 percent of the number of licensed nursing home beds if:
 - The facility has not had any class I or class II deficiencies within the 30 months preceding the request for addition;
 - The prior-12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 96 percent;
 - The prior-12-month occupancy rate for the nursing home beds in the sub-district is 94 percent or greater; and
 - Any beds authorized for the facility under this exception in a prior request have been licensed and operational for at least 12 months;¹⁴ and
- The new construction of a nursing home in a retirement community if certain population and bed-need criteria are met.

III. Effect of Proposed Changes:

Section 1 amends s. 408.034, F.S., to reduce the average sub-district nursing home occupancy rate which the AHCA must attempt to maintain by rule from 94 to 92 percent. Potentially, this could result in an increase in nursing home beds. However, statewide bed occupancy rates have remained around 88.5 percent since Fiscal Year 2004-2005.¹⁵

The bill allows an applicant applying for a CON for the construction of a new community nursing home to aggregate bed-need from two or more contiguous sub-districts if:

- The proposed nursing home will be located in the sub-district with the greater need when only two sub-districts are aggregated, or
- The proposed nursing home will be located at a site that provides reasonable geographic access for residents in each sub-district respective of that sub-district's bed-need when more than two sub-districts are aggregated.

Contiguous sub-districts where the nursing home is not built will continue to show bed-need in subsequent batching cycles.

The bill allows for an additional, positive CON application factor for an applicant applying for a CON in a sub-district where nursing home bed-need has been determined to exist if that applicant voluntarily relinquishes licensed nursing home beds in one or more sub-districts where there is no calculated bed-need. The applicant must be able to demonstrate that it operates,

¹⁴ The request to add beds under the exception to the moratorium is subject to the procedures related to an exemption to the CON requirements.

¹⁵ The Agency for Health Care Administration, *Bill Analysis for SB 268*, December 20, 2013, on file with the Senate Health Policy Committee.

controls, or has an agreement with another licensed nursing home to ensure that the beds are relinquished.

The bill deletes obsolete language related to pilot nursing home diversion projects.

Section 2 amends s. 408.036, F.S., to allow for an expedited review of a CON application for the replacement of a nursing home either:

- Within a 30-mile radius of the existing nursing home, regardless of healthcare planning districts, or the geographic location of the majority of the current nursing home's residents, or
- Outside of a 30-mile radius of the existing nursing home if the new nursing home will be within the same sub-district or a contiguous sub-district.

If the nursing home is moved to a contiguous sub-district, existing nursing homes in that sub-district must have at least an 85-percent occupancy rate.

The bill also allows for an expedited CON review for a nursing home that is relocating a portion of its beds, within the same district or a contiguous district, to an established facility or to a new facility. Such a relocation cannot cause the total number of nursing home beds in the state to increase.

The bill makes the following changes to the allowed CON exemptions:

- Creates a new CON exemption for a nursing home that is adding up to either 30 beds or 25 percent of its current beds, whichever is less, when replacing its facility;
- Reduces the required average occupancy rate from 96 percent to 94 percent for a facility to add a number of beds equal to the greater of no more than 10 beds or 10 percent of the facility's current licensed beds;
- Increases the distance a replacement nursing home may be located from the current nursing home to up to five miles, rather than three miles, and clarifies that such a move must remain within the same sub-district; and
- Allows the consolidation of multiple licensed nursing homes with any shared controlled interest or the transfer of beds between such nursing homes if all of the nursing homes are within the same planning district, rather than sub-district. The site of relocation must be within 30 miles of the original sites and the total number of nursing home beds in the planning district may not increase.

The bill also makes technical and conforming changes to s. 408.036, F.S.

Section 3 repeals s. 408.0435, F.S., which establishes the moratorium on nursing home CONs.

Section 4 creates s. 408.0436, F.S., restricting AHCA from issuing any CONs for new nursing home beds following the batching cycle in which the total number of new nursing home beds approved between July 1, 2014, and June 30, 2017, meets or exceeds 3,750. The bill also defines "batching cycle" as the grouping for comparative review of CON applications submitted for beds, services, or programs having a similar CON-need methodology or licensing category in the same planning horizon and the same applicable district or sub-district.

The bill provides a repeal date for s. 408.0436, F.S., of July 1, 2017.

Section 5 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:

CS/SB 268 repeals the moratorium preventing the AHCA from issuing certificates of need (CONs) for new community nursing home beds in most instances. Repealing this moratorium will allow the AHCA to grant new CONs for the construction of new community nursing homes and the addition of community nursing home beds to existing nursing homes when need is determined. The bill also eases some of the guidelines that the AHCA must follow when issuing new nursing home CONs. Most significantly, the bill allows for a reduced minimum occupancy rate for existing nursing homes and allows CON applicants to aggregate bed need between sub-districts to qualify for a CON.

When taken together, the provisions of the bill will allow for the construction of new nursing homes and the expansion of existing nursing homes where such construction or expansion is restricted under current law. This new construction will likely have indeterminate positive effects on the parts of the private sector responsible for such construction, but may also have indeterminate negative effects on existing nursing homes in or around areas where such new construction is allowed.

C. Government Sector Impact:

According to the AHCA's bill analysis,¹⁶ the AHCA will need to amend its CON rules and revise the bed-need formula to comply with the reduced average sub-district nursing

¹⁶ *Supra*, 14.

home occupancy rate. Rewriting these rules will produce an indeterminate but insignificant fiscal impact.

The number of new nursing home beds created is unknown at this time; however, the construction of new nursing homes and the expansion of existing nursing homes will likely increase the number of Medicaid beds available which could have an impact on the state's Medicaid budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term “reasonable geographic access for residents in the respective sub-districts” on line 46 may prove difficult to define by rule since several of the state’s contiguous sub-districts cover large geographic areas. For example, District 3 has seven sub-districts and consists of 16 counties ranging from Hamilton County to Hernando County, District 8 has six sub-districts and includes seven counties, and District 4 has four sub-districts and includes seven counties.¹⁷

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 408.034 and 408.036.

This bill creates section 408.0436 of the Florida Statutes.

This bill repeals section 408.0435 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Children, Families, and Elder Affairs on March 18, 2014:

The CS reduces the newly-created limit of approved nursing home beds from 5,000 to 3,750 and changes the period of the limit from five years to three years.

CS by Health Policy on January 8, 2014:

The CS:

- Establishes a positive CON application factor for CON applications in sub-districts with bed-need if an applicant relinquishes nursing home beds in one or more sub-districts without need;
- Restricts a nursing home moving to a new location within 30 miles of the original nursing home from moving into a new sub-district unless that sub-district has had at least an 85 percent occupancy rate for the prior 6 months;

¹⁷ *Supra*, 14.

- Allows an expedited CON review for a nursing home to relocate a portion of its beds to an existing facility or a new facility in the same district, or a contiguous district, if the total number of beds in the state does not increase;
- Adds language granting a CON exemption to a nursing home that is adding up to either 30 beds or 25 percent of its current beds, whichever is less, when replacing its facility;
- Adds Section 4 of the bill to restrict the AHCA from issuing any further CONs for nursing home beds once 5,000 total new beds have been approved. This provision expires on June 30, 2019.
- Makes other technical, clarifying, and conforming changes.

B. Amendments:

None

By the Committees on Children, Families, and Elder Affairs; and Health Policy; and Senators Grimsley and Diaz de la Portilla

586-02761-14

2014268c2

1 A bill to be entitled
 2 An act relating to certificates of need; amending s.
 3 408.034, F.S.; decreasing the subdistrict average
 4 occupancy rate that the Agency for Health Care
 5 Administration is required to maintain as a goal of
 6 its nursing-home-bed-need methodology; conforming a
 7 provision to changes made by the act; authorizing an
 8 applicant to aggregate the need of geographically
 9 contiguous subdistricts within a district for a
 10 proposed community nursing home under certain
 11 circumstances; requiring the proposed nursing home
 12 site to be located in the subdistrict with the greater
 13 need under certain circumstances; recognizing an
 14 additional positive application factor for an
 15 applicant who voluntarily relinquishes certain nursing
 16 home beds; requiring the applicant to demonstrate that
 17 it meets certain requirements; amending s. 408.036,
 18 F.S.; providing that, under certain circumstances,
 19 replacement of a nursing home and relocation of a
 20 portion of a nursing home's licensed beds to another
 21 facility, or to establish a new facility, is a health-
 22 care-related project subject to expedited review;
 23 conforming a cross-reference; revising the
 24 requirements for projects that are exempted from
 25 applying for a certificate of need; repealing s.
 26 408.0435, F.S., relating to the moratorium on the
 27 approval of certificates of need for additional
 28 community nursing home beds; creating s. 408.0436,
 29 F.S.; prohibiting the agency from approving a

Page 1 of 10

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

586-02761-14

2014268c2

30 certificate-of-need application for new community
 31 nursing home beds under certain circumstances;
 32 defining the term "batching cycle"; providing a
 33 repeal; providing an effective date.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

37 Section 1. Subsection (5) of section 408.034, Florida
 38 Statutes, is amended, present subsection (6) of that section is
 39 redesignated as subsection (8), and a new subsection (6) and
 40 subsection (7) are added to that section, to read:

41 408.034 Duties and responsibilities of agency; rules.—

42 (5) The agency shall establish by rule a nursing-home-bed-
 43 need methodology that has a goal of maintaining a subdistrict
 44 average occupancy rate of 92 94 percent ~~and that reduces the~~
 45 ~~community nursing home bed need for the areas of the state where~~
 46 ~~the agency establishes pilot community diversion programs~~
 47 ~~through the Title XIX aging waiver program.~~

48 (6) If nursing home bed need is determined to exist in
 49 geographically contiguous subdistricts within a district, an
 50 applicant may aggregate the subdistricts' need for a new
 51 community nursing home in one of the subdistricts. If need is
 52 aggregated from two subdistricts, the proposed nursing home site
 53 must be located in the subdistrict with the greater need as
 54 published by the agency in the Florida Administrative Register.
 55 However, if need is aggregated from more than two subdistricts,
 56 the location of the proposed nursing home site must provide
 57 reasonable geographic access for residents in the respective
 58 subdistricts given the relative bed need in each.

Page 2 of 10

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586-02761-14

2014268c2

59 (7) If nursing home bed need is determined to exist in a
 60 subdistrict, an additional positive application factor may be
 61 recognized in the application review process for an applicant
 62 who agrees to voluntarily relinquish licensed nursing home beds
 63 in one or more subdistricts where there is no calculated need.
 64 The applicant must demonstrate that it operates, controls, or
 65 has an agreement with another licensed community nursing home to
 66 ensure that beds are voluntarily relinquished if the application
 67 is approved and the applicant is licensed.

68 Section 2. Subsection (2) and paragraphs (f), (k), (p), and
 69 (q) of subsection (3) of section 408.036, Florida Statutes, are
 70 amended to read:

71 408.036 Projects subject to review; exemptions.—

72 (2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt
 73 pursuant to subsection (3), the following projects are subject
 74 to an expedited review shall include, but not be limited to:

75 (a) A Transfer of a certificate of need, except that when
 76 an existing hospital is acquired by a purchaser, all
 77 certificates of need issued to the hospital which are not yet
 78 operational shall be acquired by the purchaser, without need for
 79 a transfer.

80 (b) Replacement of a nursing home ~~within the same district,~~
 81 ~~if the proposed project site is located within a geographic area~~
 82 ~~that contains at least 65 percent of the facility's current~~
 83 ~~residents and is within a 30-mile radius of the replaced nursing~~
 84 ~~home. If the proposed project site is outside the subdistrict~~
 85 ~~where the replaced nursing home is located, the prior 6-month~~
 86 ~~occupancy rate for licensed community nursing homes in the~~
 87 ~~proposed subdistrict must be at least 85 percent in accordance~~

586-02761-14

2014268c2

88 with the agency's most recently published inventory.

89 (c) Replacement of a nursing home within the same district,
 90 if the proposed project site is outside a 30-mile radius of the
 91 replaced nursing home but within the same subdistrict or a
 92 geographically contiguous subdistrict. If the proposed project
 93 site is in the geographically contiguous subdistrict, the prior
 94 6-month occupancy rate for licensed community nursing homes for
 95 that subdistrict must be at least 85 percent in accordance with
 96 the agency's most recently published inventory.

97 (d)(e) Relocation of a portion of a nursing home's licensed
 98 beds to another a facility or to establish a new facility within
 99 the same district or within a geographically contiguous
 100 district, if the relocation is within a 30-mile radius of the
 101 existing facility and the total number of nursing home beds in
 102 the state district does not increase.

103 (e)(d) The New construction of a community nursing home in
 104 a retirement community as further provided in this paragraph.

105 1. Expedited review under this paragraph is available if
 106 all of the following criteria are met:

107 a. The residential use area of the retirement community is
 108 deed-restricted as housing for older persons as defined in s.
 109 760.29(4)(b).

110 b. The retirement community is located in a county in which
 111 25 percent or more of its population is age 65 and older.

112 c. The retirement community is located in a county that has
 113 a rate of no more than 16.1 beds per 1,000 persons age 65 years
 114 or older. The rate shall be determined by using the current
 115 number of licensed and approved community nursing home beds in
 116 the county per the agency's most recent published inventory.

586-02761-14

2014268c2

117 d. The retirement community has a population of at least
118 8,000 residents within the county, based on a population data
119 source accepted by the agency.

120 e. The number of proposed community nursing home beds in an
121 application does not exceed the projected bed need after
122 applying the rate of 16.1 beds per 1,000 persons aged 65 years
123 and older projected for the county 3 years into the future using
124 the estimates adopted by the agency reduced by, after
125 subtracting the agency's most recently published inventory of
126 licensed and approved community nursing home beds in the county
127 per the agency's most recent published inventory.

128 2. No more than 120 community nursing home beds shall be
129 approved for a qualified retirement community under each request
130 for application for expedited review. Subsequent requests for
131 expedited review under this process may shall not be made until
132 2 years after construction of the facility has commenced or 1
133 year after the beds approved through the initial request are
134 licensed, whichever occurs first.

135 3. The total number of community nursing home beds which
136 may be approved for any single deed-restricted community
137 pursuant to this paragraph may shall not exceed 240, regardless
138 of whether the retirement community is located in more than one
139 qualifying county.

140 4. Each nursing home facility approved under this paragraph
141 must shall be dually certified for participation in the Medicare
142 and Medicaid programs.

143 5. Each nursing home facility approved under this paragraph
144 must shall be at least 1 mile, as measured over publicly owned
145 roadways, from an existing approved and licensed community

586-02761-14

2014268c2

146 nursing home, ~~measured over publicly owned roadways.~~

147 ~~6. Section 408.0435 does not apply to this paragraph.~~

148 ~~6.7.~~ A retirement community requesting expedited review
149 under this paragraph shall submit a written request to the
150 agency for ~~an~~ expedited review. The request must shall include
151 the number of beds to be added and provide evidence of
152 compliance with the criteria specified in subparagraph 1.

153 ~~7.8.~~ After verifying that the retirement community meets
154 the criteria for expedited review specified in subparagraph 1.,
155 the agency shall publicly notice in the Florida Administrative
156 Register that a request for an expedited review has been
157 submitted by a qualifying retirement community and that the
158 qualifying retirement community intends to make land available
159 for the construction and operation of a community nursing home.
160 The agency's notice must shall identify where potential
161 applicants can obtain information describing the sales price of,
162 or terms of the land lease for, the property on which the
163 project will be located and the requirements established by the
164 retirement community. The agency notice must shall also specify
165 the deadline for submission of the any certificate-of-need
166 application, which may shall not be earlier than the 91st day or
167 and not be later than the 125th day after the date the notice
168 appears in the Florida Administrative Register.

169 ~~8.9.~~ The qualified retirement community shall make land
170 available to applicants it deems to have met its requirements
171 for the construction and operation of a community nursing home
172 but may will sell or lease the land only to the applicant that
173 is issued a certificate of need by the agency under ~~the~~
174 ~~provisions of~~ this paragraph.

586-02761-14

2014268c2

175 a. A certificate-of-need ~~certificate of need~~ application
 176 submitted under ~~pursuant to~~ this paragraph must ~~shall~~ identify
 177 the intended site for the project within the retirement
 178 community and the anticipated costs for the project based on
 179 that site. The application must ~~shall~~ also include written
 180 evidence that the retirement community has determined that both
 181 the provider submitting the application and the project satisfy
 182 ~~proposed by that provider satisfies~~ its requirements for the
 183 project.

184 b. If the retirement community determines ~~community's~~
 185 ~~determination~~ that more than one provider satisfies its
 186 requirements for the project, it may notify ~~does not preclude~~
 187 ~~the retirement community from notifying~~ the agency of the
 188 provider it prefers.

189 ~~9.10-~~ The agency shall review each submitted application
 190 ~~submitted shall be reviewed by the agency.~~ If multiple
 191 applications are submitted for a ~~the~~ project ~~as~~ published
 192 pursuant to subparagraph 7. 9-, ~~then~~ the agency shall review the
 193 ~~competing applications shall be reviewed by the agency.~~

194
 195 The agency shall develop rules to implement the ~~provisions for~~
 196 expedited review process, including time schedule, application
 197 content that ~~which~~ may be reduced from the full requirements of
 198 s. 408.037(1), and application processing.

199 (3) EXEMPTIONS.—Upon request, the following projects are
 200 subject to exemption from the provisions of subsection (1):

201 (f) For the addition of nursing home beds licensed under
 202 chapter 400 in a number not exceeding 30 total beds or 25
 203 percent of the number of beds licensed in the facility being

586-02761-14

2014268c2

204 replaced under paragraph (2) (b), paragraph (2) (c), or paragraph
 205 (p), whichever is less ~~For the creation of a single nursing home~~
 206 ~~within a district by combining licensed beds from two or more~~
 207 ~~licensed nursing homes within such district, regardless of~~
 208 ~~subdistrict boundaries, if 50 percent of the beds in the created~~
 209 ~~nursing home are transferred from the only nursing home in a~~
 210 ~~county and its utilization data demonstrate that it had an~~
 211 ~~occupancy rate of less than 75 percent for the 12-month period~~
 212 ~~ending 90 days before the request for the exemption. This~~
 213 ~~paragraph is repealed upon the expiration of the moratorium~~
 214 ~~established in s. 408.0435(1).~~

215 (k) For the addition of nursing home beds licensed under
 216 chapter 400 in a number not exceeding 10 total beds or 10
 217 percent of the number of beds licensed in the facility being
 218 expanded, whichever is greater; or, for the addition of nursing
 219 home beds licensed under chapter 400 at a facility that has been
 220 designated as a Gold Seal nursing home under s. 400.235 in a
 221 number not exceeding 20 total beds or 10 percent of the number
 222 of licensed beds in the facility being expanded, whichever is
 223 greater.

224 1. In addition to any other documentation required by the
 225 agency, a request for exemption submitted under this paragraph
 226 must certify that:

227 a. ~~Certify that~~ The facility has not had any class I or
 228 class II deficiencies within the 30 months preceding the request
 229 ~~for addition.~~

230 b. ~~Certify that~~ The prior 12-month average occupancy rate
 231 for the nursing home beds at the facility meets or exceeds 94 ~~96~~
 232 percent.

586-02761-14

2014268c2

233 c. ~~Certify that~~ Any beds authorized for the facility under
 234 this paragraph before the date of the current request for an
 235 exemption have been licensed and operational for at least 12
 236 months.

237 2. The timeframes and monitoring process specified in s.
 238 408.040(2)(a)-(c) apply to any exemption issued under this
 239 paragraph.

240 3. The agency shall count beds authorized under this
 241 paragraph as approved beds in the published inventory of nursing
 242 home beds until the beds are licensed.

243 (p) For replacement of a licensed nursing home on the same
 244 site, or within 5 3 miles of the same site if within the same
 245 subdistrict, if the number of licensed beds does not increase
 246 except as allowed by paragraph (f).

247 (q) For consolidation or combination of licensed nursing
 248 homes or transfer of beds between licensed nursing homes within
 249 the same planning district subdistrict, by ~~providers that~~
 250 ~~operate multiple~~ nursing homes with any shared controlled
 251 interest within that planning district subdistrict, if there is
 252 no increase in the planning district subdistrict total number of
 253 nursing home beds and the site of the relocation is not more
 254 than 30 miles from the original location.

255 Section 3. Section 408.0435, Florida Statutes, is repealed.

256 Section 4. Section 408.0436, Florida Statutes, is created
 257 to read:

258 408.0436 Limitation on nursing home certificates of need.—
 259 Notwithstanding the establishment of need as provided in this
 260 chapter, the agency may not approve a certificate-of-need
 261 application for new community nursing home beds following the

586-02761-14

2014268c2

262 batching cycle in which the cumulative number of new community
 263 nursing home beds approved from July 1, 2014 to June 30, 2017,
 264 equals or exceeds 3,750. As used in this section, the term
 265 "batching cycle" means the grouping for comparative review of
 266 certificate-of-need applications submitted for beds, services,
 267 or programs having a like certificate-of-need methodology or
 268 licensing category in the same planning horizon and the same
 269 applicable district or subdistrict. This section is repealed
 270 July 1, 2017.

271 Section 5. This act shall take effect July 1, 2014.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 694

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Garcia and Flores

SUBJECT: Diabetes Advisory Council

DATE: March 31, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	Favorable
2.	<u>McVaney/Jones</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	<u>Brown/Loe</u>	<u>Pigott</u>	<u>AHS</u>	Favorable
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 694 directs the Diabetes Advisory Council, in conjunction with the Department of Health (DOH), the Agency for Health Care Administration (AHCA), and the Department of Management Services (DMS), to prepare a report regarding the impact of diabetes on state-funded or operated programs, including Medicaid, the State Group Insurance Program, and public health programs. Required components of the report include: the health consequences and financial impact of diabetes; the effectiveness of diabetes programs implemented by each agency; a description of the coordination among the agencies; and development and ongoing revision of an action plan for reducing and controlling the incidence of diabetes.

The report is due to the governor, the president of the Senate, and the speaker of the House of Representatives by January 10 of each odd-numbered year.

The bill has an indeterminate negative fiscal impact.

II. Present Situation:

Diabetes is a group of diseases in which the body produces too little insulin,¹ is unable to use insulin efficiently, or both. When diabetes is not controlled, glucose and fats remain in the blood and eventually cause damage to vital organs.

The most common forms of diabetes are:

- **Type 1:** Sometimes known as juvenile diabetes, type 1 is usually first diagnosed in children and adolescents and accounts for about five percent of all diagnosed cases. Type 1 diabetes is an autoimmune disease in which the body's own immune system destroys cells in the pancreas that produce insulin. Type 1 may be caused by genetic, environmental, or other risk factors. At this time, there are no methods to prevent or cure type 1 diabetes, and treatment requires the use of insulin by injection or pump.
- **Type 2:** Sometimes known as adult-onset diabetes, type 2 accounts for about 95 percent of diagnosed diabetes in adults and is usually associated with older age, obesity, lack of physical activity, family history, or a personal history of gestational diabetes. Studies have shown that healthy eating, regular physical activity, and weight loss can prevent or delay the onset of type 2 diabetes or eliminate the symptoms and effects post-onset.
- **Gestational diabetes:** This type of diabetes develops and is diagnosed as a result of pregnancy in 2 to 10 percent of pregnant women. Gestational diabetes can cause health problems during pregnancy for both the child and mother. Children whose mothers have gestational diabetes have an increased risk of developing obesity and type 2 diabetes.

Complications of diabetes include: heart disease, stroke, high blood pressure (hypertension), blindness and other eye problems, kidney disease, nervous system disease, vascular disorders, and amputations. Death rates for heart disease and the risk of stroke are about two to four times higher among adults with diabetes than among those without diabetes. However, diabetes and its potential health consequences can be managed through physical activity, diet, self-management training, and, when necessary, medication.

People with “pre-diabetes” are at high risk of developing type 2 diabetes, heart disease, and stroke. Their blood glucose levels are higher than normal, but not high enough to be classified as diabetes. Although an estimated 33 percent of adults in the United States have pre-diabetes, less than 10 percent of them report having been told they have the condition. Thus, awareness of the risk is low. People with pre-diabetes who lose five to seven percent of their body weight and get at least 150 minutes per week of moderate physical activity can reduce the risk of developing type 2 diabetes by 58 percent.²

Minorities have a higher prevalence of diabetes than whites, and some minorities have higher rates of diabetes-related complications and death. Studies have found that African Americans are from 1.4 to 2.2 times more likely to have diabetes than whites. Hispanic Americans have a higher prevalence of diabetes than non-Hispanics.³

¹ Insulin is a hormone that allows glucose (sugar) to enter cells and be converted to energy.

² U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Diabetes Report Card* (2012), available at <http://www.cdc.gov/diabetes/pubs/reportcard.htm> (last visited March 10, 2014).

³ Agency for Healthcare Research and Quality, *Diabetes Disparities Among Racial and Ethnic Minorities* <http://www.ahrq.gov/research/findings/factsheets/diabetes/diabdisp/index.html>.

Currently, 25.8 million people in the United States (8.3 percent of the population) have diabetes. Of these, 7.0 million have undiagnosed diabetes. The Centers for Diseases Control and Prevention (CDC) estimates that if current trends continue, one in three adults in the United States will have diabetes by 2050.⁴ According to the DOH, 10.4 percent of adults with diabetes living in Florida have received a diagnosis. Approximately 767,666 are undiagnosed.⁵

In 1994, 25 states had prevalence⁶ of diagnosed diabetes among adults aged 18 years of age or older of less than 4.5 percent, 24 states, including Florida, had prevalence of 4.5 to 6.0 percent, and only one state had prevalence greater than 6.0 percent. In 2010, all states had prevalence greater than 6.0 percent, and 15 of these exceeded 9.0 percent.⁷ In 2012, prevalence of diagnosed diabetes in Florida adults is estimated at 11.4 percent, or 1.7 million people.⁸ Diabetes is the sixth leading cause of death in Florida.⁹

The American Diabetes Association has recently released a report updating its earlier studies (2002, 2007) estimating the economic burden of diagnosed diabetes. In 2012, the total estimated cost of diagnosed diabetes in the United States was \$245 billion, including \$176 billion in direct medical costs and \$69 billion in reduced productivity. This represents a 41 percent increase over the 2007 estimate. The largest components of these costs are hospital inpatient care (43 percent) and medications to treat complications (18 percent). People with diagnosed diabetes incur average medical costs of about \$13,700 per year, of which about \$7,900 is attributed to diabetes. Care for people with diagnosed diabetes accounts for more than one in five dollars spent on health care in the United States, and more than half of that is directly attributable to diabetes. Overall, average medical expenses for a person with diabetes are 2.3 times higher than they are for a person without diabetes.¹⁰

Diabetes Advisory Council

The Diabetes Advisory Council (Council) was created to guide statewide policy on diabetes prevention, diagnosis, education, care, treatment, impact, and costs. It serves in an advisory capacity to the DOH, other agencies, and the public. The Council consists of 26 members appointed by the governor who have experience related to diabetes. Twenty-one of the members are representatives of a broad range of health and public health-related interests. The remaining five members are representatives of the general public, at least three of whom are affected by

⁴ *Supra* note 2.

⁵ Florida Department of Health, *Florida State Health Improvement Plan 2012 – 2015* (April 2012), available at: http://www.floridahealth.gov/public-health-in-your-life/about-the-department/_documents/state-health-improvement-plan.pdf (last visited March 10, 2014).

⁶ Percentage of the specified population with the condition.

⁷ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Maps of Trends in Diagnosed Diabetes* (Nov. 2011), available at http://www.cdc.gov/diabetes/statistics/slides/maps_diabetesobesity_trends.pdf (last visited March 10, 2014).

⁸ E-mail from Trina Thompson, Florida Department of Health, to Bryan Wendel, Government Analyst, Florida Department of Health (Feb. 12, 2014) (on file with the Senate Health Policy Committee). County-level data, including information about risk factors, is posted on *Florida Charts*, <http://www.floridacharts.com/charts/ChronicDiseases/> (last visited March 10, 2014).

⁹ *Florida Mortality Atlas*, <http://www.floridacharts.com/charts/MortAtlas.aspx> (last visited March 10, 2014).

¹⁰ American Diabetes Association, *Economic Costs of Diabetes in the U.S. in 2012*, *Diabetes Care* 36: 1033 – 146, 2013, available at, <http://care.diabetesjournals.org/content/36/4/1033.full.pdf+html> (last visited March 10, 2014).

diabetes. The Council meets annually with the surgeon general to make recommendations regarding the public health aspects of the prevention and control of diabetes.¹¹

Florida Diabetes Prevention and Control

The Bureau of Chronic Disease Prevention and Health Promotion (Bureau) within the DOH was established in 1998 to improve individual and community health by preventing and reducing the impact of chronic diseases and disabling conditions, including diabetes. Diabetes-related activities of the Bureau include:

- Providing support to the Diabetes Advisory Council and the Florida Alliance for Diabetes Prevention and Care;
- Compiling, analyzing, translating, and distributing diabetes data;
- Increasing access to diabetes self-management education;
- Increasing access to diabetes medical care by advocating for the use of community health workers;
- Preventing diabetes in populations disproportionately affected by diabetes;
- Increasing diagnosis and treatment for pre-diabetes; and
- Managing the Insulin Distribution Program.¹²

The Office of Minority Health administers the Closing the Gap grant program, which seeks to improve health outcomes and eliminate racial and ethnic health disparities in Florida by providing grants to increase community-based health promotion and disease prevention activities, including diabetes prevention.¹³

Medicaid

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. Over 3.3 million Floridians are currently enrolled in Medicaid and the program's estimated expenditures for the 2013-2014 fiscal year are approximately \$22.3 billion.¹⁴ The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized by a federal Medicaid waiver, is designed for the AHCA to issue invitations to negotiate¹⁵ and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid

¹¹ Section 385.203, F.S. The 2013 recommendations of the Council are on file with the Senate Health Policy Committee.

¹² Florida Department of Health, *Resource Manual for the Florida Department of Health* (fiscal year 2012-2013) (on file with the Senate Health Policy Committee).

¹³ Sections 381.7353 – 381.7356, F.S.

¹⁴ Office of Economic and Demographic Research, *Social Services Estimating Conference, Medicaid Caseloads and Expenditures, October 25 and December 4, 2013, Executive Summary*, available at <http://edr.state.fl.us/Content/conferences/medicaid/medsummary.pdf> (last visited March 26, 2014).

¹⁵ An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012(17), F.S.

coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and is scheduled to complete its statewide roll-out in March 2014.¹⁶ The MMA component is scheduled to begin enrolling Medicaid recipients in May 2014 and finish its roll-out in August 2014.¹⁷

State Group Insurance Program

Section 110.123, Florida Statutes, creates the State Group Insurance Program. As implemented by the DMS, the program offers four types of health plans from which an eligible employee may choose: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, or a Health Investor HMO Plan. In the 2012-2013 fiscal year, the State Group Insurance Program covered 169,804 members at a cost of \$1.85 billion.¹⁸

III. Effect of Proposed Changes:

The bill directs the Diabetes Advisory Council, in conjunction with the DOH, the AHCA, and the DMS, to submit a report by January 10 in each odd-numbered year to the governor, the president of the Senate, and the speaker of the House of Representatives, regarding the impact of diabetes on state funded or operated programs. Specifically, the report must include:

- Information on the public health consequences and financial impact of diabetes and its complications on the state, including the number of persons covered by Medicaid and the State Group Insurance Program, and the number of persons impacted by state diabetes programs and activities;
- A description and assessment of the effectiveness of diabetes programs and activities implemented by the agencies, the amount and sources of their funding, and the cost savings they achieve;
- A description of the coordination among the agencies of programs, activities, and communications related to diabetes prevention and treatment; and
- A detailed action plan for reducing and controlling the number of new cases of diabetes, including action steps to reduce its impact, expected outcomes of the plan, and benchmarks.

The bill has an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁶ See < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#LTCMC >, last visited March 20, 2014.

¹⁷ See < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#MMA >, last visited March 20, 2014.

¹⁸ Florida Department of Management Services, Division of State Group Insurance, *State Employees' Group Health Self-Insurance Trust Fund, Report on the Financial Outlook* (Dec. 13, 2013), available at <http://edr.state.fl.us/Content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited March 8, 2014).

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:

CS/SB 694 will have an indeterminate fiscal impact on the DOH in its capacity as staff to support to the Diabetes Advisory Council and an indeterminate impact on the DOH, the AHCA, and the DMS in staff time needed to collect the data required by the bill, which may be voluminous.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 385.203 of the Florida Statutes.

IX. Additional Information: Florida Statutes:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on March 13, 2014:

The CS deletes from the bill a requirement that the Diabetes Advisory Council develop a detailed budget request.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senators Garcia and Flores

585-02563-14

2014694c1

1 A bill to be entitled
2 An act relating to the Diabetes Advisory Council;
3 amending s. 385.203, F.S.; requiring the council, in
4 conjunction with the Department of Health, the Agency
5 for Health Care Administration, and the Department of
6 Management Services, to develop plans to manage,
7 treat, and prevent diabetes; requiring a report to the
8 Governor and Legislature; providing for contents of
9 the report; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Present paragraph (c) of subsection (1) of
14 section 385.203, Florida Statutes, is redesignated as paragraph
15 (d), and a new paragraph (c) is added to that subsection, to
16 read:

17 385.203 Diabetes Advisory Council; creation; function;
18 membership.—

19 (1) To guide a statewide comprehensive approach to diabetes
20 prevention, diagnosis, education, care, treatment, impact, and
21 costs thereof, there is created a Diabetes Advisory Council that
22 serves as the advisory unit to the Department of Health, other
23 governmental agencies, professional and other organizations, and
24 the general public. The council shall:

25 (c) In conjunction with the department, the Agency for
26 Health Care Administration, and the Department of Management
27 Services, submit by January 10 of each odd-numbered year to the
28 Governor, the President of the Senate, and the Speaker of the
29 House of Representatives a report containing the following

Page 1 of 2

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

585-02563-14

2014694c1

30 information:

31 1. The public health consequences and financial impact on
32 the state from all types of diabetes and resulting health
33 complications, including the number of persons with diabetes
34 covered by Medicaid, the number of persons with diabetes who are
35 insured by the Division of State Group Insurance, and the number
36 of persons with diabetes who are impacted by state agency
37 diabetes programs and activities.

38 2. A description and an assessment of the effectiveness of
39 the diabetes programs and activities implemented by each state
40 agency, the amount and source of funding for such programs and
41 activities, and the cost savings realized as a result of the
42 implementation of such programs and activities.

43 3. A description of the coordination among state agencies
44 of programs, activities, and communications designed to manage,
45 treat, and prevent all types of diabetes.

46 4. The development of and revisions to a detailed action
47 plan for reducing and controlling the number of new cases of
48 diabetes and identification of proposed action steps to reduce
49 the impact of all types of diabetes, identification of expected
50 outcomes if the plan is implemented, and establishment of
51 benchmarks for preventing and controlling diabetes.

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

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, Vice
Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and Human
Services
Transportation
Health Policy
Agriculture
Transportation

JOINT COMMITTEE:

Joint Committee on Administrative Procedures, Chair

SENATOR RENE GARCIA

38th District

March 13, 2014

The Honorable Denise Grimsley
Chair, Appropriations Subcommittee on Health and Human Services
306 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Ring:

This letter should serve as a request to have my bill *SB 694 Diabetes Advisory Council*
heard at the next possible committee meeting. If there is any other information needed
please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García
District 38
RG:dm

CC: Scarlett Pigott, Staff Director

REPLY TO:

- 1490 West 68 St., Suite 201 Hialeah, FL 33014 (305) 364-3100
- 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 662

INTRODUCER: Regulated Industries Committee and Health Policy Committee

SUBJECT: Nonresident Sterile Compounding Permits

DATE: March 31, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Stovall	Stovall		HP SPB 7008 as introduced
1.	Niles	Imhof	RI	Fav/CS
2.	Brown/Loe	Pigott	AHS	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 662 requires a pharmacy located in another state (nonresident pharmacy) to obtain a nonresident pharmacy compounded sterile products permit prior to shipping, mailing, delivering, or dispensing a compounded sterile product into Florida. Any sterile compounded product that is sent into Florida must have been compounded in a manner that meets or exceeds Florida's standards for sterile compounding.

The bill authorizes the Department of Health (DOH) or its agents to inspect any nonresident pharmacy that is DOH-registered. The nonresident pharmacy is responsible for the cost of this inspection. The DOH is also authorized to take regulatory action against a nonresident pharmacy immediately, without waiting 180 days for the pharmacy's home state to act on alleged conduct that causes or could cause serious injury to a human or animal in this state.

The bill has an insignificant fiscal impact.

II. Present Situation:

Pharmacies and pharmacists are regulated under the Florida Pharmacy Act (the Act) found in ch. 465, F.S.¹ The Board of Pharmacy (the board) is created within the DOH to adopt rules to

¹Other pharmacy paraprofessionals, including pharmacy interns and pharmacy technicians, are also regulated under the Act.

implement provisions of the Act and take other actions based upon duties conferred on it by the Act.²

Several pharmacy types are specified in law and are required to be permitted or registered under the Act:

- Community pharmacy – a location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.
- Institutional pharmacy – a location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medical drugs are compounded, dispensed, stored, or sold. The Act further classifies institutional pharmacies according to the type of facility or activities with respect to the handling of drugs within the facility.
- Nuclear pharmacy – a location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold, excluding hospitals or the nuclear medicine facilities of such hospitals.
- Internet pharmacy – a location not otherwise permitted under the Act, whether within or outside the state, which uses the Internet to communicate with or obtain information from consumers in this state in order to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state.
- Nonresident pharmacy – a location outside this state which ships, mails, or delivers, in any manner, a dispensed drug into this state.
- Special pharmacy – a location where medicinal drugs are compounded, dispensed, stored, or sold if such location is not otherwise defined which provides miscellaneous specialized pharmacy service functions. Seven special pharmacy permits are established in rule.³

Nonresident pharmacy

Any pharmacy located outside of Florida which ships, mails, or delivers, in any manner, a dispensed drug into this state is required to be registered with the board as a nonresident pharmacy.⁴ In order to register in this state, a nonresident pharmacy must submit an application fee of \$255 and a certified application⁵ that documents:

- The pharmacy's maintenance of a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the dispensing facility is located and from which the drugs are dispensed;
- The identity of the principal corporate officers and the pharmacist who serves as the prescription department manager as well as the criminal and disciplinary history of each;
- The pharmacy's compliance with lawful directions and requests for information from applicable regulatory bodies;
- The pharmacy department manager's licensure status;

²Section 465.005, F.S.

³ Rule 64B16-28.800, F.A.C., establishes the following special permits: Special-Parenteral and Enteral, Special-Closed System Pharmacy, Special-Non Resident (Mail Service), Special-End Stage Renal Disease, Special-Parenteral/Enteral Extended Scope, Special-ALF, and Special Sterile Compounding.

⁴ Section 465.0156, F.S. However, the board may grant an exemption from the registration requirements to any nonresident pharmacy which confines its dispensing activity to isolated transactions. See s. 465.0156(2), F.S.

⁵ See Board of Pharmacy, *Non-Resident Pharmacy Application and Information*, (Nov. 2012), available at <http://www.floridaspharmacy.gov/Applications/app-non-resident-pharmacy.pdf> (last visited Dec. 16, 2013).

- The most recent pharmacy inspection report; and
- The availability of the pharmacist and patient records for a minimum of 40 hours per week, six days a week.

The board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy for:

- Failure to comply with Florida's drug substitution provisions in s. 465.025, F.S.;
- Failure to comply with the registration requirements;
- Advertising the services of a nonresident pharmacy which has not registered, knowing the advertisement will likely induce members of the public in this state to use the pharmacy to fill prescriptions; or
- Conduct that causes serious bodily injury or serious psychological injury to a resident of Florida if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to act within 180 days of the referral.

Pharmaceutical Compounding

Compounding is the professional act by a pharmacist or other practitioner authorized by law, while employing the science or art of any branch of the profession of pharmacy and while incorporating prescription or non-prescription ingredients, to create a finished product for dispensing to a patient or for administration by a practitioner or the practitioner's agent.⁶

Historically and continuing today, a practitioner might prescribe a compounded preparation when a patient requires a different dosage form, such as:

- Transformation of a pill into a liquid for a patient who cannot swallow pills or into a lollipop or flavored medication for children;
- Changes in dosage strength, such as for an infant; or
- Elimination of allergens.

Compounding and dispensing in this manner is typically patient-specific. More recently, the practice of compounding medications has evolved and expanded to include compounding for office use. "Office use" means the provision and administration of a compounded drug to a patient by a practitioner in the practitioner's office or by the practitioner in a health care facility or treatment setting, including a hospital, ambulatory surgical center, or pharmacy.⁷ Typically, a drug compounded for office use is not prepared, labeled, and dispensed for a specific patient.

Under the board's rules, compounding includes the preparation of:

- Drugs or devices in anticipation of prescriptions based on routine, regularly-observed prescribing patterns;
- Drugs or devices, pursuant to a prescription, that are not commercially available; or

⁶ See Rule 64B16-27.700, F.A.C.

⁷ *Id.*

- Commercially available products⁸ from bulk when the prescribing practitioner has prescribed the compounded product on a per prescription basis and the patient has been made aware that the compounded product will be prepared by the pharmacist. The reconstitution of commercially available products pursuant to the manufacturer's guidelines is permissible without notice to the practitioner.

Compounded Products

Compounded products may be either sterile or non-sterile. A sterile preparation is defined in the board's rule⁹ as any dosage form devoid of viable microorganisms, but does not include commercially manufactured products that do not require compounding prior to dispensing.

Compounded sterile preparations include, but are not limited to:

- Injectables;
- Parenterals, including Total Parenteral Nutrition (TPN) solutions, parenteral analgesic drugs, parenteral antibiotics, parenteral antineoplastic agents, parenteral electrolytes, and parenteral vitamins;
- Irrigating fluids;
- Ophthalmic preparations; and
- Aqueous inhalant solutions for respiratory treatments.

The United States Pharmacopeia and the National Formulary (USP–NF) is a book containing standards for chemical and biological drug substances, dosage forms, and compounded preparations, excipients, medical devices, and dietary supplements. The federal Food, Drug and Cosmetic Act (FDCA) designates the USP–NF as the official compendium for drugs marketed in the United States. A drug product in the U.S. market must conform to the USP–NF standards for strength, quality, purity, packaging, and labeling of medications to avoid possible charges of adulteration and misbranding.¹⁰ The USP–NF has five chapters specifically related to pharmaceutical compounding, two of which are USP Chapter 795, which addresses compounding for non-sterile preparations, and USP Chapter 797, which addresses compounding for sterile preparations. In addition, USP Chapter 797 requires the use of other general chapters as well.

Safety Concerns Regarding Compounded Drugs

Compounded drugs can pose both direct and indirect health risks. Direct health risks may result from poor compounding practices. The compounded drugs may be sub- or super-potent, contaminated, or otherwise adulterated. Indirect health risks include the possibility that patients will use ineffective compounded drugs instead of FDA-approved drugs that have been shown to be safe and effective. Not all pharmacists have the same level of skills and equipment to safely compound certain medications, and some drugs may be inappropriate for compounding. In some cases, compounders may lack sufficient controls (e.g., equipment, training, testing, or facilities) to ensure product quality or to compound complex drugs like sterile or extended-release drugs.

⁸ The term "commercially available product" means any medicinal product that is legally distributed in Florida by a drug manufacturer or wholesaler. See Rule 64B16-27.700, F.A.C.

⁹ Rule 64B16-27.797, F.A.C.

¹⁰ For additional information on the USP-NP see <http://www.usp.org/usp-nf> (last visited Dec. 17, 2013).

In 2012, the federal Centers for Disease Control and Prevention (CDC), in collaboration with state and local health departments and the Food and Drug Administration (FDA), began investigating a multi-state outbreak of fungal meningitis and other infections among patients who received contaminated preservative-free methylprednisolone acetate (MPA) steroid injections from the New England Compounding Center (NECC).¹¹ As of October 23, 2013, 751 cases were reported nationwide, with 64 deaths attributed to contaminated injectables that had been compounded in the Massachusetts pharmacy.¹² Florida reported 25 cases, with seven deaths related to persons receiving the medications from the contaminated lots.

The FDA continues to inform the public about recalls, inspections, and regulatory enforcement action related to compounded medications.¹³

State and Federal Oversight of Compounded Medications

Until recently, the regulation of compounded medications was without clear guidelines or oversight responsibility by the FDA or state agencies.¹⁴ The FDA traditionally regulated the manufacture of prescription drugs, which typically includes making drugs (preparation, deriving, compounding, propagation, processing, producing, or fabrication) on a large scale for marketing and distribution of the product for unidentified patients. State boards of pharmacy historically have regulated the compounding of medications by a pharmacy under the practice of pharmacy.¹⁵ However, compounding standards, inspector competency, inspection frequency, and resources for inspections vary considerably.¹⁶

On November 27, 2013, President Barack Obama signed the Drug Quality and Security Act (DQSA)¹⁷ to enhance oversight of the compounding of human drugs. This law creates a new section 503B in the FDCA. Under section 503B, a compounder can become an “outsourcing facility.” An outsourcing facility is not required to also be a state-licensed pharmacy. An outsourcing facility will be able to qualify for exemptions from the FDA approval requirements

¹¹ The Centers for Disease Control and Prevention Multistate Fungal Meningitis Outbreak Investigation, available at: <http://www.cdc.gov/hai/outbreaks/meningitis.html> (last visited Dec. 27, 2013).

¹² The Centers for Disease Control and Prevention, Multistate Fungal Meningitis Outbreak Investigation, *available at* http://www.cdc.gov/hai/outbreaks/meningitis-map-large.html#casecount_table (last visited Dec. 27, 2013).

¹³ Federal Drug Administration, *Compounding: Inspections, Recalls, and other Actions*, (updated March 5, 2014) *available at* <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm339771.htm> (last visited March 11, 2014).

¹⁴The U.S. Supreme Court had found certain provisions relating to the advertising and promotion of certain human compounded drugs in section 503A of the FDCA to be unconstitutional in 2002 and struck the entire section of law dealing with the remaining provisions related to compliance with current good manufacturing practices, labeling, and FDA approval prior to marketing. In subsequent opinions, lower courts split on whether the remaining provisions remained intact and enforceable. In some instances, the FDA was refused admittance to conduct an inspection of compounders, which necessitated obtaining an administrative warrant to gain access to the firm and make copies of the firm’s records. *See* <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm347722.htm> (last visited Dec. 27, 2013).

¹⁵ *See generally* U.S. Food and Drug Administration, Regulatory Guidance for Compounded Drugs, *available at* <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm339764.htm> (last visited Dec. 27, 2013).

¹⁶House Democrats Release Report on Flawed Compounding Pharmacy Oversight, April 15, 2013, *available at* <http://dingell.house.gov/press-release/house-democrats-release-report-flawed-compounding-pharmacy-oversight> (last visited Dec. 27, 2013).

¹⁷ H.R. 3204, 113th Congress.

for new drugs and the requirement to label products with adequate directions for use.

Outsourcing facilities:

- Must comply with current good manufacturing practices (CGMP) requirements;
- Will be inspected by the FDA according to a risk-based schedule; and
- Must meet certain other conditions, such as reporting adverse events and providing the FDA with certain information about the products they compound.

This law provides that hospitals and other health care providers can lawfully provide their patients with drugs that were compounded in FDA-registered outsourcing facilities that are subject to CGMP requirements and federal oversight.

A compounder that chooses not to register as an outsourcing facility and qualify for the exemptions under section 503B, may qualify for the exemptions under section 503A of the FDCA relating to traditional compounding for patient-specific medications. Otherwise, the compounder is subject to all of the requirements in the FDCA applicable to conventional manufacturers.

The FDA anticipates that state boards of pharmacy will continue their oversight and regulation of the practice of pharmacy, including traditional pharmacy compounding. The FDA has also indicated it intends to continue to cooperate with state authorities to address pharmacy compounding activities that may be in violation of the FDCA.¹⁸

In response to the 2012 nationwide fungal meningitis outbreak caused by contaminated compounded products, the Florida Board of Pharmacy adopted Emergency Rule 64B16ER12-1, Florida Administrative Code. This Emergency Rule required all Florida licensed pharmacy permit holders, including non-residents, to complete a mandatory survey to inform the board of their compounding activities. The goal of this mandatory survey was to determine the scope of sterile and non-sterile compounding within Florida licensed pharmacies, whether physically located in or out-of-state. Of the 8,981 permitted pharmacies, 8,294 (92 percent) responded. The board published the compounding survey results noted below in January 2013.¹⁹

Results relating to non-sterile compounding facilities:

- 55 percent (4,494) compound non-sterile products; 9 percent (382) of these are nonresident pharmacies.
- 54 percent (4,380) compound non-sterile products pursuant to a patient-specific prescription; 9 percent (373) of these are nonresident pharmacies.
- 6 percent (459) compound non-sterile products in bulk; 81 percent (373) of these are nonresident pharmacies.
- 1 percent (119) compound non-sterile products in bulk for office use; 50 percent (59) of these are nonresident pharmacies.
- 5 percent (382) ship compounded non-sterile products to other states; 80 percent (307) of these are nonresident pharmacies.

¹⁸ *Supra*, 16.

¹⁹ Florida Board of Pharmacy compounding Survey Report, (January 23, 2013) *available at* <http://www.floridaspharmacy.gov/Forms/info-compounding-survey-report.pdf>, (last visited March 11, 2014).

Key results relating to sterile compounding facilities:

- 12 percent (946) compound sterile products; 32 percent (301) of these are nonresident pharmacies. Some of these in-state pharmacies may hold other permit types as well, such as an institutional permit or a special permit that authorizes compounding.
- 11 percent (913) compound sterile products pursuant to a patient-specific prescription; 32 percent (289) of these are nonresident pharmacies.
- 4 percent (348) compound sterile products in bulk and/or in bulk for office use; 45 percent (155) of these are nonresident pharmacies. Eighty-three of these 348 pharmacies (22 in-state and 61 nonresident) compound greater than 100 doses from a single batch.
- 4 percent (307) ship compounded sterile products to other states; 177 of these are nonresident pharmacies that ship sterile compounded products to Florida.

Effective September 23, 2013, the board adopted a rule requiring most pharmacies that engage or intend to engage in the preparation of sterile compounded products within the state to obtain a Special Sterile Compounding permit.²⁰ Pharmacies required to obtain this permit may compound sterile products only in strict compliance with the standards set forth in board rules.²¹ These rules address, among other things, compounding products for office use, including the quantity of the product that may be safely compounded for office use, execution of an agreement between the pharmacist and practitioner outlining responsibilities of the practitioner, and labeling.

Compliance with additional standards based on the risk level for contamination is also required. The rule addressing standards of practice for compounding sterile preparations was first adopted in 2008 and amended in January of 2010. These standards apply to all sterile pharmaceuticals, regardless of the location of the patient, e.g., home, hospital, nursing home, hospice, or doctor's office.²²

There is no statutory authority to require nonresident pharmacies to register or obtain a separate sterile compounding permit in Florida.

Compounding Pharmacy Accreditation

The Pharmacy Compounding Accreditation Board (PCAB) is a nationally recognized organization that issues a voluntary quality accreditation designation for the compounding industry. Founders of the organization include the American College of Apothecaries, National Community Pharmacists Association, American Pharmacists Association, National Alliance of State Pharmacy Associations, International Academy of Compounding Pharmacists, National Association of Boards of Pharmacy, National Home Infusion Association, and United States Pharmacopeia.

The PCAB accreditation means a pharmacy has independent, outside validation that it meets nationally accepted quality assurance, quality control, and quality improvement standards. In order to demonstrate compliance with PCAB standards and earn PCAB accreditation, pharmacies participate in an off-site and on-site evaluation process that includes: verification by PCAB that the pharmacy is not on probation for issues related to compounding quality, public

²⁰ Rule 64B16-28.100(8), F.A.C.

²¹ Rules 64B16-27.797 and 64B16-27.700, F.A.C.

²² Rule 64B16-27.700, F.A.C.

safety or controlled substances; verification that the pharmacy is properly licensed in each state in which it does business; and an extensive on-site evaluation by a PCAB surveyor, all of whom are compounding pharmacists trained in evaluating compliance with PCAB's quality standards. For example, this evaluation includes:

- An assessment of the pharmacy's system for assuring and maintaining staff competency;
- A review of facilities and equipment;
- A review of records and procedures required to prepare quality compounded medications;
- A verification that the pharmacy uses ingredients from FDA registered or licensed sources.
- A review of the pharmacy's program for testing compounded preparations.²³

Currently, 187 pharmacies hold PCAB accreditation, 15 of which are located in Florida.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 465.003, F.S., to include the definitions of "compounding" and "outsourcing facility." Under the bill, outsourcing facility means a single physical location registered as an outsourcing facility under federal law at which sterile compounding of a product is conducted. Compounding means a practice in which a licensed pharmacist or, in the case of an outsourcing facility, a person acting under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug or product to create another drug or product.

Section 2 amends s. 465.0156, F.S., to authorize the Department of Health (DOH) to take regulatory action against a nonresident pharmacy immediately, without waiting 180 days for the pharmacy's home state to act, for:

- Failure to comply with record maintenance and disposal provisions under s. 465.017(2), F.S.;
- Failure to comply with permit requirements created under s. 465.0158, F.S.; or
- Alleged conduct that causes or could cause serious injury to a human or animal in this state. Authorized regulatory action is expanded to include conduct that could cause serious injury to a human or animal, without demonstrating that the conduct actually injured a person. Regulatory enforcement action may also occur for conduct that causes or could cause serious bodily injury to an animal in this state or for noncompliance with the requirements of the newly established nonresident pharmacy compounded sterile products permit.

The bill also provides that a nonresident pharmacy is subject to s. 456.0635, F.S., which sets out the conditions required to dispense medicinal drugs via a facsimile of a prescription.

Section 3 creates s. 465.0158, F.S., to establish the nonresident sterile compounding permit. A pharmacy located in another state is required to obtain a nonresident pharmacy compounded sterile products permit prior to shipping, mailing, delivering, or dispensing a compounded sterile product into this state. This permit is a supplemental permit to registration as a nonresident pharmacy.

²³ Pharmacy Compounding Accreditation Board, <http://www.pcab.org/prescribers>, (last visited March 11, 2014).

²⁴ Pharmacy Compounding Accreditation Board, *All Pharmacies*, available at <http://www.pcab.org/pharmacy> (last visited March 11, 2014).

The DOH is directed under s. 465.022(14), F.S., to adopt a permit and renewal fee not to exceed \$250.

An applicant for a permit must submit an application form for the initial permit and renewal, proof of registration as an outsourcing facility with the secretary of the U.S. Department of Health and Human Services, if eligible under federal law, and proof of registration as a nonresident pharmacy under s. 465.0156, F.S., unless the applicant is an outsourcing facility and not a pharmacy. If the applicant is an outsourcing facility, then the application must include proof of an active and unencumbered license, permit, or registration issued by the state where the facility is located that allows the facility to engage in compounding and to dispense or transport a compounded sterile product into Florida.

The applicant must also submit written attestation of owners, officers, and a prescription department manager or pharmacist in charge that he or she understands:

- Florida's laws and rules governing sterile compounding;
- That any compounded sterile products sent into this state will comply with those standards; and
- That the compounded sterile products are in compliance with the laws of the state in which the applicant is located.

The applicant must submit its existing policies and procedures that comply with pharmaceutical standards in ch. 797 of the United States Pharmacopoeia and any standards for sterile compounding required by board rule or good manufacturing practices for an outsourcing facility. The applicant must also submit a current inspection report by the licensing agency where the facility is located reflecting compliance with this section. An inspection report is current if it was completed within six months before the initial application and within one year before a renewal.

If the applicant is unable to submit a current inspection report due to acceptable circumstances established by rule, the DOH is required to conduct or contract to have an inspection done at the cost of the applicant, accept an alternative satisfactory report from a board-approved entity, or accept an inspection report from the Food and Drug Administration.

Any sterile compounded product that is sent into this state must have been compounded in a manner that meets or exceeds the standards for sterile compounding in Florida and comply with the laws of the state in which the permittee is located.

The board may deny, revoke, or suspend a permit, or issue a fine or reprimand, for:

- Failure to comply with this section;
- A violation of ss. 456.0635, 456.065, or 456.072, F.S., except s. 456.072(1)(s) or (u), F.S.;
- A violation of s. 465.0156(5), F.S.; or
- A violation listed under s. 465.016, F.S.

A nonresident pharmacy registered under s. 465.0156, F.S., may continue to ship, mail, deliver, or dispense a compounded sterile product into this state if the product meets or exceeds the standards for sterile compounding in this state, the product conforms with the law or rules of the

state where the pharmacy is located, and the pharmacy applies for and is issued a permit under this section on or before February 28, 2015.

If an applicant is not registered as a nonresident pharmacy by October 1, 2014, it must seek registration and obtain the nonresident pharmacy compounded sterile products permit prior to sending compounded sterile products to Florida.

The board is required to adopt rules to administer this section, including for:

- Submitting an application for a permit;
- Determining inspections of a nonresident sterile compounding permitted facility; and
- Evaluating what is a satisfactory inspection report in lieu of an on-site inspection by the DOH or another state.

Section 4 amends s. 465.017, F.S., to authorize the DOH or its agents to inspect any nonresident pharmacy that is registered with the DOH. The nonresident pharmacy is responsible for the actual costs incurred by the DOH for this inspection.

Section 5 provides an effective date of October 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:

A biennial permit fee for the nonresident pharmacy permit is created in an amount not to exceed \$250.

B. Private Sector Impact:

CS/SB 662 enhances the regulation of pharmacies that are located in other states and provide medication to persons in this state. These pharmacies that compound sterile products for patients in Florida may experience increased costs related to additional permit fees and compliance with greater compounding practice standards, if the pharmacy is located in a state with lesser practice standards. All registered nonresident

pharmacies may experience on-site inspections and regulatory enforcement for non-compliance with Florida-specific practice requirements.

Patients receiving compounded sterile products from other states might experience increased medication costs to offset costs of compliance with safer compounding standards.

C. Government Sector Impact:

The Department of Health (DOH) anticipates approximately 350 biennial applications for nonresident pharmacy permits that will incur the \$250 permit fee plus a \$5 unlicensed activity fee. The anticipated biennial state revenue is \$89,250.²⁵

The DOH will incur non-recurring costs for rulemaking and to mail notifications to nonresident pharmacies, which current budget authority is adequate to absorb. The DOH will update its licensure system to accommodate the new nonresident pharmacy permit, which current resources are adequate to absorb. Costs incurred for inspections of nonresident pharmacies will be covered by the nonresident pharmacies. The DOH will experience a recurring increase in workload associated with inspecting nonresident pharmacies and with enforcing various provisions of the bill. These latter impacts are indeterminate at this time, but the DOH anticipates that current resources and budget authority are adequate to absorb these costs.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 465.003, 465.0156, and 465.017.

This bill creates section 465.0158 of the Florida Statutes.

²⁵ The Department of Health, *2014 Agency Legislative Bill Analysis for SB 662*, March 11, 2014, on file with the Senate Health and Human Services Appropriations Subcommittee.

²⁶ *Id.*

IX. Additional Information:

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

CS by Regulated Industries on March 13, 2014:

The CS adds definitions under s. 465.003, F.S., for “compounding” and “outsourcing facility.” It provides that the board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy in accordance with ch. 465, F.S. for conduct in noncompliance with record-keeping provisions or which causes or could cause serious bodily injury or psychological injury to a human, or could cause serious bodily injury to a non-human animal.

The CS provides that a nonresident pharmacy is subject to s. 456.0635, F.S. Section 465.0158, F.S., is created providing for a nonresident sterile compounding permit, not a nonresident pharmacy compounded sterile products permit. The CS includes nonresident sterile outsourcing facilities in the requirement for a permit. The nonresident sterile compounding permit applicant must additionally attest that compounded products conform to the laws and rules of the state in which the applicant is located. The nonresident licensure requirement to lawfully send sterile compounded drugs into the state is expanded to include outsourcing facilities.

The CS specifies the permit application requirements which include licensure documentation for the location of the nonresident pharmacy or outsourcing facility and current inspection reports. It also provides rulemaking for alternate inspecting entities if the applicant cannot produce a current inspection report from the resident state’s regulatory entity. Violations for which the board may take disciplinary action against a nonresident sterile compounding permittee are expanded. An applicant registering on or after October 1, 2014, under s. 465.0156, F.S., may not ship, mail, deliver, or dispense a compounded sterile product into this state until the applicant is registered as a nonresident pharmacy and is issued a permit under this section.

The CS does not provide a sunset provision under s. 465.0158, F.S.

- B. **Amendments:**

None.

By the Committees on Regulated Industries; and Health Policy

580-02555-14

2014662c1

A bill to be entitled

An act relating to nonresident sterile compounding permits; amending s. 465.003, F.S.; defining the terms "compounding" and "outsourcing facility"; amending s. 465.0156, F.S.; conforming provisions to changes made by the act; expanding penalties to apply to injury to a nonhuman animal; deleting a requirement that the Board of Pharmacy refer regulatory issues affecting a nonresident pharmacy to the state where the pharmacy is located; creating s. 465.0158, F.S.; requiring registered nonresident pharmacies and outsourcing facilities to obtain a permit in order to ship, mail, deliver, or dispense compounded sterile products into this state; requiring submission of an application and a nonrefundable fee; specifying requirements; authorizing the board to deny, revoke, or suspend a permit, or impose a fine or reprimand for certain actions; providing dates by which certain nonresident pharmacies must obtain a permit; authorizing the board to adopt rules; amending s. 465.017, F.S.; authorizing the department to inspect nonresident pharmacies and nonresident sterile compounding permittees; requiring such pharmacies and permittees to pay for the costs of such inspections; providing an effective date.

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

Section 1. Subsections (18) and (19) are added to section 465.003, Florida Statutes, to read:

Page 1 of 8

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

580-02555-14

2014662c1

465.003 Definitions.—As used in this chapter, the term:

(18) "Compounding" means a practice in which a licensed pharmacist or, in the case of an outsourcing facility, a person acting under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug or product to create another drug or product.

(19) "Outsourcing facility" means a single physical location registered as an outsourcing facility under the federal Drug Quality and Security Act, Pub. L. No. 113-54, at which sterile compounding of a product is conducted.

Section 2. Subsections (4) and (5) of section 465.0156, Florida Statutes, are amended, present subsections (6) through (8) of that section are redesignated as subsections (7) through (9), respectively, and a new subsection (6) is added to that section, to read:

465.0156 Registration of nonresident pharmacies.—

(4) The board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy for failure to comply with s. 465.0158, s. 465.017(2), or s. 465.025, or with any requirement of this section in accordance with ~~the provisions of~~ this chapter.

(5) In addition to the prohibitions of subsection (4) the board may deny, revoke, or suspend registration of, or fine or reprimand, a nonresident pharmacy in accordance with ~~the provisions of~~ this chapter for conduct which causes or could cause serious bodily injury or serious psychological injury to a human or serious bodily injury to a nonhuman animal in resident of this state ~~if the board has referred the matter to the regulatory or licensing agency in the state in which the~~

Page 2 of 8

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580-02555-14 2014662c1

59 ~~pharmacy is located and the regulatory or licensing agency fails~~
60 ~~to investigate within 180 days of the referral.~~

61 (6) A nonresident pharmacy is subject to s. 456.0635.

62 Section 3. Section 465.0158, Florida Statutes, is created
63 to read:

64 465.0158 Nonresident sterile compounding permit.—

65 (1) In order to ship, mail, deliver, or dispense, in any
66 manner, a compounded sterile product into this state, a
67 nonresident pharmacy registered under s. 465.0156, or an
68 outsourcing facility, must hold a nonresident sterile
69 compounding permit.

70 (2) An application for a nonresident sterile compounding
71 permit shall be submitted on a form furnished by the board. The
72 board may require such information as it deems reasonably
73 necessary to carry out the purposes of this section. The fee for
74 an initial permit and biennial renewal of the permit shall be
75 set by the board pursuant to s. 465.022(14).

76 (3) An applicant must submit the following to the board to
77 obtain an initial permit, or to the department to renew a
78 permit:

79 (a) Proof of registration as an outsourcing facility with
80 the Secretary of the United States Department of Health and
81 Human Services if the applicant is eligible for such
82 registration pursuant to the federal Drug Quality and Security
83 Act, Pub. L. No. 113-54.

84 (b) Proof of registration as a nonresident pharmacy,
85 pursuant to s. 465.0156, unless the applicant is an outsourcing
86 facility and not a pharmacy, in which case the application must
87 include proof of an active and unencumbered license, permit, or

580-02555-14 2014662c1

88 registration issued by the state, territory, or district in
89 which the outsourcing facility is physically located which
90 allows the outsourcing facility to engage in compounding and to
91 ship, mail, deliver, or dispense a compounded sterile product
92 into this state if required by the state, territory, or district
93 in which the outsourcing facility is physically located.

94 (c) Written attestation by an owner or officer of the
95 applicant, and by the applicant's prescription department
96 manager or pharmacist in charge, that:

97 1. The applicant has read and understands the laws and
98 rules governing sterile compounding in this state.

99 2. A compounded sterile product shipped, mailed, delivered,
100 or dispensed into this state meets or exceeds this state's
101 standards for sterile compounding.

102 3. A compounded sterile product shipped, mailed, delivered,
103 or dispensed into this state must not have been, and may not be,
104 compounded in violation of the laws and rules of the state in
105 which the applicant is located.

106 (d) The applicant's existing policies and procedures for
107 sterile compounding, which must comply with pharmaceutical
108 standards in chapter 797 of the United States Pharmacopoeia and
109 any standards for sterile compounding required by board rule or
110 current good manufacturing practices for an outsourcing
111 facility.

112 (e) A current inspection report from an inspection
113 conducted by the regulatory or licensing agency of the state,
114 territory, or district in which the applicant is located. The
115 inspection report must reflect compliance with this section. An
116 inspection report is current if the inspection was conducted

580-02555-14

2014662c1

117 within 6 months before the date of submitting the application
 118 for the initial permit or within 1 year before the date of
 119 submitting an application for permit renewal. If the applicant
 120 is unable to submit a current inspection report conducted by the
 121 regulatory or licensing agency of the state, territory, or
 122 district in which the applicant is located due to acceptable
 123 circumstances, as established by rule, the department shall:

124 1. Conduct, or contract with an entity approved by the
 125 board to conduct, an onsite inspection for which all costs shall
 126 be borne by the applicant;

127 2. Accept a current and satisfactory inspection report, as
 128 determined by rule, from an entity approved by the board; or

129 3. Accept a current inspection report from the United
 130 States Food and Drug Administration conducted pursuant to the
 131 federal Drug Quality and Security Act, Pub. L. No. 113-54.

132 (4) A permittee may not ship, mail, deliver, or dispense a
 133 compounded sterile product into this state if the product was
 134 compounded in violation of the laws or rules of the state in
 135 which the permittee is located or does not meet or exceed this
 136 state's sterile compounding standards.

137 (5) In accordance with this chapter, the board may deny,
 138 revoke, or suspend the permit of, fine, or reprimand a permittee
 139 for:

140 (a) Failure to comply with this section;

141 (b) A violation listed under s. 456.0635, s. 456.065, or s.
 142 456.072, except s. 456.072(1)(s) or (1)(u);

143 (c) A violation under s. 465.0156(5); or

144 (d) A violation listed under s. 465.016.

145 (6) A nonresident pharmacy registered under s. 465.0156

580-02555-14

2014662c1

146 which ships, mails, delivers, or dispenses a compounded sterile
 147 product into this state may continue to do so if the product
 148 meets or exceeds the standards for sterile compounding in this
 149 state, the product is not compounded in violation of any law or
 150 rule of the state where the pharmacy is located, and the
 151 pharmacy applies for and is issued a permit under this section
 152 on or before February 28, 2015.

153 (7) An applicant registering on or after October 1, 2014,
 154 as a nonresident pharmacy under s. 465.0156 may not ship, mail,
 155 deliver, or dispense a compounded sterile product into this
 156 state until the applicant is registered as a nonresident
 157 pharmacy and is issued a permit under this section.

158 (8) The board shall adopt rules as necessary to administer
 159 this section, including rules for:

160 (a) Submitting an application for the permit required by
 161 this section.

162 (b) Determining how, when, and under what circumstances an
 163 inspection of a nonresident sterile compounding permittee must
 164 be conducted.

165 (c) Evaluating and approving entities from which a
 166 satisfactory inspection report will be accepted in lieu of an
 167 onsite inspection by the department or an inspection by the
 168 licensing or regulatory agency of the state, territory, or
 169 district where the applicant is located.

170 Section 4. Section 465.017, Florida Statutes, is amended to
 171 read:

172 465.017 Authority to inspect; disposal.-

173 (1) Duly authorized agents and employees of the department
 174 ~~may shall have the power to~~ inspect in a lawful manner at all

580-02555-14

2014662c1

175 reasonable hours any pharmacy, hospital, clinic, wholesale
 176 establishment, manufacturer, physician's office, or any other
 177 place in the state in which drugs and medical supplies are
 178 compounded, manufactured, packed, packaged, made, stored, sold,
 179 offered for sale, exposed for sale, or kept for sale for the
 180 purpose of:

181 (a) Determining if any provision of the provisions of this
 182 chapter or any rule adopted promulgated under its authority is
 183 being violated;

184 (b) Securing samples or specimens of any drug or medical
 185 supply after paying or offering to pay for such sample or
 186 specimen; or

187 (c) Securing such other evidence as may be needed for
 188 prosecution under this chapter.

189 (2) Duly authorized agents and employees of the department
 190 may inspect a nonresident pharmacy registered under s. 465.0156
 191 or a nonresident sterile compounding permittee under s. 465.0158
 192 pursuant to this section. The costs of such inspections shall be
 193 borne by such pharmacy or permittee.

194 (3)(2)(a) Except as permitted by this chapter, and chapters
 195 406, 409, 456, 499, and 893, records maintained in a pharmacy
 196 relating to the filling of prescriptions and the dispensing of
 197 medicinal drugs may shall not be furnished only to any person
 198 other than to the patient for whom the drugs were dispensed, or
 199 her or his legal representative, or to the department pursuant
 200 to existing law, or, if in the event that the patient is
 201 incapacitated or unable to request such said records, her or his
 202 spouse except upon the written authorization of such patient.

203 (a) Such records may be furnished in any civil or criminal

580-02555-14

2014662c1

204 proceeding, upon the issuance of a subpoena from a court of
 205 competent jurisdiction and proper notice to the patient or her
 206 or his legal representative by the party seeking such records.

207 (b) The board shall adopt rules establishing ~~to establish~~
 208 practice guidelines for pharmacies to dispose of records
 209 maintained in a pharmacy relating to the filling of
 210 prescriptions and the dispensing of medicinal drugs. Such rules
 211 must shall be consistent with the duty to preserve the
 212 confidentiality of such records in accordance with applicable
 213 state and federal law.

214 Section 5. This act shall take effect October 1, 2014.



THE FLORIDA SENATE
COMMITTEE ON HEALTH POLICY

Location
530 Knott Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5824

Senator Aaron Bean, *Chair*
Senator Eleanor Sobel, *Vice Chair*

Professional Staff: Sandra R. Stovall, *Staff Director*

Senate's Website: www.flsenate.gov

March 26, 2014

Senator Denise Grimsley
Chairman, Appropriations Subcommittee on
Health and Human Services
306 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Grimsley:

I am requesting that SB 662 (Nonresident Sterile Compounding and Permits), a Health Policy committee bill, be placed on the agenda of the committee's next scheduled meeting. Your consideration would be greatly appreciated.

If you have questions, please call 487-5824.

Respectively,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
State Senator, District 4

cc: Scarlet Pigott, Staff Director
Appropriations Subcommittee on Health
and Human Services

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 1082

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

SUBJECT: Adult Day Care Centers

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	Brown	Pigott	AHS	Pre-meeting
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1082 creates a definition for “adult day care services” and “respite” in relation to adult day care centers.

The bill allows for a licensed adult day care center to continue to operate in the event the center needs to temporarily relocate due to alterations to the center’s facility that may constitute a hazard, under certain conditions. The bill allows centers in operation more than one year to be granted a conditional license for a new location before moving to the new location.

The bill adds “the existence of unsafe conditions at the center that materially affect the well-being, health, or safety of center participants” as grounds for regulatory action by the Agency for Health Care Administration.

The bill requires adult day care centers to provide training to certain employees on the most current information regarding Alzheimer’s disease and dementia-related disorders, among other training required under current law. The bill requires all such training to be offered annually.

The bill modifies information that certain adult day care centers must disclose under certain conditions and removes certain statutory provisions related to licensure fees.

The bill has no fiscal impact.

II. Present Situation:

The Agency for Health Care Administration (AHCA) is authorized by statute to regulate, develop, establish, and enforce basic standards for adult day care centers (centers). An adult day care center is defined as “any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.”¹

Section 429.90, F.S., assures the implementation of a program that provides therapeutic social and health activities and services to adults in an adult day care center. A participant² in an adult day care center must have functional impairments and be in need of a protective environment where therapeutic social and health activities and services are provided. Centers are prohibited from accepting participants who require medication during the time spent at the center and who are incapable of self-administration of medications, unless there is a person licensed to administer medications at the center.³

Every adult day care center must offer a planned program of varied activities and services promoting and maintaining the health of participants and encouraging leisure activities, interaction, and communication among participants on a daily basis. Centers are required to make these activities and services available during at least 60 percent of the time the center is open.⁴ A center is required to have at least one staff member for every six participants, but at no time may a center have less than two staff members present, one of whom must be certified in first aid and cardiopulmonary resuscitation (CPR).⁵

Licensure

Section 429.907, F.S., provides that a license issued by the AHCA is required before an adult day care center may operate in this state.⁶ Separate licenses are required for centers operated on separate premises even though operated under the same management. Separate licenses are not required for separate buildings on the same premises.⁷

If a licensed center becomes wholly or substantially unusable due to a disaster or emergency, the licensee may continue to operate under its current license in premises separate from that authorized under the license. The location of the premises must be specified in the center’s comprehensive emergency management plan submitted to and approved by the applicable county emergency management authority. The center must notify the AHCA and county emergency management authority within 24 hours of operating in the separate premises.⁸ The licensee can

¹ Section 429.901(1), F.S.

² Section 429.901(8), F.S., defines a participant as “a recipient of basic services or of supportive and optional services provided by an adult day care center.”

³ Rule 58A-6.006, F.A.C.

⁴ Rule 58A-6.008, F.A.C.

⁵ Rule 58A-6.006, F.A.C.

⁶ Section 429.907(1), F.S.

⁷ Section 429.904(2)(a)

⁸ Section 429.907(2)(b)1.a. and b., F.S.

continue to operate at the separate premises for up to 180 days, which may be extended by the AHCA beyond the initial 180 days.⁹

An applicant must pay a fee with each license application and the fee amount may not exceed \$150.¹⁰ County-operated or municipally-operated centers applying for licenses are exempt from the payment of the license fee.¹¹

Staff Training

Section 429.917, F.S., provides staff training requirements for centers that offer care to persons with Alzheimer's disease or other related disorders. These centers must provide staff with basic written information about interacting with participants with Alzheimer's disease or dementia-related disorders.¹² Newly hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete initial training of at least one hour within the first three months after beginning employment.¹³ Additionally, staff who provide direct care to participants with Alzheimer's disease or a dementia-related disorder must complete an additional three hours of training within nine months after beginning employment.¹⁴

Specialized Alzheimer's Services

In 2012, the Legislature created s. 429.918, F.S., which is known as the "Specialized Alzheimer's Services Adult Day Care Act" (the Act). Under the Act, an adult day care center may apply to the agency to have its license designated as a "specialized Alzheimer's services adult day care center," if the requirements under the Act have been met. For such designation, the Act requires a center to meet a series of qualifications, including:¹⁵

- Having a mission statement that includes a commitment to providing dementia-specific services and disclose in the center's advertisements or in a separate document, which must be made available to the public upon request, the services that distinguish the care as being suitable for a person who has Alzheimer's disease or a dementia-related disorder;
- Providing participants with a documented diagnosis of Alzheimer's disease or a dementia-related disorder (ADRD) with a program for dementia-specific, therapeutic activities, including, but not limited to, physical, cognitive, and social activities appropriate for the ADRD participant's age, culture, and level of function;
- Maintaining at all times a minimum staff-to-participant ratio of one staff member who provides direct services for every five ADRD participants;
- Providing ADRD participants with a program for therapeutic activity at least 70 percent of the time that the center is open;
- Providing ADRD participants with hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care;

⁹ Section 429.907(2)(b)2, F.S.

¹⁰ Section 429.907(3), F.S.

¹¹ Section 429.907(4), F.S.

¹² Section 429.917(1)(a), F.S.

¹³ Section 429.917(1)(b), F.S.

¹⁴ Section 429.917(1)(c), F.S.

¹⁵ Section 429.918(4), F.S.

- Using assessment tools that identify the ADRD participant’s cognitive deficits and identify the specialized and individualized needs of the ADRD participant and the caregiver;
- Creating an individualized plan of care for each ADRD participant which addresses the identified, dementia-specific needs of the ADRD participant and the caregiver;
- Conducting a monthly health assessment of each ADRD participant which includes, but is not limited to, the ADRD participant’s weight, vital signs, and level of assistance needed with activities of daily living;
- Completing a monthly update in each ADRD participant’s file regarding the ADRD participant’s status or progress toward meeting the goals indicated on the individualized plan of care;
- Assisting in the referral or coordination of other dementia-specific services and resources needed by the ADRD participant or the caregiver, such as medical services, counseling, medical planning, legal planning, financial planning, safety and security planning, disaster planning, driving assessment, transportation coordination, or wandering prevention;
- Offering, facilitating, or providing referrals to a support group for persons who are caregivers to ADRD participants;
- Providing dementia-specific educational materials regularly to ADRD participants, as appropriate, and their caregivers;
- Routinely conducting and documenting a count of all ADRD participants present in the center throughout each day;
- Being designated as a secured unit or having one or more working alarms or security devices installed on every door that is accessible to ADRD participants which provides egress from the center or areas of the center designated for the provision of specialized Alzheimer’s services;
- Not allowing an ADRD participant to administer his or her own medication; and
- Making the ADRD participant’s eligibility for admission contingent on whether the ADRD participant has a coordinated mode of transportation to and from the adult day care center, to ensure that the participant does not drive to or from the center.

The Act also provides for specific requirements for the operators and staff of a specialized Alzheimer’s services adult day care center that are more stringent than those for other centers.¹⁶

The Act provides that licensed adult day care centers that are not designated as specialized Alzheimer’s services adult day care centers are not prohibited from providing adult day care services to persons with Alzheimer’s disease or other dementia-related disorders.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 429.901, F.S., to define “adult day care services” as community-based group services designed to provide social, health, therapeutic, recreational, nutritional, or respite services to adults who need supervised care in a safe environment during the day. The services should be designed to:

- Delay or prevent institutionalization;
- Improve the ability to function independently through the delivery of individualized care;

¹⁶ Section 429.918(5)-(6), F.S.

¹⁷ Section 429.918(11), F.S.

- Offer an alternative setting for adults who have chronic and long-term health care needs;
- Improve or stabilize cognitive functioning;
- Educate caregivers;
- Provide respite for caregivers; and
- Increase access to resources and information.

The bill also defines “respite” as short-term, temporary relief for a person who is caring for a family member who might otherwise require permanent placement in a facility outside the home.

Section 2 amends s. 429.907, F.S., to provide that if a licensed center becomes wholly or substantially unusable due to alterations to the center’s building that may constitute a hazard to the safety of the participants, the facility may continue to operate under its current license in premises separate from the premises authorized under the license if the licensee notifies the AHCA within 30 days after commencement of the building alterations. This notification is added to two other conditions that the licensee must meet under current law in order to continue to operate under its current license in separate premises. The bill adds the third condition and requires the licensee to meet only one of the three instead of requiring both of the current-law conditions to be met.

Under the bill, a center may be granted a conditional license for a new facility if the center has been in operation for more than one year before moving to the new location. Within six months after the center relocates, the AHCA must inspect the new location. An application for a conditional license renewal must be submitted at least 60 days before its current conditional license expires.

The bill removes from statute the provision that the licensure application fee may not exceed \$150. The provision for county-operated or municipally-operated centers applying for licensure to be exempt from the fee is also removed from statute.

Section 3 amends s. 429.911, F.S., relating to the denial, suspension, or revocation of a license under certain conditions. The bill adds the existence of unsafe conditions at the center which materially affect the well-being, health, or safety of center participants as grounds for AHCA action.

Section 4 amends s. 429.915, F.S., to add the additional category of temporary relocation as a condition under which the AHCA may issue a conditional license.

Section 5 amends s. 429.917, F.S., to require that the additional training required in s. 429.917(1)(c), F.S. for employees providing direct care to participants with Alzheimer’s disease or dementia-related disorders must include the most current information regarding Alzheimer’s disease and dementia-related disorders. The bill provides that all training specifically required for employees providing direct care must be offered annually.

The bill requires that a licensed center claiming to provide special care for persons with Alzheimer’s disease or related disorders, but which does not claim to be licensed or designated to provide specialized Alzheimer’s disease services, must disclose those services that distinguish

the care as being especially applicable to or suitable for such persons, and such center must document how those services are so distinguished. This differs from current law in that:

- Under the current provisions of s. 429.917(2), F.S., *any* licensed center claiming to provide such special care must disclose in advertisements or in a separate document those services that distinguish the care as being especially applicable and suitable, regardless of whether the center claims to be specially licensed or designated.
- The bill will apply these revised provisions only to licensed centers that do not claim to be licensed or designated to provide specialized Alzheimer's disease services.

The effect is that a center with a license as a designated specialized Alzheimer's services adult day care center under s. 429.918, F.S., currently must meet the disclosure requirements but, under the bill, will no longer be required to make the disclosure if it claims to be licensed or designated to provide specialized Alzheimer's disease services. A center not making that claim will remain subject to the bill's revised disclosure requirements if the center claims to provide special care for persons who have Alzheimer's disease or other related disorders.

Section 6 amends s. 429.931, F.S., to provide that in addition to the requirement for construction and renovation of a center to comply with the provisions of ch. 553, F.S., pertaining to building construction standards, the repair of a center must also comply with those provisions. The bill also provides that a center must notify the AHCA 30 days before the commencement of construction, repairs, or renovation of a center to request a conditional license if the construction, repairs, or renovation will require the center to temporarily relocate.

Section 7 amends s. 400.141, F.S., regarding the administration and management of nursing homes, to remove from s. 400.141(1)(f), F.S., the requirement that nursing homes providing adult day services must comply with the requirements of s. 429.905(2), F.S. There is only one requirement applicable to nursing homes under s. 429.905(2), F.S., which is that a nursing home that holds itself out to the public as an adult day care center must be licensed as such and must meet all standards prescribed by statute and rule.

Section 8 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:**

Current law places a cap of \$150 on the fee for submitting an application for adult day care center licensure. CS/SB 1082 removes that cap. The fee is set by rule.

Current law also exempts county-operated or municipally-operated centers from paying the fee. The bill removes that exemption.

B. Private Sector Impact:

The bill requires adult day care center staff providing direct care to participants to receive the most current information regarding Alzheimer's and dementia-related disorders and to receive this training and other training annually. There may be additional expenses incurred by centers to provide this training.

Entities applying for licensure under the bill may be required to pay application fees higher than the current cap of \$150.

C. Government Sector Impact:

The removal of the exemption for county-operated or municipally-operated centers from paying the fee will have an indeterminate fiscal impact on local governments, but the effect should be insignificant.

The Agency for Health Care Administration advises that the bill has no fiscal impact on state government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 146-152 lack clarity and appear to contain a grammatical error. The bill would be clearer by replacing those lines with the following:

(2) A center licensed under this part which claims to provide that it provides special care for persons who have Alzheimer's disease or ~~other~~ related disorders, but does not claim to be licensed or designated to provide specialized Alzheimer's disease services, must disclose in its advertisements or in a separate document those specific services that are distinguish the care as being especially applicable to, or suitable for, such persons, and the center must document the qualifying attributes of those services.

Even with this clarification, however, it is still unclear to whom the information must be disclosed, under what circumstances it must be disclosed, and what sort of documentation would

satisfy the statutory requirement. It is also unclear what constitutes a “claim” or the act of making a claim.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.901, 429.907, 429.911, 429.915, 429.917, 429.931, and 400.141.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 18, 2014:

- The CS removes Section 2 from the bill as-filed. The original Section 2 of the bill would have amended s. 429.905, F.S., to remove provisions from current law that provide exemptions from part III of ch. 429, F.S., for freestanding inpatient hospice facilities providing day care services to hospice patients only. The original Section 2 would also have removed statutory provisions of current law regarding the monitoring by the Agency for Health Care Administration of assisted living facilities, hospitals, and nursing homes that provide certain adult day care services while not being licensed as an adult day care facility.

- B. **Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Legg

586-02762-14

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A bill to be entitled

An act relating to adult day care centers; amending s. 429.901, F.S.; defining the terms "adult day services" and "respite"; amending s. 429.907, F.S.; providing for operation of an adult day care center in a temporary location under certain conditions; providing notification requirements when a center relocates; authorizing the Agency for Health Care Administration to grant a conditional license to certain centers that relocate; providing license renewal and inspection requirements; revising exemptions for licensure; amending s. 429.911, F.S.; revising a ground for agency action against the owner of a center or its operator or employee; amending s. 429.915, F.S.; authorizing the agency to issue a conditional license to a center that temporarily relocates; amending s. 429.917, F.S.; revising staff training requirements; requiring a center to provide certain disclosures; amending s. 429.931, F.S.; requiring a center to notify the agency before proceeding with building alterations under certain circumstances; amending s. 400.141, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present subsections (2) through (8) and (9) of section 429.901, Florida Statutes, are renumbered as subsections (3) through (9) and (11), respectively, and a new subsection (2)

Page 1 of 8

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586-02762-14

20141082c1

and subsection (10) are added to that section, to read:

429.901 Definitions.—As used in this part, the term:

(2) "Adult day care services" means community-based group services designed to provide social, health, therapeutic, recreational, nutritional, or respite services to adults who need supervised care in a safe environment during the day. Adult day care services offer cost-effective care while supporting individual autonomy, allowing the participant to age in place, and enhancing the quality of life of the participant, the caregiver, and the community. These services are designed to:

(a) Delay or prevent institutionalization.

(b) Improve the ability to function independently through the delivery of individualized care.

(c) Offer an alternative setting for adults who have chronic and long-term health care needs.

(d) Improve or stabilize cognitive functioning.

(e) Educate caregivers.

(f) Provide respite for caregivers.

(g) Increase access to resources and information.

(10) "Respite" means short-term, temporary relief for a person who is caring for a family member who might otherwise require permanent placement in a facility outside the home.

Section 2. Section 429.907, Florida Statutes, is amended to read:

429.907 License requirement; fee; exemption; display.—

(1) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care

Page 2 of 8

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586-02762-14 20141082c1

59 Administration pursuant to this part. A license issued by the
60 agency is required in order to operate an adult day care center
61 in this state.

62 (2) (a) Except as otherwise provided in this subsection,
63 separate licenses are required for centers operated on separate
64 premises, even though operated under the same management.
65 Separate licenses are not required for separate buildings on the
66 same premises.

67 (b) If a licensed center becomes wholly or substantially
68 unusable due to a disaster or ~~due to~~ an emergency as those terms
69 are defined in s. 252.34 or due to alterations to the building
70 that may constitute a hazard to the safety of participants:

71 1. The licensee may continue to operate under its current
72 license in premises separate from that authorized under the
73 license if the licensee has:

74 a. Specified the location of the premises in its
75 comprehensive emergency management plan submitted to and
76 approved by the applicable county emergency management
77 authority; ~~and~~

78 b. Notified the agency and the county emergency management
79 authority within 24 hours after beginning to operate in another
80 of operating in the separate premises; or

81 c. Notified the agency within 30 days after commencement of
82 building alterations that require the licensee to temporarily
83 relocate to another premises for the safety of participants.

84 2. The licensee shall operate the separate premises only
85 while the licensed center's original location is substantially
86 unusable and for up to 180 days. The agency may extend use of
87 the alternate premises beyond the initial 180 days. The agency

586-02762-14 20141082c1

88 may also review the operation of the ~~disaster~~ premises
89 quarterly.

90 3. A center may be granted a conditional license pursuant
91 to s. 429.915 if the center has been in operation for more than
92 1 year before moving to a new location. The agency must inspect
93 the new location within 6 months after the center relocates. The
94 center must submit an application for conditional license
95 renewal at least 60 days before the conditional license expires.

96 (3) In accordance with s. 408.805, an applicant or licensee
97 shall pay a fee for each license application submitted under
98 this part and part II of chapter 408. The amount of the fee
99 shall be established by rule and may not exceed \$150.

100 ~~(4) County operated or municipally operated centers~~
101 ~~applying for licensure under this part are exempt from the~~
102 ~~payment of license fees.~~

103 Section 3. Paragraph (a) of subsection (2) of section
104 429.911, Florida Statutes, is amended to read:

105 429.911 Denial, suspension, revocation of license;
106 emergency action; administrative fines; investigations and
107 inspections.-

108 (2) Each of the following actions by the owner of an adult
109 day care center or by its operator or employee is a ground for
110 action by the agency against the owner of the center or its
111 operator or employee:

112 (a) An intentional or negligent act or the existence of
113 unsafe conditions at the center which materially affect
114 ~~affecting~~ the well-being, health, or safety of center
115 participants.

116 Section 4. Section 429.915, Florida Statutes, is amended to

586-02762-14

20141082c1

117 read:

118 429.915 Conditional license.—In addition to the license
 119 categories available in part II of chapter 408, the agency may
 120 issue a conditional license to an applicant for license renewal,
 121 temporary relocation, or change of ownership if the applicant
 122 fails to meet all standards and requirements for licensure. A
 123 conditional license issued under this subsection must be limited
 124 to a specific period not exceeding 6 months, as determined by
 125 the agency, and must be accompanied by an approved plan of
 126 correction.

127 Section 5. Paragraph (c) of subsection (1) and subsection
 128 (2) of section 429.917, Florida Statutes, are amended to read:

129 429.917 Patients with Alzheimer's disease or other related
 130 disorders; staff training requirements; certain disclosures.—

131 (1) An adult day care center licensed under this part must
 132 provide the following staff training:

133 (c) In addition to the requirements of paragraphs (a) and
 134 (b), an employee who will be providing direct care to a
 135 participant who has Alzheimer's disease or a dementia-related
 136 disorder must complete an additional 3 hours of training within
 137 9 months after beginning employment. This training must include,
 138 but is not limited to, the management of problem behaviors,
 139 information about promoting the participant's independence in
 140 activities of daily living, and instruction in skills for
 141 working with families and caregivers, and the most current
 142 information regarding Alzheimer's disease and dementia-related
 143 disorders. This training must be offered annually and is
 144 required for all employees providing direct care to
 145 participants.

Page 5 of 8

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586-02762-14

20141082c1

146 (2) A center licensed under this part which claims that it
 147 provides special care for persons who have Alzheimer's disease
 148 or other related disorders, but does not claim to be licensed or
 149 designated to provide specialized Alzheimer's disease services,
 150 must disclose and document how in its advertisements or in a
 151 ~~separate document~~ those services that distinguish the care as
 152 being especially applicable to, or suitable for, such persons.
 153 ~~The center must give a copy of all such advertisements or a copy~~
 154 ~~of the document to each person who requests information about~~
 155 ~~the center and must maintain a copy of all such advertisements~~
 156 ~~and documents in its records.~~ The agency shall examine all such
 157 documentation advertisements and documents in the center's
 158 ~~records~~ as part of the license renewal procedure. An adult day
 159 care center may not claim to be licensed or designated to
 160 provide specialized Alzheimer's services unless the adult day
 161 care center's license has been designated as such pursuant to s.
 162 429.918.

163 Section 6. Section 429.931, Florida Statutes, is amended to
 164 read:

165 429.931 Construction, repair, and renovation;
 166 requirements.—

167 (1) The requirements for the construction, repair, and ~~the~~
 168 renovation of a center must comply with the provisions of
 169 chapter 553 which pertain to building construction standards,
 170 including plumbing, electrical code, glass, manufactured
 171 buildings, accessibility by physically handicapped persons, and
 172 the state minimum building codes.

173 (2) The center must notify the agency 30 days before
 174 commencement of building construction, repairs, or renovation to

Page 6 of 8

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586-02762-14 20141082c1

175 request a conditional license if the construction, repairs, or
 176 renovation will require the center to temporarily relocate.

177 Section 7. Paragraph (f) of subsection (1) of section
 178 400.141, Florida Statutes, is amended to read:

179 400.141 Administration and management of nursing home
 180 facilities.-

181 (1) Every licensed facility shall comply with all
 182 applicable standards and rules of the agency and shall:

183 (f) Be allowed and encouraged by the agency to provide
 184 other needed services under certain conditions. If the facility
 185 has a standard licensure status, it may provide services,
 186 including, but not limited to, respite, therapeutic spa, and
 187 adult day services to nonresidents of the facility. A facility
 188 is not subject to any additional licensure requirements for
 189 providing these services. Respite care may be offered to persons
 190 in need of short-term or temporary nursing home services.
 191 Respite care must be provided in accordance with this part.

192 ~~Providers of adult day services must comply with the~~
 193 ~~requirements of s. 429.905(2).~~ The agency shall allow for shared
 194 programming and staff in a facility which meets minimum
 195 standards and offers services pursuant to this paragraph, but,
 196 if the facility is cited for deficiencies in patient care, may
 197 require additional staff and programs appropriate to the needs
 198 of service recipients. A person who receives respite care may
 199 not be counted as a resident of the facility for purposes of the
 200 facility's licensed capacity unless that person receives 24-hour
 201 respite care. A person receiving either respite care for 24
 202 hours or longer or adult day services must be included when
 203 calculating minimum staffing for the facility. Any costs and

Page 7 of 8

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586-02762-14 20141082c1

204 revenues generated by a nursing home facility from
 205 nonresidential programs or services shall be excluded from the
 206 calculations of Medicaid per diems for nursing home
 207 institutional care reimbursement.

208 Section 8. This act shall take effect July 1, 2014.

Page 8 of 8

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The Florida Senate

Committee Agenda Request

To: Honorable Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services

CC: Scarlet Pigott, Staff Director

Subject: Committee Agenda Request

Date: March 18, 2014

I respectfully request that **Senate Bill #1082**, relating to Adult Day Care Centers, be placed on the:

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

A handwritten signature in blue ink, appearing to read "John Legg", written over a horizontal line.

Senator John Legg
Florida Senate, District 17
316 Senate Office Building
(850) 487-5017



975000

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 160 - 163

and insert:

(4) Any contract between a public agency and a contractor, as those terms are defined in s. 119.0701, must specify that the contractor must comply with the requirements in subsections (2) and (3) for applicable services the contractor performs for the public agency, except that subsections (2) and (3) do not apply to a contractor that provides a service to a public agency which



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11 is limited to administering, facilitating, processing, or
12 enforcing a financial transaction initiated by an individual
13 with no direct relationship with the contractor.
14

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

16 And the title is amended as follows:

17 Delete line 21

18 and insert:

19 a contractor; providing exceptions; specifying that a
20 violation does not

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/CS/SB 782

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Governmental Oversight and Accountability Committee; and Senator Brandes

SUBJECT: Government Data Practices

DATE: April 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 782 requires state agencies that collect and maintain personal identification information through websites to post privacy policies on those websites and to provide alerts and options about Internet cookies¹ on agency websites.

The bill requires the Agency for Health Care Administration (AHCA) to provide electronic access to basic information on each state-licensed assisted living facility (ALF). The AHCA must provide a monitored comment web page where the public can comment on ALFs and representatives of ALFs may respond.

The bill eliminates the AHCA's Florida Center for Health Information and Policy Analysis and replaces it with the Florida Health Information Transparency Initiative.

The bill requires reports from the Office of Program Policy Analysis and Government Accountability.

Certain provisions of the bill have a negative fiscal impact of \$206,488 in trust fund dollars for Fiscal Year 2014-2015 and other provisions have indeterminate fiscal impacts.

¹ A "cookie" is an electronic message sent to a web browser from a web server. The browser stores the message in a computer's random access memory or on a computer's long-term data storage device. The message may be retrieved by the web server each time the browser requests to view a web page from the server, under various circumstances.

II. Present Situation:

Records Management

Section 257.36, F.S., creates a records and information management program within the Division of Library and Information Services (division) of the Department of State. The division must establish and administer a records management program directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records, including public records. Each government agency, defined as any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law, must establish and maintain an active and continuing program for economical and efficient records management.

Under s. 257.36(6), F.S., a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division must adopt rules, which are binding on all agencies, relating to the destruction and disposition of records. The rules must provide at least the following:

- Procedures for complying and submitting to the division's records-retention schedules;
- Procedures for the physical destruction or other disposal of records; and
- Standards for the reproduction of records for security or with a view to the disposal of the original record.

The division issues General Records Schedules² that establish minimum retention requirements for series of records that are common to all agencies or specified types of agencies based on the legal, fiscal, administrative, and historical value of those record series to the agencies and to the State of Florida.³ If an agency has a type of record not covered by an existing General Record Schedule, the agency must request that the division create a Records Retention Schedule for that type of record. When the division creates and approves such a schedule, the agency must adhere to it.⁴

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.⁵ The records of the legislative, executive, and judicial branches are specifically included.⁶

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act guarantees every person's right to inspect and copy

² The 13 active schedules for the various types of public entities are available at: http://dliis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm

³ The General Records Schedules are referenced in in Rule 1B-24.003, F.A.C.

⁴ Rule 1B-24.003(7), F.A.C.

⁵ FLA. CONST., Art. I, s. 24(a).

⁶ *Id.*

any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷

Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁸ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁹ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹⁰

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.¹¹ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.¹² If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.¹³

In March of 2013, there were 3,036 licensed ALFs in Florida with 85,413 beds.¹⁴ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA), pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹⁵ limited mental health services,¹⁶ and extended congregate care services.¹⁷ There are 1,073 facilities having limited nursing services specialty licenses (LNS licenses), 279 having extended congregate care licenses (ECC licenses), and 1,084 having limited mental health specialty licenses (LMH licenses).¹⁸

The Florida Center for Health Information and Policy Analysis

The Florida Center for Health Information and Policy Analysis (Florida Center or Center), housed within the AHCA, is responsible for collecting, compiling, coordinating, analyzing, and disseminating health-related data and statistics for the purposes of developing public policy and

⁷ Section 119.07(1)(a), F.S.

⁸ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

⁹ Section 429.02(16), F.S.

¹⁰ Section 429.02(1), F.S.

¹¹ For specific minimum standards see Rule 58A-5.0182, F.A.C.

¹² Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

¹³ Section 429.28, F.S.

¹⁴ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

¹⁵ Section 429.07(3)(c), F.S.

¹⁶ Section 429.075, F.S.

¹⁷ Section 429.07(3)(b), F.S.

¹⁸ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

promoting the transparency of consumer health care information.¹⁹ The Center is divided into five offices, each handling an area of Center responsibility:

- The Office of Data Collection and Quality Assurance collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers, and hospital emergency departments.²⁰
- The Office of Risk Management and Patient Safety conducts in-depth analyses of reported incidents to determine what caused the incident and how the involved facility responded to the incident.²¹
- The Office of Data Dissemination and Communication maintains the AHCA's health information website,²² provides technical assistance to data users, and creates consumer brochures and other publications.²³
- The Office of Health Policy and Research conducts research and analysis of health care data from facilities and develops policy recommendations aimed at improving the delivery of health care services in Florida.²⁴
- The Office of Health Information Exchange monitors innovations in health information technology, informatics, and the exchange of health information, and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.²⁵

Florida Center Data Collection

The Florida Center electronically collects patient data from every Florida-licensed inpatient hospital, ambulatory surgery center (ASC), emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases, including the hospital inpatient database, the ambulatory surgery database, and the emergency department database:²⁶

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data.²⁷ This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from

¹⁹ Florida Center for Health Information and Policy Analysis, found at: <http://ahca.myflorida.com/SCHS/index.shtml>, last visited on Mar. 14, 2014.

²⁰ Office of Data Collection & Quality Assurance, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataC>, last visited on Mar. 14, 2014.

²¹ Office of Risk Management and Patient Safety, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#PatientSafety>, last visited on Mar. 14, 2014.

²² www.FloridaHealthFinder.gov

²³ The Office of Data Dissemination and Communication, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataD>, last visited on Mar. 14, 2014.

²⁴ The Office of Health Policy and Research, found at http://www.fdhc.state.fl.us/SCHS/division.shtml#Policy_Research, last visited on Mar. 14, 2014.

²⁵ Office of Health Information Exchange, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#HIE>, last visited on Mar. 14, 2014.

²⁶ Florida Center for Health Information and Policy Analysis, *2011 Annual Report*, p. 2, found at: http://edocs.dlis.state.fl.us/fldocs/ahca/schs/schs_ar2011.pdf, last visited on Mar. 14, 2014.

²⁷ *Id.*, p. 3

Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.²⁸

- The ambulatory surgery database contains “same-day surgery” data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories.²⁹ Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.³⁰
- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.³¹

In addition to these databases, the Office of Risk Management and Patient Safety collects adverse incident reports from health care providers including, hospitals, ambulatory surgical centers, nursing homes, and assisted living facilities.³²

Florida Center Data Dissemination

The Office of Data Dissemination and Communication makes data collected by the Florida Center available in three ways: by updating and maintaining the AHCA's health information website at www.FloridaHealthFinder.gov, by issuing standard and ad hoc reports, and by responding to requests for de-identified data.³³

- The Florida Center maintains www.FloridaHealthFinder.gov (website) which was established to assist consumers in making informed health care decisions and to facilitate improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public which allow easy access to information on hospitals, ambulatory surgery centers, emergency departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida. The website also provides tools to researchers and professionals which allow specialized data queries that require users to have some knowledge of medical coding and terminology.³⁴ Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ambulatory surgery centers performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.³⁵
- *Standard and Ad Hoc Reports* - The Center disseminates three standard reports which detail hospital fiscal data, including a prior-year report, an audited financial statement, and hospital financial data report. Also, ad hoc reports may be requested for customers looking for very specific information not included on a standard report or for customers who do not wish to purchase an entire data set to obtain information. One example of an ad hoc report would be a request for the average length of stay of patients admitted to a hospital with diabetes as a

²⁸ *Id.*, p. 4

²⁹ *Id.*, p. 3

³⁰ *Id.*, p. 4

³¹ *Id.*, p. 5

³² *Id.*

³³ *Id.*, pp. 6-9

³⁴ *Id.*, p. 9

³⁵ *Id.*, pp. 9-13

principle or secondary diagnosis.³⁶ The Center charges a regular fee for standard reports³⁷ and a variable fee based on the extensiveness of an ad hoc report.³⁸

- *Requests for De-identified Data* - The Center also sells hospital inpatient, ambulatory surgery, and emergency department data to the general public in a non-confidential format. However, the requester must sign a limited set data use agreement which binds the requester to only using the data in a way specified in the agreement. Information not available in these limited data sets include: patient ID number, medical record number, social security number, dates of admission and discharge, visit beginning and end dates, age in days, payer, date of birth, and procedure dates.³⁹

The State Consumer Health Information and Policy Advisory Council

Also created by s. 408.05, F.S., the State Consumer Health Information and Policy Advisory Council (Advisory Council) was established to make recommendations to the Florida Center for Health Information and Policy Analysis. The mission of the Advisory Council is to assist the Florida Center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of health-related data, fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities and to recommend improvements for purposes of public health, policy analysis, health information exchange and transparency of consumer health care information.

The Advisory Council assists the AHCA in determining the method and format for the public disclosure of data collected by the Florida Center and also works with the Florida Center in the development and implementation of a long-range plan for making available health care quality measures and financial data that will allow consumers to compare health care services.⁴⁰ The Advisory Council met four times in 2013. The membership of the Advisory Council is detailed in s. 408.05(8), F.S., and includes:

- An employee of the Executive Office of the Governor.
- An employee of the Office of Insurance Regulation.
- An employee of the Department of Education.
- Ten persons appointed by the secretary of health care administration, representing other state and local agencies, state universities, business and health coalitions, and local health councils.

III. Effect of Proposed Changes:

Government Data Collection and Retention Practices

Section 1 amends s. 257.36, F.S., by requiring that the Department of State's Division of Library and Information Services rules on the destruction and disposition of records must provide

³⁶ *Id.*, p. 8

³⁷ The price list for purchasing data from the Center is available at: <http://floridahealthfinderstore.blob.core.windows.net/documents/researchers/OrderData/documents/PriceList%20Jan%202011.pdf>, last visited on Mar. 14, 2014.

³⁸ *Supra* note 8, p. 7

³⁹ *Id.*, pp. 7-8. Also see note 19 for a price list.

⁴⁰ State Consumer Health Information and Policy Advisory Council, *Executive Summary*, found at: <http://ahca.myflorida.com/SCHS/CommitteesCouncils/docs/AC-ExecutiveSummary0113.pdf>, last visited on Mar. 14, 2014.

procedures for an agency to establish schedules for the physical destruction or other disposal of records held by the agency which contain personal identification information, as defined in s. 282.801, after meeting retention requirements. Unless otherwise required by law, an agency may indefinitely retain records containing information that is not identifiable as related to a unique individual.

Section 2 creates s. 282.801, F.S., and Part IV of ch. 282, F.S., relating to government data collection practices.

The bill provides the following definitions:

- “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 282, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- “Cookie” means data installed and used in tracking website information.
- “Personal identification information” means an item, collection, or grouping of information that may be used, alone or in conjunction with other information, to identify a unique individual, including, but not limited to, his or her:
 - Name;
 - Postal or e-mail address;
 - Telephone number;
 - Social security number;
 - Date of birth;
 - Mother’s maiden name;
 - Official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food assistance account number;
 - Bank account number, credit or debit card number, or other number or information that can be used to access an individual’s financial resources;
 - Educational records;
 - Medical records;
 - License plate number of a registered motor vehicle;
 - Images, including facial images;
 - Biometric identification information;
 - Criminal history; or
 - Employment history.

An agency that collects personal identification information through a website and retains the information must conspicuously post a privacy policy on the website. The privacy policy must provide:

- A description of the services the website provides;
- A description of the personal identification information that the agency collects and maintains from an individual accessing or using the website;
- An explanation of whether the agency’s data collecting and sharing practices are mandatory or allow a user to opt-out of those practices;

- Any available alternatives to using the website;
- A statement as to how the agency uses the personal identification information, including whether and under what circumstances the agency discloses such information;
- Whether any other individual or public or private entity collects personal identification information through the website;
- A general description of the security measures in place to protect personal identification information; and
- An explanation of public records requirements relating to the personal identification information of an individual using the website and if such information may be disclosed in response to a public records request.

An agency that uses a website to install cookies must inform an individual accessing the website of the use of cookies and request permission to install a cookie. Individuals declining the installation of cookies must still be allowed to use the website. This provision doesn't apply to a temporarily installed cookie that is deleted from memory when the website browser or website application is closed.

Any contract between a public agency and a contractor must specify that the contractor must comply with the privacy policy and cookie requirements in the bill for applicable services the contractor performs for the public agency, except that the privacy policy and cookie requirements in the bill do not apply to a contractor providing a service that is limited to administering, facilitating, processing, or enforcing a financial transaction initiated by an individual with no direct relationship with the contractor.

The bill provides that the failure of an agency to comply with these provisions does not create a civil cause of action.

Section 3 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report to the president of the Senate and the speaker of the House of Representatives by July 1, 2015, which:

- Identifies personal identification information, as defined in s. 282.801, F.S., and the records in which such information is contained, held by a state agency;
- Describes the processes by which an individual may currently view and verify his or her personal identification information held by an agency, including how an individual may request the correction of incorrect personal identification information; and
- Identifies any obstacles that inhibit an individual's access to such records.

Section 7 reenacts 120.54(8), F.S., in order to incorporate the amendment made to s. 257.36, F.S., by this bill. This is a technical provision undertaken to ensure that agency rulemaking records are retained according to all the records retention provisions in s. 257.36(6), F.S.

Data on Assisted Living Facilities

Section 4 creates s. 429.55, F.S., to require the AHCA, by November 1, 2014, to provide, maintain, and update electronically accessible data on assisted living facilities (ALFs). The data must include:

- Specified information on each licensed ALF;
- A list of the facility's regulatory violations, if any; and
- Links to inspection reports on file with the AHCA.

The AHCA may provide a monitored comment web page that allows the public to comment on specific state-licensed ALFs. If the web page is provided, the AHCA must review comments for profanities and redact profanities before posting the comments to the web page. The AHCA must retain all comments as they were originally submitted, which are subject to Florida public records law. A controlling interest in an ALF, or an employee or owner of an ALF, is prohibited from posting comments on the page but may respond to comments posted on the page by others. The AHCA must ensure that such responses are identified as being from a representative of the facility.

The AHCA may provide links to third-party websites that use the published data to assist consumers in evaluating ALF quality of care and services.

The AHCA may adopt rules to administer this section.

The Florida Health Information Transparency Initiative

Section 5 amends s. 408.05, F.S., to:

- Eliminate the Florida Center for Health Information and Policy Analysis;
- Create the Florida Health Information Transparency Initiative (Initiative);
- Require the AHCA to make state-collected data on health providers, facilities, services, and payment sources available in a manner that allows for and encourages multiple innovative uses for the data;
- Require the AHCA, subject to the General Appropriations Act, to develop new methods of dissemination and to convert data into an easily usable electronic format, either by internal development or by contract with one or more vendors;
- Detail the types of data and information the AHCA must include in the comprehensive health information system, including data and information on:
 - Health resources,
 - Utilization of health resources,
 - Health care costs and financing,
 - The extent, source, and type of public and private health insurance coverage in the state, and
 - Data necessary for measuring value and quality of care provided by various health care providers;
- Require the AHCA to perform certain functions in order to collect and disseminate comprehensive health information and statistics to the public and to support the development of policy recommendations, including:
 - Collecting and compiling data from all state agencies and programs involved in providing, regulating, and paying for health services,
 - Promoting data sharing through the development, dissemination, and evaluation of state-collected health data and making such data available, transferable, and readily useable,

- Developing written agreements with local, state, and federal agencies for the sharing of health-care-related data,
- Enabling and facilitating the sharing and use of all state-collected health data to the maximum extent allowed by law,
- Monitoring data collection procedures, testing data quality, and taking such corrective actions as may be necessary to ensure that data disseminated under the Initiative are accurate, valid, reliable and complete, and
- Initiating and maintaining the activities necessary to collect, edit, verify, archive and retrieve the data;
- Require that the AHCA implement the Initiative in a manner that recognizes state-collected data as an asset and rewards taxpayer investment in information collection and management;
- Require that the AHCA ensure that any vendor who enters into a contract with the state under this section does not inhibit or impede consumer access to state-collected health data;
- Remove significant portions of the statute regarding the Comprehensive Health Information System; and
- Eliminate the State Consumer Health Information and Policy Advisory Council.

Section 6 requires the OPPAGA to monitor the AHCA's implementation of section 5 of the bill. No later than one year after the AHCA completes implementation, the OPPAGA must provide a report to the president of the Senate and the speaker of the House of Representatives containing recommendations regarding the application of data practices made pursuant to s. 408.05, F.S., to other executive branch agencies

Sections 8 through 17 amend ss. 20.42, 381.026, 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244, 627.6499, and 641.54, F.S., respectively, to strike references made obsolete by the changes made to s. 408.05, F.S.

Effective Date

Section 18 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 Florida Health Information Transparency Initiative is intended to modernize health care data collection and dissemination functions to facilitate public access to this data for innovative uses.

C. Government Sector Impact:

CS/SB 782 contains provisions for the AHCA to create and maintain a public information web page on ALFs which are very similar to provisions contained in CS/CS/SB 248 as passed by the Senate. The latter bill contains appropriations of \$104,909 in recurring funds and \$101,579 in non-recurring funds from the AHCA's Health Care Trust Fund to fund the AHCA's implementation of the ALF public information web page.⁴¹

The fiscal impact of the bill's provisions regarding the Florida Health Information Transparency Initiative is indeterminate and would depend largely on services and functions that could be outsourced and whether such outsourcing would lead to reduction of AHCA staff. Any such vendor contracts are subject to the General Appropriations Act.

The Department of State reports no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 4 requires the AHCA to give public access to data about assisted living facilities. These provisions are substantially similar to provisions in section 15 of CS/CS/SB 248.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.42, 120.54, 257.36, 381.026, 395.301, 395.602, 395.6025, 408.05, 408.07, 408.18, 465.0244, 627.6499, and 641.54.

This bill creates the following sections of the Florida Statutes: 282.801 and 429.55.

The bill creates two undesignated sections of Florida law.

⁴¹ CS/CS/SB 248 amends statutes regarding the enforcement of regulations for ALFs by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for ALFs having significant violations. The Senate passed that bill on March 18, 2014.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on April 2, 2014:

The CS provides that the bill’s requirements for public agency contracts relating to compliance with an agency’s privacy policy and cookie requirements do not apply to contractors providing certain limited services to the agency relating to financial transactions initiated by an individual with no relationship to the contractor.

CS by Governmental Oversight and Accountability on March 20, 2014:

The CS provides a definition of “state agency” for purposes of an OPPAGA report, clarifies that AHCA must maintain and update the assisted living facility database, and clarifies AHCA’s duties with regards to redacting profanities on a comment webpage.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Brandes

585-02904-14

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1 A bill to be entitled
2 An act relating to government data practices; amending
3 s. 257.36, F.S.; requiring the Division of Library and
4 Information Services of the Department of State to
5 adopt rules providing procedures for an agency to
6 establish schedules for the physical destruction or
7 other disposal of records containing personal
8 identification information; creating part IV of ch.
9 282, F.S., consisting of s. 282.801, F.S.; providing
10 definitions; requiring an agency that collects and
11 maintains personal identification information to post
12 a privacy policy on the agency's website; prescribing
13 minimum requirements for a privacy policy; requiring
14 an agency to provide notice of the installation of
15 cookies on an individual's computer; requiring that an
16 individual who would otherwise be granted access to an
17 agency's website be granted access even if he or she
18 declines to have the cookie installed; providing an
19 exception; requiring that privacy policy requirements
20 be specified in a contract between a public agency and
21 a contractor; specifying that a violation does not
22 create a civil cause of action; requiring the Office
23 of Program Policy Analysis and Government
24 Accountability to submit a report to the Legislature
25 by a specified date; providing report requirements;
26 creating s. 429.55, F.S.; requiring the Agency for
27 Health Care Administration to provide specified data
28 on assisted living facilities by a certain date;
29 providing minimum requirements for such data;

Page 1 of 33

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585-02904-14

2014782c1

30 authorizing the agency to create a comment webpage
31 regarding assisted living facilities; providing
32 minimum requirements; authorizing the agency to
33 provide links to certain third-party websites;
34 authorizing the agency to adopt rules; amending s.
35 408.05, F.S.; dissolving the Center for Health
36 Information and Policy Analysis within the Agency for
37 Health Care Administration; requiring the agency to
38 coordinate a system to promote access to certain data
39 and information; requiring that certain health-related
40 data be included within the system; assigning duties
41 to the agency relating to the collection and
42 dissemination of data; establishing conditions for the
43 funding of the system; requiring the Office of Program
44 Policy Analysis and Government Accountability to
45 monitor the agency's implementation of the health
46 information system; requiring the Office of Program
47 Policy Analysis and Government Accountability to
48 submit a report to the Legislature after completion of
49 the implementation; providing report requirements;
50 reenacting s. 120.54(8), F.S., relating to rulemaking,
51 to incorporate the amendment made to s. 257.36, F.S.,
52 in a reference thereto; amending ss. 20.42, 381.026,
53 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244,
54 627.6499, and 641.54, F.S.; conforming provisions to
55 changes made by the act; providing an effective date.
56
57 Be It Enacted by the Legislature of the State of Florida:
58

Page 2 of 33

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585-02904-14

2014782c1

59 Section 1. Subsection (6) of section 257.36, Florida
60 Statutes, is amended to read:

61 257.36 Records and information management.—

62 (6) A public record may be destroyed or otherwise disposed
63 of only in accordance with retention schedules established by
64 the division. The division shall adopt ~~reasonable~~ rules
65 ~~consistent not inconsistent~~ with this chapter which ~~are shall be~~
66 binding on all agencies relating to the destruction and
67 disposition of records. Such rules ~~must shall~~ provide, but need
68 not be limited to:

69 (a) Procedures for complying and submitting to the division
70 records-retention schedules.

71 (b) Procedures for the physical destruction or other
72 disposal of records.

73 (c) Procedures for an agency to establish schedules for the
74 physical destruction or other disposal of records held by the
75 agency which contain personal identification information, as
76 defined in s. 282.801, after meeting retention requirements.
77 Unless otherwise required by law, an agency may indefinitely
78 retain records containing information that is not identifiable
79 as related to a unique individual.

80 ~~(d)(e)~~ Standards for the reproduction of records for
81 security or with a view to the disposal of the original record.

82 Section 2. Part IV of chapter 282, Florida Statutes,
83 consisting of section 282.801, Florida Statutes, is created to
84 read:

85 PART IV

86 GOVERNMENT DATA COLLECTION PRACTICES

87 282.801 Government data practices.—

Page 3 of 33

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585-02904-14

2014782c1

88 (1) For purposes of this part, the term:

89 (a) "Agency" has the same meaning as in s. 119.011.

90 (b) "Cookie" means data sent from a website which is
91 electronically installed on a computer or electronic device of
92 an individual who has accessed the website and transmits certain
93 information to the server of that website.

94 (c) "Individual" means a human being and does not include a
95 corporation, a partnership, or any other business entity.

96 (d) "Personal identification information" means an item,
97 collection, or grouping of information that may be used, alone
98 or in conjunction with other information, to identify a unique
99 individual, including, but not limited to, his or her:

100 1. Name;

101 2. Postal or e-mail address;

102 3. Telephone number;

103 4. Social security number;

104 5. Date of birth;

105 6. Mother's maiden name;

106 7. Official state-issued or United States-issued driver
107 license or identification number, alien registration number,
108 government passport number, employer or taxpayer identification
109 number, or Medicaid or food assistance account number;

110 8. Bank account number, credit or debit card number, or
111 other number or information that can be used to access an
112 individual's financial resources;

113 9. Educational records;

114 10. Medical records;

115 11. License plate number of a registered motor vehicle;

116 12. Images, including facial images;

Page 4 of 33

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585-02904-14

2014782c1

117 13. Biometric identification information;
 118 14. Criminal history; or
 119 15. Employment history.
 120 (2) An agency that collects personal identification
 121 information through a website and retains such information shall
 122 maintain and conspicuously post a privacy policy on such
 123 website. At a minimum, the privacy policy must provide:
 124 (a) A description of the services the website provides.
 125 (b) A description of the personal identification
 126 information that the agency collects and maintains from an
 127 individual accessing or using the website.
 128 (c) An explanation of whether the agency's data collecting
 129 and sharing practices are mandatory or allow a user to opt out
 130 of those practices.
 131 (d) Any available alternatives to using the website.
 132 (e) A statement as to how the agency uses the personal
 133 identification information, including, but not limited to,
 134 whether and under what circumstances the agency discloses such
 135 information.
 136 (f) Whether any other person, as defined in s. 671.201,
 137 collects personal identification information through the
 138 website.
 139 (g) A general description of the security measures in place
 140 to protect personal identification information; however, such
 141 description must not compromise the integrity of the security
 142 measures.
 143 (h) An explanation of public records requirements relating
 144 to the personal identification information of an individual
 145 using the website and if such information may be disclosed in

Page 5 of 33

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585-02904-14

2014782c1

146 response to a public records request.
 147 (3) (a) An agency that uses a website to install a cookie on
 148 an individual's computer or electronic device shall inform an
 149 individual accessing the website of the use of cookies and
 150 request permission to install a cookie on the individual's
 151 computer.
 152 (b) If an individual accessing the website of an agency
 153 declines to have cookies installed, such individual shall still
 154 be allowed to access and use the website.
 155 (c) This subsection does not apply to a cookie temporarily
 156 installed on an individual's computer or electronic device by an
 157 agency if the cookie is installed only in the computer's or
 158 electronic device's memory and is deleted from such memory when
 159 the website browser or website application is closed.
 160 (4) Any contract between a public agency, as defined in s.
 161 119.0701(1)(b), and a contractor, as defined in s.
 162 119.0701(1)(a), must specify that the contractor must comply
 163 with the requirements in subsections (2) and (3).
 164 (5) The failure of an agency to comply with this section
 165 does not create a civil cause of action.
 166 Section 3. The Office of Program Policy Analysis and
 167 Government Accountability shall submit a report to the President
 168 of the Senate and the Speaker of the House of Representatives by
 169 July 1, 2015, which:
 170 (1) Identifies personal identification information, as
 171 defined in s. 282.801, Florida Statutes, and the records in
 172 which such information is contained, held by a state agency. For
 173 purposes of this section, the term "state agency" has the same
 174 meaning as in s. 216.011(1)(qq), but does not include state

Page 6 of 33

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585-02904-14

2014782c1

175 attorneys, public defenders, criminal conflict and civil
 176 regional counsel, capital collateral regional counsel, the
 177 Justice Administrative Commission, the Florida Housing Finance
 178 Corporation, the Florida Public Service Commission, and the
 179 judicial branch.

180 (2) Describes the processes by which an individual may
 181 currently view and verify his or her personal identification
 182 information held by an agency, including how an individual may
 183 request the correction of incorrect personal identification
 184 information.

185 (3) Identifies any obstacles that inhibit an individual's
 186 access to such records.

187 Section 4. Section 429.55, Florida Statutes, is created to
 188 read:

189 429.55 Public access to data; comment page.-

190 (1) By November 1, 2014, the agency shall provide,
 191 maintain, and update at least quarterly, electronically
 192 accessible data on assisted living facilities. Such data must be
 193 searchable, downloadable, and available in generally accepted
 194 formats. At a minimum, such data must include:

195 (a) Information on each assisted living facility licensed
 196 under this part, including:

- 197 1. The name and address of the facility.
- 198 2. The number and type of licensed beds in the facility.
- 199 3. The types of licenses held by the facility.
- 200 4. The facility's license expiration date and status.
- 201 5. Other relevant information that the agency currently
 202 collects.

203 (b) A list of the facility's violations, including, for

585-02904-14

2014782c1

204 each violation:

205 1. A summary of the violation presented in a manner
 206 understandable by the general public;

207 2. Any sanctions imposed by final order; and

208 3. The date the corrective action was confirmed by the
 209 agency.

210 (c) Links to inspection reports on file with the agency.

211 (2) (a) The agency may provide a monitored comment webpage
 212 that allows members of the public to comment on specific
 213 assisted living facilities licensed to operate in this state. At
 214 a minimum, the comment webpage must allow members of the public
 215 to identify themselves, provide comments on their experiences
 216 with, or observations of, an assisted living facility, and view
 217 others' comments.

218 (b) The agency shall review comments for profanities and
 219 redact any profanities before posting the comments to the
 220 webpage. After redacting any profanities, the agency shall post
 221 all comments, and shall retain all comments as they were
 222 originally submitted, which are subject to the requirements of
 223 chapter 119, Florida Statutes, and which shall be retained by
 224 the agency for inspection by the public without further
 225 redaction pursuant to retention schedules and disposal processes
 226 for such records.

227 (c) A controlling interest, as defined in s. 408.803,
 228 Florida Statutes, in an assisted living facility, or an employee
 229 or owner of an assisted living facility, is prohibited from
 230 posting comments on the page. A controlling interest, employee,
 231 or owner may respond to comments on the page, and the agency
 232 shall ensure that such responses are identified as being from a

585-02904-14

2014782c1

233 representative of the facility.

234 (3) The agency may provide links to third-party websites
 235 that use the data published pursuant to this section to assist
 236 consumers in evaluating the quality of care and service in
 237 assisted living facilities.

238 (4) The agency may adopt rules to administer this section.

239 Section 5. Section 408.05, Florida Statutes, is amended to
 240 read:

241 408.05 Florida Health Information Transparency Initiative
 242 Center for Health Information and Policy Analysis.-

243 (1) CREATION AND PURPOSE ESTABLISHMENT.-The agency shall
 244 create a comprehensive health information system to promote
 245 accessibility, transparency, and utility of state-collected data
 246 and information about health providers, facilities, services,
 247 and payment sources. The agency is responsible for making state-
 248 collected health data available in a manner that allows for and
 249 encourages multiple and innovative uses of data sets. Subject to
 250 funding by the General Appropriations Act, the agency shall
 251 develop and deploy, through a contract award with one or more
 252 vendors or internal development, new methods of dissemination
 253 and ways to convert data into easily usable electronic formats
 254 establish a Florida Center for Health Information and Policy
 255 Analysis. The center shall establish a comprehensive health
 256 information system to provide for the collection, compilation,
 257 coordination, analysis, indexing, dissemination, and utilization
 258 of both purposefully collected and extant health-related data
 259 and statistics. The center shall be staffed with public health
 260 experts, biostatisticians, information system analysts, health
 261 policy experts, economists, and other staff necessary to carry

585-02904-14

2014782c1

262 ~~out its functions.~~

263 (2) HEALTH-RELATED DATA.-The comprehensive health
 264 information system must include the following data and
 265 information ~~operated by the Florida Center for Health~~
 266 ~~Information and Policy Analysis shall identify the best~~
 267 ~~available data sources and coordinate the compilation of extant~~
 268 ~~health-related data and statistics and purposefully collect data~~
 269 ~~on:~~

270 ~~(a) The extent and nature of illness and disability of the~~
 271 ~~state population, including life expectancy, the incidence of~~
 272 ~~various acute and chronic illnesses, and infant and maternal~~
 273 ~~morbidity and mortality.~~

274 ~~(b) The impact of illness and disability of the state~~
 275 ~~population on the state economy and on other aspects of the~~
 276 ~~well-being of the people in this state.~~

277 ~~(c) Environmental, social, and other health hazards.~~

278 ~~(d) Health knowledge and practices of the people in this~~
 279 ~~state and determinants of health and nutritional practices and~~
 280 ~~status.~~

281 ~~(a)(e)~~ Health resources, including licensed health
 282 professionals, licensed health care facilities, managed care
 283 organizations, and other health services regulated or funded by
 284 the state physicians, dentists, nurses, and other health
 285 professionals, by specialty and type of practice and acute,
 286 long-term care and other institutional care facility supplies
 287 and specific services provided by hospitals, nursing homes, home
 288 health agencies, and other health care facilities.

289 ~~(b)(f)~~ Utilization of health resources care by type of
 290 provider.

585-02904-14

2014782c1

291 (c)(g) Health care costs and financing, including Medicaid
 292 claims and encounter data and data from other public and private
 293 payors trends in health care prices and costs, the sources of
 294 payment for health care services, and federal, state, and local
 295 expenditures for health care.

296 ~~(h) Family formation, growth, and dissolution.~~

297 (d)(i) The extent, source, and type of public and private
 298 health insurance coverage in this state.

299 (e)(j) The data necessary for measuring value and quality
 300 of care provided by various health care providers, including
 301 applicable credentials, accreditation status, use, revenues and
 302 expenses, outcomes, site visits, and other regulatory reports,
 303 and the results of administrative and civil litigation related
 304 to health care.

305 (3) COORDINATION COMPREHENSIVE HEALTH INFORMATION SYSTEM.-
 306 In order to collect comprehensive produce comparable and uniform
 307 health information and statistics and to disseminate such
 308 information to for the public, as well as for the development of
 309 policy recommendations, the agency shall perform the following
 310 functions:

311 (a) Collect and compile data from all agencies and programs
 312 that provide, regulate, and pay for health services Coordinate
 313 the activities of state agencies involved in the design and
 314 implementation of the comprehensive health information system.

315 (b) Promote data sharing through the Undertake research,
 316 development, dissemination, and evaluation of state-collected
 317 health data and by making such data available, transferable, and
 318 readily usable respecting the comprehensive health information
 319 system.

585-02904-14

2014782c1

320 ~~(e) Review the statistical activities of state agencies to~~
 321 ~~ensure that they are consistent with the comprehensive health~~
 322 ~~information system.~~

323 (c)(d) Develop written agreements with local, state, and
 324 federal agencies for the sharing of health-care-related data or
 325 using the facilities and services of such agencies. State
 326 agencies, local health councils, and other agencies under state
 327 contract shall assist the agency center in obtaining, compiling,
 328 and transferring health-care-related data maintained by state
 329 and local agencies. ~~Written agreements must specify the types,~~
 330 ~~methods, and periodicity of data exchanges and specify the types~~
 331 ~~of data that will be transferred to the center.~~

332 (d)(e) Enable and facilitate the sharing and use of all
 333 state-collected health data to the maximum extent allowed by law
 334 Establish by rule the types of data collected, compiled,
 335 processed, used, or shared. Decisions regarding center data sets
 336 should be made based on consultation with the State Consumer
 337 Health Information and Policy Advisory Council and other public
 338 and private users regarding the types of data which should be
 339 collected and their uses. The center shall establish
 340 standardized means for collecting health information and
 341 statistics under laws and rules administered by the agency.

342 ~~(f) Establish minimum health care-related data sets which~~
 343 ~~are necessary on a continuing basis to fulfill the collection~~
 344 ~~requirements of the center and which shall be used by state~~
 345 ~~agencies in collecting and compiling health care-related data.~~
 346 ~~The agency shall periodically review ongoing health care data~~
 347 ~~collections of the Department of Health and other state agencies~~
 348 ~~to determine if the collections are being conducted in~~

585-02904-14

2014782c1

349 accordance with the established minimum sets of data.

350 ~~(g) Establish advisory standards to ensure the quality of~~
 351 ~~health statistical and epidemiological data collection,~~
 352 ~~processing, and analysis by local, state, and private~~
 353 ~~organizations.~~

354 (e)(h) Monitor data collection procedures, test data
 355 quality, and take such corrective actions as are necessary to
 356 ensure that data and information disseminated under the
 357 initiative are accurate, valid, reliable, and complete Prescribe
 358 standards for the publication of health-care-related data
 359 reported pursuant to this section which ensure the reporting of
 360 accurate, valid, reliable, complete, and comparable data. Such
 361 standards should include advisory warnings to users of the data
 362 regarding the status and quality of any data reported by or
 363 available from the center.

364 (f)(i) Initiate and maintain activities necessary to
 365 collect, edit, verify, archive, and retrieve data compiled
 366 pursuant to this section Prescribe standards for the maintenance
 367 and preservation of the center's data. This should include
 368 methods for archiving data, retrieval of archived data, and data
 369 editing and verification.

370 ~~(j) Ensure that strict quality control measures are~~
 371 ~~maintained for the dissemination of data through publications,~~
 372 ~~studies, or user requests.~~

373 ~~(k) Develop, in conjunction with the State Consumer Health~~
 374 ~~Information and Policy Advisory Council, and implement a long-~~
 375 ~~range plan for making available health care quality measures and~~
 376 ~~financial data that will allow consumers to compare health care~~
 377 ~~services. The health care quality measures and financial data~~

Page 13 of 33

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585-02904-14

2014782c1

378 the agency must make available include, but are not limited to,
 379 pharmaceuticals, physicians, health care facilities, and health
 380 plans and managed care entities. The agency shall update the
 381 plan and report on the status of its implementation annually.
 382 ~~The agency shall also make the plan and status report available~~
 383 ~~to the public on its Internet website. As part of the plan, the~~
 384 ~~agency shall identify the process and timeframes for~~
 385 ~~implementation, barriers to implementation, and recommendations~~
 386 ~~of changes in the law that may be enacted by the Legislature to~~
 387 ~~eliminate the barriers. As preliminary elements of the plan, the~~
 388 ~~agency shall:~~

389 1. ~~Make available patient safety indicators, inpatient~~
 390 ~~quality indicators, and performance outcome and patient charge~~
 391 ~~data collected from health care facilities pursuant to s.~~
 392 ~~408.061(1)(a) and (2). The terms "patient safety indicators" and~~
 393 ~~"inpatient quality indicators" have the same meaning as that~~
 394 ~~ascribed by the Centers for Medicare and Medicaid Services, an~~
 395 ~~accrediting organization whose standards incorporate comparable~~
 396 ~~regulations required by this state, or a national entity that~~
 397 ~~establishes standards to measure the performance of health care~~
 398 ~~providers, or by other states. The agency shall determine which~~
 399 ~~conditions, procedures, health care quality measures, and~~
 400 ~~patient charge data to disclose based upon input from the~~
 401 ~~council. When determining which conditions and procedures are to~~
 402 ~~be disclosed, the council and the agency shall consider~~
 403 ~~variation in costs, variation in outcomes, and magnitude of~~
 404 ~~variations and other relevant information. When determining~~
 405 ~~which health care quality measures to disclose, the agency:~~
 406 a. ~~Shall consider such factors as volume of cases; average~~

Page 14 of 33

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585-02904-14

2014782c1

407 ~~patient charges, average length of stay, complication rates,~~
 408 ~~mortality rates, and infection rates, among others, which shall~~
 409 ~~be adjusted for case mix and severity, if applicable.~~

410 ~~b. May consider such additional measures that are adopted~~
 411 ~~by the Centers for Medicare and Medicaid Studies, an accrediting~~
 412 ~~organization whose standards incorporate comparable regulations~~
 413 ~~required by this state, the National Quality Forum, the Joint~~
 414 ~~Commission on Accreditation of Healthcare Organizations, the~~
 415 ~~Agency for Healthcare Research and Quality, the Centers for~~
 416 ~~Disease Control and Prevention, or a similar national entity~~
 417 ~~that establishes standards to measure the performance of health~~
 418 ~~care providers, or by other states.~~

419

420 ~~When determining which patient charge data to disclose, the~~
 421 ~~agency shall include such measures as the average of~~
 422 ~~undiscounted charges on frequently performed procedures and~~
 423 ~~preventive diagnostic procedures, the range of procedure charges~~
 424 ~~from highest to lowest, average net revenue per adjusted patient~~
 425 ~~day, average cost per adjusted patient day, and average cost per~~
 426 ~~admission, among others.~~

427 ~~2. Make available performance measures, benefit design, and~~
 428 ~~premium cost data from health plans licensed pursuant to chapter~~
 429 ~~627 or chapter 641. The agency shall determine which health care~~
 430 ~~quality measures and member and subscriber cost data to~~
 431 ~~disclose, based upon input from the council. When determining~~
 432 ~~which data to disclose, the agency shall consider information~~
 433 ~~that may be required by either individual or group purchasers to~~
 434 ~~assess the value of the product, which may include membership~~
 435 ~~satisfaction, quality of care, current enrollment or membership,~~

Page 15 of 33

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585-02904-14

2014782c1

436 ~~coverage areas, accreditation status, premium costs, plan costs,~~
 437 ~~premium increases, range of benefits, copayments and~~
 438 ~~deductibles, accuracy and speed of claims payment, credentials~~
 439 ~~of physicians, number of providers, names of network providers,~~
 440 ~~and hospitals in the network. Health plans shall make available~~
 441 ~~to the agency such data or information that is not currently~~
 442 ~~reported to the agency or the office.~~

443 ~~3. Determine the method and format for public disclosure of~~
 444 ~~data reported pursuant to this paragraph. The agency shall make~~
 445 ~~its determination based upon input from the State Consumer~~
 446 ~~Health Information and Policy Advisory Council. At a minimum,~~
 447 ~~the data shall be made available on the agency's Internet~~
 448 ~~website in a manner that allows consumers to conduct an~~
 449 ~~interactive search that allows them to view and compare the~~
 450 ~~information for specific providers. The website must include~~
 451 ~~such additional information as is determined necessary to ensure~~
 452 ~~that the website enhances informed decisionmaking among~~
 453 ~~consumers and health care purchasers, which shall include, at a~~
 454 ~~minimum, appropriate guidance on how to use the data and an~~
 455 ~~explanation of why the data may vary from provider to provider.~~

456 ~~4. Publish on its website undiscounted charges for no fewer~~
 457 ~~than 150 of the most commonly performed adult and pediatric~~
 458 ~~procedures, including outpatient, inpatient, diagnostic, and~~
 459 ~~preventative procedures.~~

460 ~~(4) TECHNICAL ASSISTANCE.—~~

461 ~~(a) The center shall provide technical assistance to~~
 462 ~~persons or organizations engaged in health planning activities~~
 463 ~~in the effective use of statistics collected and compiled by the~~
 464 ~~center. The center shall also provide the following additional~~

Page 16 of 33

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585-02904-14

2014782c1

465 ~~technical assistance services:~~

466 1. Establish procedures identifying the circumstances under
 467 which, the places at which, the persons from whom, and the
 468 methods by which a person may secure data from the center,
 469 including procedures governing requests, the ordering of
 470 requests, timeframes for handling requests, and other procedures
 471 necessary to facilitate the use of the center's data. To the
 472 extent possible, the center should provide current data timely
 473 in response to requests from public or private agencies.

474 2. Provide assistance to data sources and users in the
 475 areas of database design, survey design, sampling procedures,
 476 statistical interpretation, and data access to promote improved
 477 health care related data sets.

478 3. Identify health care data gaps and provide technical
 479 assistance to other public or private organizations for meeting
 480 documented health care data needs.

481 4. Assist other organizations in developing statistical
 482 abstracts of their data sets that could be used by the center.

483 5. Provide statistical support to state agencies with
 484 regard to the use of databases maintained by the center.

485 6. To the extent possible, respond to multiple requests for
 486 information not currently collected by the center or available
 487 from other sources by initiating data collection.

488 7. Maintain detailed information on data maintained by
 489 other local, state, federal, and private agencies in order to
 490 advise those who use the center of potential sources of data
 491 which are requested but which are not available from the center.

492 8. Respond to requests for data which are not available in
 493 published form by initiating special computer runs on data sets

585-02904-14

2014782c1

494 ~~available to the center.~~

495 9. Monitor innovations in health information technology,
 496 informatics, and the exchange of health information and maintain
 497 a repository of technical resources to support the development
 498 of a health information network.

499 ~~(b) The agency shall administer, manage, and monitor grants~~
 500 ~~to not-for-profit organizations, regional health information~~
 501 ~~organizations, public health departments, or state agencies that~~
 502 ~~submit proposals for planning, implementation, or training~~
 503 ~~projects to advance the development of a health information~~
 504 ~~network. Any grant contract shall be evaluated to ensure the~~
 505 ~~effective outcome of the health information project.~~

506 ~~(c) The agency shall initiate, oversee, manage, and~~
 507 ~~evaluate the integration of health care data from each state~~
 508 ~~agency that collects, stores, and reports on health care issues~~
 509 ~~and make that data available to any health care practitioner~~
 510 ~~through a state health information network.~~

511 ~~(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES. The center~~
 512 ~~shall provide for the widespread dissemination of data which it~~
 513 ~~collects and analyzes. The center shall have the following~~
 514 ~~publication, reporting, and special study functions:~~

515 ~~(a) The center shall publish and make available~~
 516 ~~periodically to agencies and individuals health statistics~~
 517 ~~publications of general interest, including health plan consumer~~
 518 ~~reports and health maintenance organization member satisfaction~~
 519 ~~surveys; publications providing health statistics on topical~~
 520 ~~health policy issues; publications that provide health status~~
 521 ~~profiles of the people in this state; and other topical health~~
 522 ~~statistics publications.~~

585-02904-14

2014782c1

523 ~~(b) The center shall publish, make available, and~~
 524 ~~disseminate, promptly and as widely as practicable, the results~~
 525 ~~of special health surveys, health care research, and health care~~
 526 ~~evaluations conducted or supported under this section. Any~~
 527 ~~publication by the center must include a statement of the~~
 528 ~~limitations on the quality, accuracy, and completeness of the~~
 529 ~~data.~~

530 ~~(c) The center shall provide indexing, abstracting,~~
 531 ~~translation, publication, and other services leading to a more~~
 532 ~~effective and timely dissemination of health care statistics.~~

533 ~~(d) The center shall be responsible for publishing and~~
 534 ~~disseminating an annual report on the center's activities.~~

535 ~~(e) The center shall be responsible, to the extent~~
 536 ~~resources are available, for conducting a variety of special~~
 537 ~~studies and surveys to expand the health care information and~~
 538 ~~statistics available for health policy analyses, particularly~~
 539 ~~for the review of public policy issues. The center shall develop~~
 540 ~~a process by which users of the center's data are periodically~~
 541 ~~surveyed regarding critical data needs and the results of the~~
 542 ~~survey considered in determining which special surveys or~~
 543 ~~studies will be conducted. The center shall select problems in~~
 544 ~~health care for research, policy analyses, or special data~~
 545 ~~collections on the basis of their local, regional, or state~~
 546 ~~importance; the unique potential for definitive research on the~~
 547 ~~problem; and opportunities for application of the study~~
 548 ~~findings.~~

549 ~~(4)(6) PROVIDER DATA REPORTING.~~-This section does not
 550 confer on the agency the power to demand or require that a
 551 health care provider or professional furnish information,

585-02904-14

2014782c1

552 records of interviews, written reports, statements, notes,
 553 memoranda, or data other than as expressly required by law.

554 ~~(5)(7) HEALTH INFORMATION ENTERPRISE BUDGET FEES.~~-

555 (a) The agency shall implement the comprehensive health
 556 information system in a manner that recognizes state-collected
 557 data as an asset and rewards taxpayer investment in information
 558 collection and management Legislature intends that funding for
 559 the Florida Center for Health Information and Policy Analysis be
 560 appropriated from the General Revenue Fund.

561 ~~(b) The agency Florida Center for Health Information and~~
 562 ~~Policy Analysis may apply for, and receive, and accept grants,~~
 563 ~~gifts, and other payments, including property and services, from~~
 564 ~~a any governmental or other public or private entity or person~~
 565 ~~and make arrangements for as to the use of such funds same,~~
 566 including the undertaking of special studies and other projects
 567 relating to health-care-related topics. Funds obtained pursuant
 568 to this paragraph may not be used to offset annual
 569 appropriations from the General Revenue Fund.

570 (c) The agency shall ensure that a vendor who enters into a
 571 contract with the state under this section does not inhibit or
 572 impede public access to state-collected health data and
 573 information center may charge such reasonable fees for services
 574 as the agency prescribes by rule. The established fees may not
 575 exceed the reasonable cost for such services. Fees collected may
 576 not be used to offset annual appropriations from the General
 577 Revenue Fund.

578 ~~(8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY~~
 579 ~~COUNCIL.~~-

580 ~~(a) There is established in the agency the State Consumer~~

585-02904-14

2014782c1

581 Health Information and Policy Advisory Council to assist the
 582 center in reviewing the comprehensive health information system,
 583 including the identification, collection, standardization,
 584 sharing, and coordination of health-related data, fraud and
 585 abuse data, and professional and facility licensing data among
 586 federal, state, local, and private entities and to recommend
 587 improvements for purposes of public health, policy analysis, and
 588 transparency of consumer health care information. The council
 589 shall consist of the following members:

- 590 1. An employee of the Executive Office of the Governor, to
 591 be appointed by the Governor.
 - 592 2. An employee of the Office of Insurance Regulation, to be
 593 appointed by the director of the office.
 - 594 3. An employee of the Department of Education, to be
 595 appointed by the Commissioner of Education.
 - 596 4. Ten persons, to be appointed by the Secretary of Health
 597 Care Administration, representing other state and local
 598 agencies, state universities, business and health coalitions,
 599 local health councils, professional health-care-related
 600 associations, consumers, and purchasers.
- 601 (b) Each member of the council shall be appointed to serve
 602 for a term of 2 years following the date of appointment, except
 603 the term of appointment shall end 3 years following the date of
 604 appointment for members appointed in 2003, 2004, and 2005. A
 605 vacancy shall be filled by appointment for the remainder of the
 606 term, and each appointing authority retains the right to
 607 reappoint members whose terms of appointment have expired.
- 608 (c) The council may meet at the call of its chair, at the
 609 request of the agency, or at the request of a majority of its

585-02904-14

2014782c1

610 membership, but the council must meet at least quarterly.

611 (d) Members shall elect a chair and vice chair annually.

612 (e) A majority of the members constitutes a quorum, and the
 613 affirmative vote of a majority of a quorum is necessary to take
 614 action.

615 (f) The council shall maintain minutes of each meeting and
 616 shall make such minutes available to any person.

617 (g) Members of the council shall serve without compensation
 618 but shall be entitled to receive reimbursement for per diem and
 619 travel expenses as provided in s. 112.061.

620 (h) The council's duties and responsibilities include, but
 621 are not limited to, the following:

- 622 1. To develop a mission statement, goals, and a plan of
 623 action for the identification, collection, standardization,
 624 sharing, and coordination of health-related data across federal,
 625 state, and local government and private sector entities.
- 626 2. To develop a review process to ensure cooperative
 627 planning among agencies that collect or maintain health-related
 628 data.
- 629 3. To create ad hoc issue-oriented technical workgroups on
 630 an as-needed basis to make recommendations to the council.

631 (9) APPLICATION TO OTHER AGENCIES. Nothing in this section
 632 shall limit, restrict, affect, or control the collection,
 633 analysis, release, or publication of data by any state agency
 634 pursuant to its statutory authority, duties, or
 635 responsibilities.

636 Section 6. The Office of Program Policy Analysis and
 637 Government Accountability (OPPGA) shall monitor the Agency for
 638 Health Care Administration's implementation of s. 408.05,

585-02904-14

2014782c1

639 Florida Statutes, as amended by this act. No later than 1 year
 640 after the agency completes implementation, OPPAGA shall provide
 641 a report to the President of the Senate and the Speaker of the
 642 House of Representatives containing recommendations regarding
 643 the application of data practices made pursuant to s. 408.05,
 644 Florida Statutes, to other executive branch agencies.

645 Section 7. For the purpose of incorporating the amendment
 646 made by this act to section 257.36, Florida Statutes, in a
 647 reference thereto, subsection (8) of section 120.54, Florida
 648 Statutes, is reenacted to read:

649 120.54 Rulemaking.—

650 (8) RULEMAKING RECORD.—In all rulemaking proceedings the
 651 agency shall compile a rulemaking record. The record shall
 652 include, if applicable, copies of:

653 (a) All notices given for the proposed rule.

654 (b) Any statement of estimated regulatory costs for the
 655 rule.

656 (c) A written summary of hearings on the proposed rule.

657 (d) The written comments and responses to written comments
 658 as required by this section and s. 120.541.

659 (e) All notices and findings made under subsection (4).

660 (f) All materials filed by the agency with the committee
 661 under subsection (3).

662 (g) All materials filed with the Department of State under
 663 subsection (3).

664 (h) All written inquiries from standing committees of the
 665 Legislature concerning the rule.

666
 667 Each state agency shall retain the record of rulemaking as long

585-02904-14

2014782c1

668 as the rule is in effect. When a rule is no longer in effect,
 669 the record may be destroyed pursuant to the records-retention
 670 schedule developed under s. 257.36(6).

671 Section 8. Subsection (3) of section 20.42, Florida
 672 Statutes, is amended to read:

673 20.42 Agency for Health Care Administration.—

674 (3) The department ~~is shall be~~ the chief health policy and
 675 planning entity for the state. The department is responsible for
 676 health facility licensure, inspection, and regulatory
 677 enforcement; investigation of consumer complaints related to
 678 health care facilities and managed care plans; the
 679 implementation of the certificate of need program; ~~the operation~~
 680 ~~of the Florida Center for Health Information and Policy~~
 681 ~~Analysis~~; the administration of the Medicaid program; the
 682 administration of the contracts with the Florida Healthy Kids
 683 Corporation; the certification of health maintenance
 684 organizations and prepaid health clinics as set forth in part
 685 III of chapter 641; and any other duties prescribed by statute
 686 or agreement.

687 Section 9. Paragraph (c) of subsection (4) of section
 688 381.026, Florida Statutes, is amended to read:

689 381.026 Florida Patient's Bill of Rights and
 690 Responsibilities.—

691 (4) RIGHTS OF PATIENTS.—Each health care facility or
 692 provider shall observe the following standards:

693 (c) *Financial information and disclosure.*—

694 1. A patient has the right to be given, upon request, by
 695 the responsible provider, his or her designee, or a
 696 representative of the health care facility full information and

585-02904-14

2014782c1

697 necessary counseling on the availability of known financial
698 resources for the patient's health care.

699 2. A health care provider or a health care facility shall,
700 upon request, disclose to each patient who is eligible for
701 Medicare, before treatment, whether the health care provider or
702 the health care facility in which the patient is receiving
703 medical services accepts assignment under Medicare reimbursement
704 as payment in full for medical services and treatment rendered
705 in the health care provider's office or health care facility.

706 3. A primary care provider may publish a schedule of
707 charges for the medical services that the provider offers to
708 patients. The schedule must include the prices charged to an
709 uninsured person paying for such services by cash, check, credit
710 card, or debit card. The schedule must be posted in a
711 conspicuous place in the reception area of the provider's office
712 and must include, but is not limited to, the 50 services most
713 frequently provided by the primary care provider. The schedule
714 may group services by three price levels, listing services in
715 each price level. The posting must be at least 15 square feet in
716 size. A primary care provider who publishes and maintains a
717 schedule of charges for medical services is exempt from the
718 license fee requirements for a single period of renewal of a
719 professional license under chapter 456 for that licensure term
720 and is exempt from the continuing education requirements of
721 chapter 456 and the rules implementing those requirements for a
722 single 2-year period.

723 4. If a primary care provider publishes a schedule of
724 charges pursuant to subparagraph 3., he or she shall ~~must~~
725 continually post it at all times for the duration of active

Page 25 of 33

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585-02904-14

2014782c1

726 licensure in this state when primary care services are provided
727 to patients. If a primary care provider fails to post the
728 schedule of charges in accordance with this subparagraph, the
729 provider shall ~~be required to~~ pay any license fee and comply
730 with ~~any~~ continuing education requirements for which an
731 exemption was received.

732 5. A health care provider or a health care facility shall,
733 upon request, furnish a person, before the provision of medical
734 services, a reasonable estimate of charges for such services.
735 The health care provider or the health care facility shall
736 provide an uninsured person, before the provision of a planned
737 nonemergency medical service, a reasonable estimate of charges
738 for such service and information regarding the provider's or
739 facility's discount or charity policies for which the uninsured
740 person may be eligible. Such estimates by a primary care
741 provider must be consistent with the schedule posted under
742 subparagraph 3. To the extent possible, estimates shall, ~~to the~~
743 ~~extent possible~~, be written in language comprehensible to an
744 ordinary layperson. Such reasonable estimate does not preclude
745 the health care provider or health care facility from exceeding
746 the estimate or making additional charges based on changes in
747 the patient's condition or treatment needs.

748 6. Each licensed facility not operated by the state shall
749 make available to the public on its ~~Internet~~ website or by other
750 electronic means a description of and a link to the performance
751 outcome and financial data that is published by the agency
752 ~~pursuant to s. 408.05(3)(k)~~. The facility shall place in its
753 reception area a notice stating that the ~~in the reception area~~
754 ~~that such~~ information is available electronically and providing

Page 26 of 33

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585-02904-14 2014782c1

755 the facility's website address. The licensed facility may
 756 indicate that the pricing information is based on a compilation
 757 of charges for the average patient and that each patient's bill
 758 may vary from the average depending upon the severity of illness
 759 and individual resources consumed. The licensed facility may
 760 also indicate that the price of service is negotiable for
 761 eligible patients based upon the patient's ability to pay.

762 7. A patient has the right to receive a copy of an itemized
 763 bill and upon request. A patient has a right to be given an
 764 explanation of charges upon request.

765 Section 10. Subsection (11) of section 395.301, Florida
 766 Statutes, is amended to read:

767 395.301 Itemized patient bill; form and content prescribed
 768 by the agency.—

769 (11) Each licensed facility shall make available on its
 770 ~~Internet~~ website a link to the performance outcome and financial
 771 data that is published by the Agency for Health Care
 772 Administration pursuant to s. 408.05(3)(k). The facility shall
 773 place in its reception area a notice stating in the reception
 774 area that the information is available electronically and
 775 providing the facility's ~~Internet~~ website address.

776 Section 11. Paragraph (e) of subsection (2) of section
 777 395.602, Florida Statutes, is amended to read:

778 395.602 Rural hospitals.—

779 (2) DEFINITIONS.—As used in this part:

780 (e) "Rural hospital" means an acute care hospital licensed
 781 under this chapter, having 100 or fewer licensed beds and an
 782 emergency room, which is:

783 1. The sole provider within a county with a population

585-02904-14 2014782c1

784 density of no greater than 100 persons per square mile;

785 2. An acute care hospital, in a county with a population
 786 density of no greater than 100 persons per square mile, which is
 787 at least 30 minutes of travel time, on normally traveled roads
 788 under normal traffic conditions, from any other acute care
 789 hospital within the same county;

790 3. A hospital supported by a tax district or subdistrict
 791 whose boundaries encompass a population of 100 persons or fewer
 792 per square mile;

793 4. A hospital in a constitutional charter county with a
 794 population of more than ~~over~~ 1 million persons that has imposed
 795 a local option health service tax pursuant to law and in an area
 796 that was directly impacted by a catastrophic event on August 24,
 797 1992, for which the Governor of Florida declared a state of
 798 emergency pursuant to chapter 125, and has 120 beds or less that
 799 serves an agricultural community with an emergency room
 800 utilization of no less than 20,000 visits and a Medicaid
 801 inpatient utilization rate greater than 15 percent;

802 5. A hospital with a service area that has a population of
 803 100 persons or fewer per square mile. As used in this
 804 subparagraph, the term "service area" means the fewest number of
 805 zip codes that account for 75 percent of the hospital's
 806 discharges for the most recent 5-year period, based on
 807 information available from the agency's hospital inpatient
 808 discharge database ~~in the Florida Center for Health Information
 809 and Policy Analysis at the agency;~~ or

810 6. A hospital designated as a critical access hospital, as
 811 defined in s. 408.07.

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585-02904-14

2014782c1

813 Population densities used in this paragraph must be based upon
 814 the most recently completed United States census. A hospital
 815 that received funds under s. 409.9116 for a quarter beginning no
 816 later than July 1, 2002, is deemed to have been and shall
 817 continue to be a rural hospital from that date through June 30,
 818 2015, if the hospital continues to have 100 or fewer licensed
 819 beds and an emergency room, or meets the criteria of
 820 subparagraph 4. An acute care hospital that has not previously
 821 been designated as a rural hospital and that meets the criteria
 822 of this paragraph shall be granted such designation upon
 823 application, including supporting documentation, to the agency.
 824 A hospital that was licensed as a rural hospital during the
 825 2010-2011 or 2011-2012 fiscal year shall continue to be a rural
 826 hospital from the date of designation through June 30, 2015, if
 827 the hospital continues to have 100 or fewer licensed beds and an
 828 emergency room.

829 Section 12. Section 395.6025, Florida Statutes, is amended
 830 to read:

831 395.6025 Rural hospital replacement facilities.-
 832 Notwithstanding ~~the provisions of~~ s. 408.036, a hospital defined
 833 as a statutory rural hospital in accordance with s. 395.602, or
 834 a not-for-profit operator of rural hospitals, is not required to
 835 obtain a certificate of need for the construction of a new
 836 hospital located in a county with a population of at least
 837 15,000 but no more than 18,000 and a density of less than 30
 838 persons per square mile, or a replacement facility, if provided
 839 ~~that~~ the replacement, or new, facility is located within 10
 840 miles of the site of the currently licensed rural hospital and
 841 within the current primary service area. As used in this

Page 29 of 33

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585-02904-14

2014782c1

842 section, the term "service area" means the fewest number of zip
 843 codes that account for 75 percent of the hospital's discharges
 844 for the most recent 5-year period, based on information
 845 available from the Agency for Health Care Administration's
 846 hospital inpatient discharge database ~~in the Florida Center for~~
 847 ~~Health Information and Policy Analysis at the Agency for Health~~
 848 ~~Care Administration.~~

849 Section 13. Subsection (43) of section 408.07, Florida
 850 Statutes, is amended to read:

851 408.07 Definitions.-As used in this chapter, with the
 852 exception of ss. 408.031-408.045, the term:

853 (43) "Rural hospital" means an acute care hospital licensed
 854 under chapter 395, having 100 or fewer licensed beds and an
 855 emergency room, and which is:

856 (a) The sole provider within a county with a population
 857 density of no greater than 100 persons per square mile;

858 (b) An acute care hospital, in a county with a population
 859 density of no greater than 100 persons per square mile, which is
 860 at least 30 minutes of travel time, on normally traveled roads
 861 under normal traffic conditions, from another acute care
 862 hospital within the same county;

863 (c) A hospital supported by a tax district or subdistrict
 864 whose boundaries encompass a population of 100 persons or fewer
 865 per square mile;

866 (d) A hospital with a service area that has a population of
 867 100 persons or fewer per square mile. As used in this paragraph,
 868 the term "service area" means the fewest number of zip codes
 869 that account for 75 percent of the hospital's discharges for the
 870 most recent 5-year period, based on information available from

Page 30 of 33

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585-02904-14

2014782c1

871 the Agency for Health Care Administration's hospital inpatient
872 discharge database in the Florida Center for Health Information
873 and Policy Analysis at the Agency for Health Care
874 Administration; or

875 (e) A critical access hospital.

876
877 Population densities used in this subsection must be based upon
878 the most recently completed United States census. A hospital
879 that received funds under s. 409.9116 for a quarter beginning no
880 later than July 1, 2002, is deemed to have been and shall
881 continue to be a rural hospital from that date through June 30,
882 2015, if the hospital continues to have 100 or fewer licensed
883 beds and an emergency room, or meets the criteria of s.
884 395.602(2)(e)4. An acute care hospital that has not previously
885 been designated as a rural hospital and that meets the criteria
886 of this subsection shall be granted such designation upon
887 application, including supporting documentation, to the Agency
888 for Health Care Administration.

889 Section 14. Paragraph (a) of subsection (4) of section
890 408.18, Florida Statutes, is amended to read:

891 408.18 Health Care Community Antitrust Guidance Act;
892 antitrust no-action letter; market-information collection and
893 education.-

894 (4)(a) Members of the health care community who seek
895 antitrust guidance may request a review of their proposed
896 business activity by the Attorney General's office. In
897 conducting its review, the Attorney General's office may seek
898 whatever documentation, data, or other material it deems
899 necessary from the Agency for Health Care Administration, ~~the~~

Page 31 of 33

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

585-02904-14

2014782c1

900 ~~Florida Center for Health Information and Policy Analysis,~~ and
901 the Office of Insurance Regulation of the Financial Services
902 Commission.

903 Section 15. Section 465.0244, Florida Statutes, is amended
904 to read:

905 465.0244 Information disclosure.—Every pharmacy shall make
906 available on its ~~Internet~~ website a link to the performance
907 outcome and financial data that is published by the Agency for
908 Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall
909 place in the area where customers receive filled prescriptions
910 notice that such information is available electronically and the
911 address of its ~~Internet~~ website.

912 Section 16. Subsection (2) of section 627.6499, Florida
913 Statutes, is amended to read:

914 627.6499 Reporting by insurers and third-party
915 administrators.—

916 (2) Each health insurance issuer shall make available on
917 its ~~Internet~~ website a link to the performance outcome and
918 financial data that is published by the Agency for Health Care
919 Administration ~~pursuant to s. 408.05(3)(k)~~ and shall include in
920 every policy delivered or issued for delivery to any person in
921 the state or any materials provided as required by s. 627.64725
922 notice that such information is available electronically and the
923 address of its ~~Internet~~ website.

924 Section 17. Subsection (7) of section 641.54, Florida
925 Statutes, is amended to read:

926 641.54 Information disclosure.—

927 (7) Each health maintenance organization shall make
928 available on its ~~Internet~~ website a link to the performance

Page 32 of 33

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

585-02904-14

2014782c1

929 outcome and financial data that is published by the Agency for
930 Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall
931 include in every policy delivered or issued for delivery to any
932 person in the state or ~~any~~ materials provided as required by s.
933 627.64725 notice that such information is available
934 electronically and the address of its ~~Internet~~ website.

935 Section 18. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

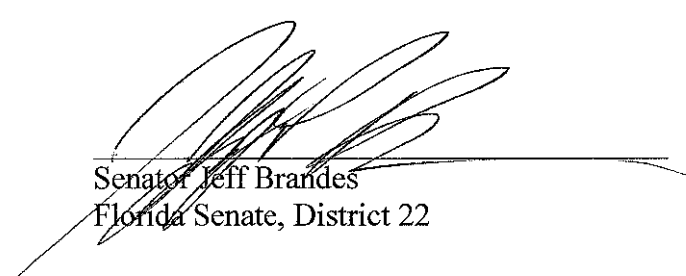
To: Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: March 20, 2014

I respectfully request that **Senate Bill # 782**, relating to Government Data Practices, be placed on the:

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



Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

SENATE APPROPRIATIONS (03/2004)
RECEIVED
14 MAR 20 PM 3:08
STAFF DIR. STAFF

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/2014

Meeting Date

Topic _____

Bill Number 782
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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)

2 April 2014
Meeting Date

Topic Child Welfare

Bill Number 1666
(if applicable)

Name Esther Jacobs

Amendment Barcode ~~915912~~ 915912
(if applicable)

Job Title Interim Secretary

Address 1317 Winewood Blvd

Phone 487 1111

Street
Tallahassee FL 32399
City State Zip

E-mail esther-jacobs@dcf.state.fl.us

Speaking: For Against Information

Representing Dept of Children & Families

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic CHILD WELFARE

Bill Number 1666
(if applicable)

Name MIKE WATKINS

Amendment Barcode 915192
(if applicable)

Job Title CEO

Address 525 N. MLK JR. BLVD
Street

Phone 850, 410, 1020

TALLAHASSEE FL 32301
City State Zip

E-mail MWATKINS@bigbendcbr.org

Speaking: For Against Information

Representing BIG BEND COMMUNITY BASED CARE, INC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-2-14
Meeting Date

Topic Child WELFARE

Bill Number SB 1666
(if applicable)

Name JIM AKIN

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 1931 NEWWOOD DRIVE
Street

Phone _____

TALLAHASSEE FL 32303
City State Zip

E-mail _____

Speaking: For Against Information

Representing NATIONAL ASSN. OF SOCIAL WORKERS - FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-2-14

Meeting Date

Topic CHILD Welfare Bill Number SB 1666
Name MARK FONTAINE Amendment Barcode _____ (if applicable)
Job Title EXECUTIVE DIRECTOR (if applicable)
Address 2868 MAHAN DRIVE Phone 878-2196
Street
City TALLAHASSEE State FL Zip 32308 E-mail _____

Speaking: For Against Information

Representing FLORIDA ALCOHOL + DRUG ABUSE ASSOCIATION

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2

Meeting Date

Topic Child Welfare

Bill Number SB 1666
(if applicable)

Name Kurt Kelly

Amendment Barcode _____
(if applicable)

Job Title President

Address 411 E College Ave
Street

Phone 561-1102

Tallahassee Fl 32301
City State Zip

E-mail KurtKelly@FLChildren.org

Speaking: For Against Information

Representing Florida Coalition for Children

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

4/2/14

Meeting Date

Topic Child Welfare

Bill Number 1666
(if applicable)

Name Brigitta Johnson

Amendment Barcode _____
(if applicable)

Job Title Pinellas County Sheriffs Office

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

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.

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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)

4-2-14
Meeting Date

Topic Child Welfare
Name Patrick J. McCabe
Job Title Foster Parent

Bill Number _____
(if applicable)

Amendment Barcode _____
(if applicable)

Address 8023 S.W. 133 Place
Street
Miami, FL 33183
City State Zip

Phone 305-383-6261

E-mail pata@miamileather.com

Speaking: For Against Information

Representing Foster Parents

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Child Welfare

Bill Number _____
(if applicable)

Name Denise Beeman Sasiain

Amendment Barcode _____
(if applicable)

Job Title Foster Parent

Address 1630 SW 17th ST
Street

Phone (305) 859-7763

MIAMI FL 33145
City State Zip

E-mail dsasiain@hotmail.com

Speaking: For Against Information

Representing Foster Parents /

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-2-14

Meeting Date

Topic Child Welfare

Bill Number _____
(if applicable)

Name Ricardo Martinez

Amendment Barcode _____
(if applicable)

Job Title Specialist I

Address 10515 SW 24th St Apt 203
Street

Phone 305-978-7785

Miami FL 33165
City State Zip

E-mail MERTMartinez@gmail.com

Speaking: For Against Information

Representing Foster Parents

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(W)

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

4/2/2014
Meeting Date

Topic Cancer Control & Research

Bill Number 734

Name Ellen Anderson

Amendment Barcode 657682
(if applicable)

Job Title V.P. State Advocacy

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing FL Hospital Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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APPEARANCE RECORD

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

4 1 2 12014

Meeting Date

Topic _____

Bill Number 1728
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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



4/2/14

Meeting Date

Topic Certificates of Need

Bill Number 268
(if applicable)

Name Jack McRay

Amendment Barcode _____
(if applicable)

Job Title Advocacy manager

Address 200 W College Av., Suite 200

Phone 850-228-7295

Street

Tallahassee

City

FL

State

32301

Zip

E-mail jmcray@aarp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(W)

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

4/2/14
Meeting Date

Topic Certificates of Need

Bill Number SB 268
(if applicable)

Name Carlos Cruz

Amendment Barcode _____
(if applicable)

Job Title Govt Consultant

Address 110 E Jefferson St

Phone 904-214-5724

Tallahassee FL 32301
City State Zip

E-mail CARLOS@Cruzco.COM

Speaking: For Against Information

Representing Associated Industries of FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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APPEARANCE RECORD

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



4/2/14

Meeting Date

Topic CON

Bill Number 268
(if applicable)

Name TOBY MARSHALL

Amendment Barcode _____
(if applicable)

Job Title SR. DIRECTOR OF REIMBURSEMENT

Address 307 W. PARK AVE.
Street

Phone 850 224 3907

TALLAHASSEE FL 32301
City State Zip

E-mail tmarshall@fhca.org

Speaking: For Against Information

Representing FLORIDA HEALTH CARE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4 12 2014

Meeting Date

Topic _____

Bill Number 694
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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4/2/14
Meeting Date

Topic Sterile Compounding

Bill Number SB 662
(if applicable)

Name Larry Gonzalez

Amendment Barcode _____
(if applicable)

Job Title General Counsel, FSHP*

Address 223 S Gadsden ST.
Street

Phone 850 222-0465

Tallahassee, FL 32301
City State Zip

E-mail lgonz12@earthlink.net

Speaking: For Against Information

Representing *Florida Society of Health-System Pharmacists

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/12/2014

Meeting Date

Topic _____

Bill Number 662
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 12 2014

Meeting Date

Topic _____

Bill Number 1670
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/12/2014

Meeting Date

Topic _____

Bill Number 1668
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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.

2:17:22 PM Public Testimony
2:17:40 PM Brian Pitts, Justice 2 Jesus
2:21:06 PM Roll Call Motion on CS/SB 662 - FAV
2:21:36 PM Motion Sen Galvano
2:21:51 PM Motion Sen Smith
2:22:00 PM Motion Sen Garcia
2:22:10 PM Motion Sen Bean & Sen Thrasher
2:22:32 PM Meeting Adjourned