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

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

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

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

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

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

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		

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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

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a Department of Children and Families.

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

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

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

(3) ASSISTANT SECRETARIES.—

(a) *Child welfare.*—

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

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

(b) *Substance abuse and mental health.*—

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

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

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Program Office.

(5)~~(4)~~ COMMUNITY ALLIANCES.—

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

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

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

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

3.~~2.~~ Needs assessment and establishment of community priorities for service delivery.

4.~~3.~~ Determining community outcome goals to supplement state-required outcomes.

5.~~4.~~ Serving as a catalyst for community resource development.

6.~~5.~~ Providing for community education and advocacy on issues related to delivery of services.

7.~~6.~~ Promoting prevention and early intervention services.

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

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

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

1. A representative from the department.

2. A representative from county government.

3. A representative from the school district.

4. A representative from the county United Way.

5. A representative from the county sheriff's office.

6. A representative from the circuit court corresponding to the county.

7. A representative from the county children's board, if one exists.

This paragraph is repealed on July 1, 2015.

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

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

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

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a. Community service organizations;
b. Education;
c. Law enforcement;
d. Local government;
e. Legal services;
f. The judiciary;
g. Philanthropic organizations; and
h. Children's service organizations.

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

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

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

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

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


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

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

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

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

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

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

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matter.

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

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

39.001 Purposes and intent; personnel standards and screening.—

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

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

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

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

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

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

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

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

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

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

(p) To provide protective investigations that are conducted

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

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

(f) 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, 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 shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the capacity of families to provide for their children's needs. Program services must include outreach, early intervention, and the provision of home and community-based services, such as care coordination, respite care, and direct home care. The department shall work with the Agency for Health Care Administration and the Department of Health to provide such services.

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

(c) The office is authorized and directed to:

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

2. Provide for or make available continuing professional

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

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

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

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

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

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

d. Efforts to promote adoption.

e. Postadoptive services to support adoptive families.

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

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include:

a. A summary of the activities of the office.

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

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

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

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

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

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

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

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

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

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

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

(7) ~~"Alleged juvenile sexual offender" means:~~

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

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

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

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

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

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

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

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

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

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

5.~~e.~~ Voluntary decision.

6.~~f.~~ Mental competence.

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

(14) "Child who has exhibited inappropriate sexual

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

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

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

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

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

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

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

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

(d) Personal benefit for the reporting person in any other private dispute involving a child.

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

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

(a) The persons reside in the same house or living unit; or

(b) The parent, legal custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

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

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

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

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child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

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

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

3. Leaving a child without adult supervision or arrangement

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

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

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

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

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

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

k. Significant bruises or welts.

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

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in chapter 800, against the child.

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

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

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

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

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

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

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

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

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

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

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

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treatment administered to the mother or the newborn infant; or

2. Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

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

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

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

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

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

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

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

(32) ~~(33)~~ "Institutional child abuse or neglect" means

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

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

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

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

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

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

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

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

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

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

(41) "Medical neglect" means the failure to provide or the failure 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. Medical neglect does not occur if the parent or legal guardian of the child has made reasonable attempts to obtain necessary health care services or the immediate health condition giving rise to the allegation of neglect is a known and expected complication of the child's diagnosis or treatment and:

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

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

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

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

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

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

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

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

(71) "Sibling" means:

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

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

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

39.013 Procedures and jurisdiction; right to counsel.—

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

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

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

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(2)

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

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

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

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

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

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

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read:

39.2015 Critical incident rapid response team.—

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

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

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

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

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

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

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

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

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

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

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

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

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

39.2022 Public disclosure of reported child deaths.—

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

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

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

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

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

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

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

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

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

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

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

39.301 Initiation of protective investigations.—

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

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

interviews with the child and family members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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violence; or

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

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

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

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

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

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

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read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Reported medical neglect of a child.

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

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

(3) All abuse and neglect cases transmitted for

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

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

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

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

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

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

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

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

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

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

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

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

(6) The Department of Health child protection team quality

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

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

39.3068 Reports of medical neglect.—

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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its acceptance of the plan in writing.

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

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

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

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

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

(a) Close the case;

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

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

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

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

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

39.402 Placement in a shelter.—

(8)

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

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

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

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

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

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

a. The first contact of the department with the family

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occurs during an emergency;

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

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

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

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

7.~~6.~~ That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all

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proceedings and hearings.

8.~~7.~~ That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

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

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

(b) If siblings who are removed from the home cannot be placed together, the department shall provide to the court a recommendation for frequent visitation or other ongoing interaction between 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 department shall provide justification to the court for the delay.

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

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39.501, Florida Statutes, is amended to read:

39.501 Petition for dependency.—

(3)

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

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

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

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

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

5.~~4.~~ The department has determined that voluntary services are not appropriate for the parent or legal custodian and the reasons for such determination.

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

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

39.5085 Relative Caregiver Program.—

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

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

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

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

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

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

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

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

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

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

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

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

3. Nonrelatives who are 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 substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

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

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

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

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


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

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

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

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

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

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

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

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

(4) ATTENDANCE AND REPORTING REQUIREMENTS.—

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

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

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

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

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

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noncompliance with the case plan.

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

39.701 Judicial review.—

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

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

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

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

shall advise the parent of such right.

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

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

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

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

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

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

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

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

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

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

10.~~9.~~ A projected date likely for the child's return home or other permanent placement.

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

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

13.~~12.~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

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

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

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

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

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

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

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to how to access those funds.

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

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

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

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

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

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

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

11. The child’s educational records.

12. The child’s entire health and mental health records.


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

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

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

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

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

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

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

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

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

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telephone directory that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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402.40 Child welfare training and certification.—

(3) THIRD-PARTY CREDENTIALING ENTITIES.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(g) Maintain an advisory committee, including representatives from each region of the department, each sheriff's office providing child protective services, and each community-based care lead agency, who shall be appointed by the organization they represent. The third-party credentialing entity may appoint additional members to the advisory committee.

(5) CORE COMPETENCIES AND SPECIALIZATIONS.—

(a) The Department of Children and Families ~~Family Services~~ shall approve the core competencies and related preservice curricula that ensures that each person delivering child welfare services obtains the knowledge, skills, and abilities to competently carry out his or her work responsibilities.

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, sheriffs' offices conducting child protection investigations, and child welfare legal services providers.

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

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

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

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

402.402 Child protection and child welfare personnel; attorneys employed by the department.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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children; and

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

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

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

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

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

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

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

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

(4) Child protection and child welfare personnel who meet

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

409.165 Alternate care for children.—

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


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

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

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

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

~~It is the legislative intent that the~~

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

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

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

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

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

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

(a) With a relative;

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

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

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

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

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

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

under such conditions as are determined to be for the best

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

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

409.967 Managed care plan accountability.—

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

(c) *Access.*—

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

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

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

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

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

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

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

409.972 Mandatory and voluntary enrollment.—

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

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

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

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

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

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

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

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

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

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

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possible and appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

409.987 Lead agency procurement.—

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

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

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

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(4) In order to serve as a lead agency, an entity must:

(a) Be organized as a Florida corporation or a governmental entity.

(b) Be governed by a board of directors or a board committee composed of board members. The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency, which must provide that at least 75 percent of the membership of the board of directors or board committee must consist of persons residing in this state, and at least 51 percent of the state residents on the board of directors must reside within the service area of the lead agency. However, for procurements of lead agency contracts initiated on or after July 1, 2014:

1. At least 75 percent of the membership of the board of directors must consist of persons residing in this state, and at least 51 percent of the membership of the board of directors must consist of persons residing within the service area of the lead agency. If a board committee governs the lead agency, 100 percent of its membership must consist of persons residing within the service area of the lead agency.

2. The powers of the board of directors or board committee include, are not limited to, approving the lead agency’s budget and setting the lead agency’s operational policy and procedures. A board of directors must additionally have the power to hire the lead agency’s executive director, unless a board committee governs the lead agency, in which case the board committee must have the power to confirm the selection of the lead agency’s executive director.

(c) Demonstrate financial responsibility through an


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

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

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

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

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

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

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

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

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

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

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

(f) Shall ensure that all individuals providing care for

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

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

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

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

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

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

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

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

3. The percentage of required home visits completed; and

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

(2) LICENSURE.—

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

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

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

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

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

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

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(4) LEAD AGENCY ACTING AS GUARDIAN.—

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

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

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

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

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

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

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

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thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Significant changes in the mix of available funds.

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

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used to match available federal dollars.

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

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

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

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

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

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

1. Funds appropriated for independent living;

2. Funds appropriated for maintenance adoption subsidies;

3. Funds allocated by the department for protective investigations training;

4. Nonrecurring funds;

5. Designated mental health wrap-around services funds; and

6. Funds for special projects for a designated community-based care lead agency.

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

409.992 Lead agency expenditures.—

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(1) The procurement of commodities or contractual services by lead agencies shall be governed by the financial guidelines developed by the department and must comply with applicable state and federal law and follow good business practices. Pursuant to s. 11.45, the Auditor General may provide technical advice in the development of the financial guidelines.

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

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

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

409.993 Lead agencies and subcontractor liability.—

(1) FINDINGS.—

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


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

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

(2) LEAD AGENCY LIABILITY.—

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

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

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

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

(3) SUBCONTRACTOR LIABILITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Honoring all leases, mortgages, and contractual

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

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

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

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

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

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

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

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

(9) The court may terminate a receivership when:

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

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

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

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

Section 36. Section 409.996, Florida Statutes, is created

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to read:

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

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

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

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

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

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

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

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

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

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

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children in the child protection and child welfare system.

(5) The department retains the responsibility for the review, approval or denial, and issuances of all foster home licenses.

(6) The department shall process all applications submitted by lead agencies for the Interstate Compact on the Placement of Children and the Interstate Compact on Adoption and Medical Assistance.

(7) The department shall assist lead agencies with access to and coordination with other service programs within the department.

(8) The department shall determine Medicaid eligibility for all referred children and shall coordinate services with the Agency for Health Care Administration.

(9) The department shall develop, in cooperation with the lead agencies and the third-party credentialing entity approved pursuant to s. 402.40(3), a standardized competency-based curriculum for certification training for child protection staff.

(10) The department shall maintain the statewide adoptions website and provide information and training to the lead agencies relating to the website.

(11) The department shall provide training and assistance to lead agencies regarding the responsibility of lead agencies relating to children receiving supplemental security income, social security, railroad retirement, or veterans' benefits.

(12) With the assistance of a lead agency, the department shall develop and implement statewide and local interagency agreements needed to coordinate services for children and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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case manager if more information is needed.

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

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

409.997 Child welfare results-oriented accountability system.—

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

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

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

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

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

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

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

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

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Efficacy evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to which the results can be generalized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

827.10 Unlawful desertion of a child.—

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

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

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

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

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

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

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

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

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

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

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

985.04 Oaths; records; confidential information.—

(4)

(d) The department shall disclose to the school

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

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

1004.615 Florida Institute for Child Welfare.—

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

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

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institute.

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

(4) The institute shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1009.25 Fee exemptions.—

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

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

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

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

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

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

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

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

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

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

(1)

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

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

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

(1) The department shall conduct a child protective

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

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

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

39.524 Safe-harbor placement.—

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

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

316.613 Child restraint requirements.—

(6) The child restraint requirements imposed by this


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

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

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

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

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

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

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

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

409.1677 Model comprehensive residential services programs.—

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The agency may contract with:

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

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

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require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations and capitated provider service networks, to be expended for the provision of behavioral health care services. If the managed care plan expends less than 80 percent of the capitation paid for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the plan with a certification letter indicating the amount of capitation paid during each calendar year for behavioral health care services pursuant to this section. The agency may reimburse for substance abuse treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. The agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance abuse treatment services.

2. Except as provided in subparagraph 5., the agency and the Department of Children and Families ~~Family Services~~ shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan to provide comprehensive behavioral health services to all recipients who are not enrolled in a Medicaid health

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maintenance organization, a provider service network authorized under paragraph (d), or a Medicaid capitated managed care plan authorized under s. 409.91211. The agency may contract with more than one comprehensive behavioral health provider to provide care to recipients who are not enrolled in a Medicaid capitated managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in AHCA areas where the eligible population exceeds 150,000. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations are eligible to compete. Managed care plans contracting with the agency under subsection (3) or paragraph (d) shall provide and receive payment for the same comprehensive behavioral health benefits as provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts must be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-effectiveness of the provision of quality mental health services

through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. Of the recipients in area 11 who are assigned to MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.

3. Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Families ~~Family Services~~ residential program approved as a Medicaid behavioral health overlay services provider may not be included in a behavioral health care prepaid health plan or any other Medicaid managed care plan pursuant to this paragraph.

4. Traditional community mental health providers under contract with the Department of Children and Families ~~Family Services~~ pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Families ~~Family Services~~ in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

5. All Medicaid-eligible children, except children in area 1 and children in Highlands County, Hardee County, Polk County, or Manatee County of area 6, which ~~that~~ are open for child welfare services in the statewide automated child welfare information system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies through a single agency or formal agreements

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among several agencies. The agency shall work with the specialty plan to develop clinically effective, evidence-based alternatives as a downward substitution for the statewide inpatient psychiatric program and similar residential care and institutional services. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Families ~~Family Services~~. The agency may seek federal waivers to implement this initiative. Medicaid-eligible children whose cases are open for child welfare services in the statewide automated child welfare information system and who reside in AHCA area 10 shall be enrolled in a capitated provider service network or other capitated managed care plan, which, in coordination with available community-based care providers specified in s. 409.987 ~~s. 409.1671~~, shall provide sufficient medical, developmental, and behavioral health services to meet the needs of these children.

Effective July 1, 2012, in order to ensure continuity of care, the agency is authorized to extend or modify current contracts based on current service areas or on a regional basis, as determined appropriate by the agency, with comprehensive behavioral health care providers as described in this paragraph during the period prior to its expiration. This paragraph expires October 1, 2014.

Section 57. Paragraph (dd) of subsection (3) of section 409.91211, Florida Statutes, is amended to read:

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409.91211 Medicaid managed care pilot program.—

(3) The agency shall have the following powers, duties, and responsibilities with respect to the pilot program:

(dd) To implement service delivery mechanisms within a specialty plan in area 10 to provide behavioral health care services to Medicaid-eligible children whose cases are open for child welfare services in the HomeSafeNet system. These services must be coordinated with community-based care providers as specified in s. 409.986 ~~s. 409.1671~~, where available, and be sufficient to meet the developmental, behavioral, and emotional needs of these children. Children in area 10 who have an open case in the HomeSafeNet system shall be enrolled into the specialty plan. These service delivery mechanisms must be implemented no later than July 1, 2011, in AHCA area 10 in order for the children in AHCA area 10 to remain exempt from the statewide plan under s. 409.912(4)(b)5. An administrative fee may be paid to the specialty plan for the coordination of services based on the receipt of the state share of that fee being provided through intergovernmental transfers.

Section 58. Paragraph (d) of subsection (1) of section 420.628, Florida Statutes, is amended to read:

420.628 Affordable housing for children and young adults leaving foster care; legislative findings and intent.—

(1)

(d) The Legislature intends that the Florida Housing Finance Corporation, agencies within the State Housing Initiative Partnership Program, local housing finance agencies, public housing authorities, and their agents, and other providers of affordable housing coordinate with the Department

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of Children and Families ~~Family Services~~, their agents, and community-based care providers who provide services under s. 409.986 ~~s. 409.1671~~ to develop and implement strategies and procedures designed to make affordable housing available whenever and wherever possible to young adults who leave the child welfare system.

Section 59. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(68)(g) ~~s. 39.01(67)(g)~~.

Section 60. This act shall take effect July 1, 2014.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 20.19, F.S.; requiring the Secretary of Children and Families to appoint an Assistant Secretary for Child Welfare; providing qualifications and responsibilities; revising duties, appointment, and membership of community alliances; requiring the Department of Children and Families to appoint a statewide advisory committee to provide specified assistance to community alliances; amending s. 39.001, F.S.; revising the

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purposes of ch. 39, F.S.; requiring the department to provide for certain services for medically complex children; amending s. 39.01, F.S.; providing, revising, and deleting definitions; amending s. 39.013, F.S.; clarifying responsibilities of the department in dependency proceedings; amending s. 39.201, F.S.; requiring alleged incidents of juvenile sexual abuse involving specified children to be reported to the department's central abuse hotline; requiring the department to provide specified information on an investigation of child sexual abuse to the court; creating s. 39.2015, F.S.; requiring the department to conduct specified investigations using critical incident rapid response teams; providing requirements for such investigations and for team membership; authorizing team access to specified information; requiring the cooperation of specified agencies and organizations; providing for reimbursement of team members; requiring the team to provide an investigation report; requiring the secretary to develop guidelines for investigations and provide team member training; requiring the secretary to appoint an advisory committee; requiring the committee to submit a report to the secretary; requiring the secretary to submit such report to the Governor and the Legislature by a specified date; creating s. 39.2022, F.S.; providing legislative intent; requiring the department to publish specified information on its website regarding the death of a

child reported to the central abuse hotline; amending s. 39.301, F.S.; authorizing the use of safety plans in child protection investigations in cases of present or impending danger; providing requirements for implementation of a safety plan; providing conditions for filing a petition for dependency; amending s. 39.303, F.S.; requiring physician involvement when a child protection team evaluates a report of medical neglect of a medically complex child; creating s. 39.3068, F.S.; providing requirements for investigating medical neglect; providing duties of the department; amending s. 39.307, F.S.; requiring the department to assist the family, child, and caregiver in receiving services upon a report alleging juvenile sexual abuse or inappropriate sexual behavior; requiring the department to maintain specified records; requiring child sexual abuse to be taken into account in placement consideration; requiring the department to monitor the occurrence of child sexual abuse and related services; amending s. 39.402, F.S.; requiring the department to make a reasonable effort to keep siblings together when they are placed in out-of-home care under certain circumstances; providing for sibling visitation under certain conditions; amending s. 39.501, F.S.; requiring compliance with a safety plan to be considered when deciding a petition for dependency; amending s. 39.5085, F.S.; revising legislative intent; authorizing placement of a child with a nonrelative caregiver and financial assistance

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for such nonrelative caregiver through the Relative Caregiver Program under certain circumstances; amending s. 39.604, F.S.; requiring certain children to attend a licensed early education or child care program; requiring the inclusion of attendance at a licensed early education or child care program in a child's safety plan; amending s. 39.701, F.S.; requiring the court to consider contact among siblings in judicial reviews; authorizing the court to remove specified disabilities of nonage at judicial reviews; amending s. 39.802, F.S.; removing department authorization to sign a petition for termination of parental rights; amending s. 63.212, F.S.; requiring a person who places an advertisement for adoption services to provide specified information; amending s. 383.402, F.S.; requiring review of all child deaths reported to the department's central abuse hotline; revising the due date for a report; amending s. 402.40, F.S.; requiring a third-party credentialing entity to establish an advisory committee; authorizing the department to approve certification of specializations; creating s. 402.402, F.S.; defining terms; providing education and specialized training requirements for child protection and child welfare personnel; providing training requirements for department attorneys; creating s. 402.403, F.S.; establishing a tuition exemption program for child protective and child welfare personnel; providing eligibility requirements; creating s. 402.404, F.S.;

establishing a student loan forgiveness program for child protective investigators and supervisors; providing eligibility requirements; authorizing community-based care lead agencies to provide student loan forgiveness to case managers employed by a community-based care lead agency or its subcontractor; amending s. 409.165, F.S.; enhancing provision of care to medically complex children; amending s. 409.967, F.S.; revising standards for Medicaid managed care plan accountability with respect to services for dependent children; amending s. 409.972, F.S.; exempting certain Medicaid recipients from mandatory enrollment in managed care plans; providing a directive to the Division of Law Revision and Information; creating part V of ch. 409, F.S.; creating s. 409.986, F.S.; providing legislative findings and intent; providing child protection and child welfare outcome goals; defining terms; creating s. 409.987, F.S.; providing for department procurement of community-based care lead agencies; providing requirements for contracting as a lead agency; creating s. 409.988, F.S.; providing duties of a community-based care lead agency; providing licensure requirements for a lead agency; specifying services provided by a lead agency; providing conditions for an agency or provider to act as a child's guardian; creating s. 409.990, F.S.; providing general funding provisions for lead agencies; providing for a matching grant program and the maximum amount of funds that may

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be awarded; requiring the department to develop and implement a community-based care risk pool initiative; providing requirements for the risk pool; transferring, renumbering, and amending s. 409.16713, F.S.; transferring provisions relating to the allocation of funds for community-based lead care agencies; conforming a cross-reference; creating s. 409.992, F.S.; providing requirements for community-based care lead agency expenditures; creating s. 409.993, F.S.; providing legislative findings; providing for lead agency and subcontractor liability; providing limitations on damages; transferring, renumbering, and amending s. 409.1675, F.S.; transferring provisions relating to receivership from community-based providers to lead agencies; conforming cross-references and terminology; creating s. 409.996, F.S.; providing duties of the department relating to community-based care and lead agencies; creating s. 409.997, F.S.; providing outcome goals for the department and specified entities with respect to the delivery of child welfare services; requiring the department to maintain an accountability system; requiring the department to establish a technical advisory panel; requiring the department to make the results of the accountability system public; requiring a report to the Governor and the Legislature by a specified date; creating s. 409.998, F.S.; providing for assessment of community-based care by community alliances; creating s. 827.10, F.S.; providing


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definitions; establishing the criminal offense of unlawful desertion of a child; providing criminal penalties; providing exceptions; amending s. 985.04, F.S.; conforming terminology; creating s. 1004.615, F.S.; establishing the Florida Institute for Child Welfare; providing purpose, duties, and responsibilities of the institute; requiring the institute to contract and work with specified entities; providing for the administration of the institute; requiring reports to the Governor and the Legislature by specified dates; amending s. 1009.25, F.S.; exempting specified child protective investigators and child protective investigation supervisors from certain tuition and fee requirements; repealing s. 402.401, F.S., relating to child welfare worker student loan forgiveness; repealing s. 409.1671, F.S., relating to outsourcing of foster care and related services; repealing s. 409.16715, F.S., relating to certain therapy for foster children; repealing s. 409.16745, F.S., relating to the community partnership matching grant program; repealing s. 1004.61, F.S., relating to a partnership between the Department of Children and Families and state universities; amending ss. 39.201, 39.302, 39.524, 316.613, 409.1676, 409.1677, 409.1678, 409.906, 409.912, 409.91211, 420.628, and 960.065, F.S.; conforming cross-references; providing an effective date.

879306

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/06/2014	.	
	.	
	.	
	.	

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:

Senate Amendment to Amendment (915192) (with title amendment)

Between lines 1482 and 1483
insert:

Section 14. Paragraph (a) of subsection (4) of section 39.504, Florida Statutes, is amended to read:

39.504 Injunction pending disposition of petition; penalty.—

(4) If an injunction is issued under this section, the

251198

primary purpose of the injunction must be to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration.

(a) The injunction applies to the alleged or actual offender in a case of child abuse or acts of domestic violence. The conditions of the injunction shall be determined by the court, which may include ordering the alleged or actual offender to:

1. Refrain from further abuse or acts of domestic violence.

2. Participate in a specialized treatment program.

3. Limit contact or communication with the child victim, other children in the home, or any other child.

4. Refrain from contacting the child at home, school, work, or wherever the child may be found.

5. Have limited or supervised visitation with the child.

6. Vacate the home in which the child resides.

7. Comply with the terms of a safety plan implemented in the injunction pursuant to s. 39.301.

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

And the title is amended as follows:

Delete line 3981

and insert:

for dependency; amending s. 39.504, F.S.; authorizing the court to order a person to comply with a safety plan that is implemented in an injunction; amending s. 39.5085, F.S.; revising

960672

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 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

shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the capacity of families to provide for their children's needs. Program services must include outreach, early intervention, and the provision of other supports and services to meet the child's needs. The department shall collaborate with all relevant state and local agencies to 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	.	
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	.	
	.	

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
	Sanford	Hendon		**CF SPB 7072 as introduced**
1.	Brown/Sanford	Pigott	AHS	**Fav/CS**
2.			AP	

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.

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[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]

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[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 resigned[26] 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:

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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 a*vailable 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

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[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 negotiate[41] 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]

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[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."

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.sharepointsite.net/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.

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[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.

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[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 40creates 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__

A bill to be entitled

An act relating to child abuse and child welfare services; amending s. 20.19, F.S.; requiring the secretary of the Department of Children and Families to appoint an Assistant Secretary for Child Welfare; providing requirements for such position; amending s. 402.40, F.S.; providing requirements for persons providing child welfare services; creating s. 402.402, F.S.; providing education requirements for child protective investigators and child protective investigation supervisors; providing for implementation of such requirements; providing for exemptions; requiring a report to the Governor and the Legislature by a specified date; creating s. 402.403, F.S.; establishing a tuition exemption program for child protective investigators and supervisors; providing eligibility requirements; creating s. 402.404, F.S.; establishing a student loan forgiveness program for child protective investigators and supervisors; providing eligibility requirements; providing requirements for the program; creating s. 827.10, F.S.; defining terms; establishing the criminal offense of unlawful abandonment of a child; providing criminal penalties; providing exceptions; creating s. 1004.615, F.S.; establishing the Florida Institute for Child Welfare; providing the purpose of the institute; requiring the department to contract with the institute for the performance of specified duties; requiring the institute to contract and work

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with specified entities; providing duties and responsibilities of the institute; providing for the administration of the institute; requiring a report to the Governor and the Legislature by a specified date; amending s. 1009.25, F.S.; exempting tuition and fees for specified child protective investigators and child protective investigation supervisors; repealing s. 402.401, F.S., relating to the Florida Child Welfare Student Loan Forgiveness Program; repealing s. 1004.61, F.S., relating to partnerships to develop child protective investigation workers; amending s. 39.01, 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 (3) through (5) of section 20.19, Florida Statutes, are redesignated as subsections (4) through (6), respectively, a new subsection (3) is added to that section, and subsection (2) of that section is amended, to read:

20.19 Department of Children and Families.—There is created a Department of Children and Families.

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

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

(b) The secretary shall appoint a deputy secretary who shall act in the absence of the secretary. The deputy secretary

is directly responsible to the secretary, performs such duties as are assigned by the secretary, and serves at the pleasure of the secretary.

(3) ASSISTANT SECRETARIES.—

(a) *Child Welfare.*—

1. The secretary shall appoint an Assistant Secretary for Child Welfare to lead the department in carrying out its duties and responsibilities for child protection and child welfare. The individual appointed to this position shall serve at the pleasure of the secretary.

2. The assistant secretary must have a degree in social work or at least 7 years of experience working in organizations delivering child protective or child welfare services.

(b) *Substance Abuse and Mental Health.*—

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

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

Section 2. Section 402.40, Florida Statutes, is amended to read:

402.40 Child welfare training and certification.—

(1) LEGISLATIVE INTENT.—In order to enable the state to provide a systematic approach to staff development and training for persons providing child welfare services which ~~that~~ will meet the needs of such staff in their discharge of duties, it is

the intent of the Legislature that the Department of Children and Families ~~Family Services~~ work in collaboration with the child welfare stakeholder community, including department-approved third-party credentialing entities, to ensure that staff have the knowledge, skills, and abilities necessary to competently provide child welfare services. It is the intent of the Legislature that each person providing child welfare services in this state earns and maintains a professional certification from a professional credentialing entity that is approved by the Department of Children and Families ~~Family Services~~. The Legislature further intends that certification and training programs will aid in the reduction of poor staff morale and of staff turnover, will positively impact on the quality of decisions made regarding children and families who require assistance from programs providing child welfare services, and will afford better quality care of children who must be removed from their families.

(2) REQUIREMENTS FOR PERSONS PROVIDING CHILD WELFARE SERVICES.-Each person providing child welfare services who is employed by the department, a sheriff's office, or a community-based care lead agency or subcontractor is required to earn and maintain a professional certification from a professional credentialing entity that is approved by the department.

(3)~~(2)~~ DEFINITIONS.—As used in this section, the term:

(a) "Child welfare certification" means a professional credential awarded by a department-approved third-party credentialing entity to individuals demonstrating core competency in any child welfare practice area.

(b) "Child welfare services" means any intake, protective

investigations, preprotective services, protective services, foster care, shelter and group care, and adoption and related services program, including supportive services and supervision provided to children who are alleged to have been abused, abandoned, or neglected or who are at risk of becoming, are alleged to be, or have been found dependent pursuant to chapter 39.

(c) "Core competency" means the minimum knowledge, skills, and abilities necessary to carry out work responsibilities.

(d) "Person providing child welfare services" means a person who has a responsibility for supervisory, direct care, or support-related work in the provision of child welfare services pursuant to chapter 39.

(e) "Preservice curriculum" means the minimum statewide training content based upon the core competencies which is made available to all persons providing child welfare services.

(f) "Third-party credentialing entity" means a department-approved nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.

(4) ~~(3)~~ THIRD-PARTY CREDENTIALING ENTITIES.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(a) Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare

certification and to maintain such certification.

(b) Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

(5) ~~(4)~~ CHILD WELFARE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the department ~~of Children and Family Services~~ for the purpose of funding the professional development of persons providing child welfare services.

(b) One dollar from every noncriminal traffic infraction collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be deposited into the Child Welfare Training Trust Fund.

(c) In addition to the funds generated by paragraph (b), the trust fund shall receive funds generated from an additional fee on birth certificates and dissolution of marriage filings, as specified in ss. 382.0255 and 28.101, respectively, and may receive funds from any other public or private source.

(d) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

(6) ~~(5)~~ CORE COMPETENCIES.—

(a) The department ~~of Children and Family Services~~ shall approve the core competencies and related preservice curricula that ensures that each person delivering child welfare services obtains the knowledge, skills, and abilities to competently carry out his or her work responsibilities.

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, sheriffs' offices conducting child protective ~~protection~~ investigations, and child welfare legal services providers.

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

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

(7) ~~(6)~~ ADOPTION OF RULES.—The department ~~of Children and Family Services~~ shall adopt rules ~~necessary~~ to administer ~~carry out the provisions of~~ this section.

Section 3. Section 402.402, Florida Statutes, is created to read:

402.402 Child protective investigators; child protective investigation supervisors.-

(1) CHILD PROTECTIVE INVESTIGATION STAFF REQUIREMENTS.—

(a) On an annual and statewide basis, 80 percent of child protective investigators and child protective investigation supervisors hired on or after July 1, 2014, by the department or a sheriff's office must have a bachelor's degree or a master's degree in social work from a college or university social work program accredited by the Council on Social Work Education.

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

(2) REPORT.—By October 1, 2014, and annually thereafter, the secretary of the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on compliance with the requirements of subsection (1). A sheriff who provides child protection services shall report to the secretary of the department information regarding the progress of his or her office in meeting the requirements of subsection (1).

Section 4. Section 402.403, Florida Statutes, is created to read:

402.403 Child Protective Investigator and Supervisor

Tuition Exemption Program.—

(1) There is established within the department the Child Protective Investigator and Supervisor Tuition Exemption Program for the purpose of recruiting and retaining high-performing individuals who are employed as child protective investigators or child protective investigation supervisors with the department or sheriff's office and who do not have a bachelor's degree or master's degree in social work. The department or sheriff's office may exempt tuition and fees to a state university for an employee who is:

(a) Employed as a child protective investigator or child protective investigation supervisor by the department or sheriff's office and who receives personnel evaluations indicating a high level of performance; and

(b) Accepted in an upper-division undergraduate or graduate level college or university social work program accredited by the Council on Social Work Education which leads to either a bachelor's degree or a master's degree in social work.

(2) To the greatest extent possible, the college or university social work program shall consider the training completed and experience of the child protective investigator or child protective investigation supervisor in granting credit towards the degree.

Section 5. Section 402.404, Florida Statutes, is created to read:

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

(1) There is established within the department the Florida Child Protective Investigator and Supervisor Student Loan

Forgiveness Program. The purpose of the program is to increase employment and retention of high-performing individuals who have either a bachelor's degree or a master's degree in social work as child protective investigators or child protective investigation supervisors with the department or sheriff's office by making payments toward loans received by students from federal or state programs or commercial lending institutions for the support of prior postsecondary study in accredited social work programs.

(2) In order to be eligible for the program, a candidate must be employed as a child protective investigator or child protective investigation supervisor by the department or a sheriff's office, must receive a personnel evaluation indicating a high level of performance, and must have graduated from an accredited social work program with either a bachelor's degree or a master's degree in social work.

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

(4) The department may make loan payments of up to $3,000 each year for up to 4 years on behalf of selected graduates of an accredited social work program from the funds appropriated for this purpose. All payments are contingent upon continued proof of employment as a child protective investigator or a child protective investigation supervisor with the department or sheriff's office and made directly to the holder of the loan.

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

Section 6. Section 827.10, Florida Statutes, is created to

read:

827.10 Unlawful abandonment of a child.—

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

(a) "Abandons" or "abandonment" means to leave a child in a place or with a person other than a relative with the intent not to return to the child and with the intent not to provide for the care of the child.

(b) "Care" means support and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child.

(c) "Caregiver" has the same meaning as provided in s. 39.01(10).

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

(e) "Relative" has the same meaning as provided in s. 39.01(64).

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

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

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

Section 7. Section 1004.615, Florida Statutes, is created to read:

1004.615 Florida Institute for Child Welfare.-

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

(2) Using such resources as authorized in the General Appropriations Act, the Department of Children and Families shall contract with the institute for performance of the duties described in subsection (4).

(3) The institute shall work with the department, sheriffs, community-based care lead agencies, community-based care provider organizations, and other partners who contribute to and participate in providing child protection and child welfare services.

(4) The duties and responsibilities of the institute include the following:

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

(b) Advise the department and other organizations participating in the child protection and child welfare process

regarding scientific evidence on policy and practice related to child safety, permanency, and child and family well-being.

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

(d) Evaluate the scope and effectiveness of preservice and inservice training for child protection and child welfare workers.

(e) Advise and assist the department in efforts to improve preservice and inservice training for child protection and child welfare workers.

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

(g) Develop and maintain a program of professional support, including training to facilitate internships and transitions to the workforce and training courses and consulting services that assist both individuals and organizations in implementing adaptive and resilient responses to workplace stress.

(h) Participate in the department's critical incident response team and assist in the preparation of reports about such incidents.

(i) Identify effective policies and best practices, including innovations in management of human service organizations and communicate these findings to the department and other organizations participating in the child protection and child welfare process.

(5) The institute shall be administered by a director who

is appointed by the President of the Florida State University. The director's office shall be located at the Florida State University. Other universities participating in the consortium shall also provide facilities, staff, and other resources to the institute to establish statewide access to institute programs and services. The director must be a child welfare professional and must hold a faculty appointment in the College of Social Work. The director is responsible for overall management of the institute and for developing and executing the work plan consistent with the responsibilities in subsection (4).

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

Section 8. Paragraph (h) is added to subsection (1) of section 1009.25, Florida Statutes, to read:

1009.25 Fee exemptions.—

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

(h) A child protective investigator or a child protective investigation supervisor employed by the Department of Children and Families or a sheriff's office who is enrolled in an accredited bachelor's degree or master's degree in social work program pursuant to s. 402.403.

Section 9. Section 402.401, Florida Statutes, is repealed.

Section 10. Section 1004.61, Florida Statutes, is repealed.

Section 11. Subsection (27) of section 39.01, Florida Statutes, is amended to read:

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

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

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]

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[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.sharepointsite.net/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.

By the Committee on Children, Families, and Elder Affairs; and Senator Detert

586-02451-14 20141668__

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; defining the term "sibling"; creating s. 39.2015, F.S.; requiring the Department of Children and Families to conduct specified investigations using critical incident rapid response teams; providing requirements for such investigations; providing requirements for the team; authorizing the team to access specified information; requiring the cooperation of specified agencies and organizations; providing for reimbursement of team members; requiring a report of the investigation; requiring the Secretary of Children and Families to develop specified guidelines for investigations and provide training to team members; requiring the secretary to appoint an advisory committee; requiring a report from the advisory committee to the secretary; requiring the secretary to submit such report to the Governor and the Legislature; amending s. 39.202, F.S.; authorizing access to specified records in the event of the death of a child which was reported to the department's child abuse hotline; creating s. 39.2022, F.S.; providing legislative intent; requiring the department to publish specified information on its website if the death of a child is reported to the child abuse hotline; prohibiting specified information from being released; providing requirements for the release of information in the child's records; prohibiting release of information that identifies the person who

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reports an incident to the child abuse hotline; amending s. 39.402, F.S.; requiring the department to make a reasonable effort to keep siblings together when they are placed in out-of-home care under certain circumstances; providing for sibling visitation under certain circumstances; amending s. 39.5085, F.S.; revising legislative intent; authorizing placement of a child with a nonrelative caregiver and financial assistance for such nonrelative caregiver through the Relative Caregiver Program under certain circumstances; amending s. 39.701, F.S.; requiring the court to consider contact among siblings in judicial reviews; authorizing the court to remove specified disabilities of nonage at judicial reviews; amending s. 39.802, F.S.; requiring a petition for the termination of parental rights to be signed under oath stating the petitioner's good faith in filing the petition; amending s. 383.402, F.S.; requiring the review of all deaths of children which occur in the state and are reported to the department's child abuse hotline; revising the due date for a report; providing a directive to the Division of Law Revision and Information; creating part V of ch. 409, F.S.; creating s. 409.986, F.S.; providing legislative findings and intent; providing child protection and child welfare outcome goals; defining terms; creating s. 409.987, F.S.; providing for the procurement of community-based care lead agencies; providing requirements for contracting as a lead agency;

creating s. 409.988, F.S.; providing the duties of a community-based care lead agency; providing licensure requirements for a lead agency; creating s. 409.990, F.S.; providing general funding provisions; providing for a matching grant program and the maximum amount of funds that may be awarded; requiring the department to develop and implement a community-based care risk pool initiative; providing requirements for the risk pool; transferring, renumbering, and amending s. 409.16713, F.S.; transferring provisions relating to the allocation of funds for community-based lead care agencies; conforming a cross-reference; creating s. 409.992, F.S.; providing requirements for community-based care lead agency expenditures; creating s. 409.993, F.S.; providing findings; providing for lead agency and subcontractor liability; providing limitations on damages; transferring, renumbering, and amending s. 409.1675, F.S.; transferring provisions relating to receivership from community-based providers to lead agencies; conforming cross-references and terminology; creating s. 409.996, F.S.; providing duties of the department relating to community-based care and lead agencies; creating s. 409.997, F.S.; providing goals for the department and specified entities; requiring the department to maintain a comprehensive, results-oriented accountability system; providing requirements; requiring the department to establish a technical advisory panel; providing requirements for the panel;

requiring the department to make the results of the system public; requiring a report to the Governor and the Legislature; creating s. 409.998, F.S.; requiring the department to establish community-based care alliances; specifying responsibilities of the alliance; providing for membership of the alliance; providing for compensation of and requirements for alliance members; authorizing the alliance to create a direct-support organization; providing requirements for such organization; providing for future repeal of the authority of the alliance to create a direct support organization; repealing s. 20.19(4), F.S., relating to community alliances; repealing ss. 409.1671, 409.16715, and 409.16745, F.S., relating to foster care and related services, therapy treatments, and the community partnership matching grant program, respectively; amending ss. 39.201, 409.1676, 409.1677, 409.906, 409.912, 409.91211, and 420.628, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (70) through (76) of section 39.01, Florida Statutes, are redesignated as subsections (71) through (77), respectively, and a new subsection (70) is added to that section, to read:

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

(70) "Sibling" means:

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

(b) Children who have lived together in a family and identify themselves as siblings.

Section 2. Section 39.2015, Florida Statutes, is created to read:

39.2015 Critical incident rapid response team.—

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

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

(3) Each investigation shall be conducted by a team of at least five professionals with expertise in child protection, child welfare, and organizational management. The team may be selected from employees of the department, community-based care lead agencies, other provider organizations, faculty from the Florida Institute for Child Welfare that consists of public and private universities offering degrees in social work established pursuant to s. 1004.615, or any other persons with the required

expertise. The majority of the team must reside in judicial circuits outside the location of the incident. The secretary shall appoint a team leader for each group assigned to an investigation.

(4) An investigation shall be initiated as soon as possible, but not later than 2 business days after the case is reported to the department. A preliminary report on each case shall be provided to the secretary no later than 30 days after the investigation begins.

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

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

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

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

(9) Upon completion of the investigation, a final report shall be made available to community-based care lead agencies, to other organizations involved in the child welfare system, and to the public through the department's website.

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

(11) The secretary shall appoint an advisory committee made up of experts in child protection and child welfare to make an independent review of investigative reports from the critical incident rapid response teams and make recommendations to improve policies and practices related to child protection and child welfare services. By October 1 of each year, the advisory committee shall make an annual report to the secretary, including findings and recommendations. The secretary shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3. Paragraph (o) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(o) Any person, in the event of the death of a child

reported to the child abuse hotline ~~determined to be a result of abuse, abandonment, or neglect~~. Information identifying the person reporting abuse, abandonment, or neglect may ~~shall~~ not be released. Any information otherwise made confidential or exempt by law may ~~shall~~ not be released pursuant to this paragraph. The information released pursuant to this paragraph must meet the requirements of s. 39.2022.

Section 4. Section 39.2022, Florida Statutes, is created to read:

39.2022 Public disclosure of child deaths reported to the child abuse hotline.—

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

(2) If a child's death is reported to the child abuse hotline, the department shall post on its website all of the following:

(a) Name of the child.

(b) Date of birth, race, and gender of the child.

(c) Date of the child's death.

(d) Allegations of the cause of death or the preliminary cause of death.

(e) County and placement of the child at the time of the incident leading to the child's death, if applicable.

(f) Name of the community-based care lead agency, case

management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable.

(g) The relationship of any alleged offender to the child.

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

(3) The department may not release the following information concerning a death of a child:

(a) Information about the siblings of the child.

(b) Attorney-client communications.

(c) Any information if the release of such information would jeopardize a criminal investigation.

(d) Any information that is confidential or exempt under state or federal law.

(4) If the death of a child is determined to be the result of abuse, neglect, or abandonment, the department may release information in the child's record to any person. Information identifying the person reporting abuse, abandonment, or neglect may not be released. Any information otherwise made confidential or exempt by law may not be released pursuant to this subsection.

Section 5. Paragraph (h) of subsection (8) and subsection (9) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

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

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

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

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

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

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

a. The first contact of the department with the family occurs during an emergency;

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

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and

available services being provided, the health and safety of the child cannot be ensured; or

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

6. That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such a placement is not in the best interest of each child. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

7.~~6.~~ That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

8.~~7.~~ That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

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

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

(b) If siblings who are removed from the home cannot be placed together, the department shall provide to the court a recommendation for frequent visitation or other ongoing interaction between 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 of the shelter hearing, the department shall provide justification to the court for the delay.

Section 6. Section 39.5085, Florida Statutes, is amended to read:

39.5085 Relative Caregiver Program.—

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

(a) Provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents, ~~and~~ relatives of children, and specified nonrelatives of children pursuant to subparagraph (2)(a)3.

(b) Recognize family relationships in which a grandparent or other relative is the head of a household that includes a

child otherwise at risk of foster care placement.

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

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

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

(f) Recognize that a child may have a close relationship with a person who is not a blood relative or a relative by marriage and that such person should be eligible for financial assistance under this section if he or she is able and willing to care for the child and provide a safe, stable home environment.

(2)(a) The Department of Children and Families ~~Family Services~~ shall establish and operate the Relative Caregiver Program pursuant to eligibility guidelines established in this

section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

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

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

3. Nonrelatives who are 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 substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

The placement may be court-ordered temporary legal custody to the relative or nonrelative under protective supervision of the department pursuant to s. 39.521(1)(b)3., or court-ordered placement in the home of a relative or nonrelative as a

permanency option under s. 39.6221 or s. 39.6231 or under former s. 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers ~~who are relatives and~~ who would be unable to serve in that capacity without the ~~relative~~ caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

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

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

(d) Relatives or nonrelatives who are caring for children placed with them by the court pursuant to this chapter shall receive a special monthly ~~relative~~ caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, and ~~nor may~~ the cost of providing the assistance described in this section to any ~~relative~~ caregiver may not exceed the cost of providing out-of-

home care in emergency shelter or foster care.

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

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

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

Section 7. Paragraph (c) of subsection (2) and paragraph (a) of subsection (3) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

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

(c) *Review determinations.*—The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the

parent, the foster parent or legal custodian, the guardian ad litem or surrogate parent for educational decisionmaking if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

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

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

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

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

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents'

compliance with child support orders.

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

7. The frequency, kind, and duration of 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 child.

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

9.~~8.~~ Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as documented by assurances from the community-based care provider that:

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

b. The community-based care agency has coordinated with appropriate local educational agencies to ensure that the child

remains in the school in which the child is enrolled at the time of placement.

10.~~9.~~ A projected date likely for the child's return home or other permanent placement.

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

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

13.~~12.~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

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

(a) In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed pursuant to ss. 743.044, 743.045, and 743.046, and for any of these disabilities that the court finds is in the child's best interest to remove. The court ~~s. 743.045 and~~ shall continue to hold timely judicial review hearings. If necessary, the court may review the status of the child more frequently during the year before the child's 18th birthday. At each review hearing held under this subsection, in addition to any information or report provided to the court by the foster parent, legal custodian, or guardian ad litem, the child shall

be given the opportunity to address the court with any information relevant to the child's best interest, particularly in relation to independent living transition services. The department shall include in the social study report for judicial review written verification that the child has:

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

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

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

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

5. An open bank account or the identification necessary to

open a bank account and to acquire essential banking and budgeting skills.

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

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

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

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

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

11. The child's educational records.

12. The child's entire health and mental health records.

13. The process for accessing his or her case file.

14. A statement encouraging the child to attend all judicial review hearings occurring after the child's 17th birthday.

Section 8. Subsection (2) of section 39.802, Florida Statutes, is amended to read:

39.802 Petition for termination of parental rights; filing; elements.—

(2) The form of the petition is governed by the Florida Rules of Juvenile Procedure. The petition must be in writing and signed by the petitioner under oath stating the petitioner's good faith in ~~or, if the department is the petitioner, by an~~

~~employee of the department, under oath stating the petitioner's good faith in~~ filing the petition.

Section 9. Subsection (1) and paragraph (c) of subsection (3) of section 383.402, Florida Statutes, are amended to read:

383.402 Child abuse death review; State Child Abuse Death Review Committee; local child abuse death review committees.—

(1) It is the intent of the Legislature to establish a statewide multidisciplinary, multiagency child abuse death assessment and prevention system that consists of state and local review committees. The state and local review committees shall review the facts and circumstances of all deaths of children from birth through age 18 which occur in this state and are reported to the child abuse hotline of the Department of Children and Families ~~as the result of verified child abuse or neglect~~. The purpose of the review shall be to:

(a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.

(b) Whenever possible, develop a communitywide approach to address such cases and contributing factors.

(c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies which may be related to deaths that are the result of child abuse.

(d) Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

(3) The State Child Abuse Death Review Committee shall:

(c) Prepare an annual statistical report on the incidence

and causes of death resulting from reported child abuse in the state during the prior calendar year. The state committee shall submit a copy of the report by October 1 ~~December 31~~ of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.

Section 10. The Division of Law Revision and Information is directed to create part V of chapter 409, Florida Statutes, consisting of ss. 409.986-409.998, Florida Statutes, to be titled "Community-Based Child Welfare."

Section 11. Section 409.986, Florida Statutes, is created to read:

409.986 Legislative findings, intent, and definitions.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) It is the intent of the Legislature that the Department of Children and Families provide child protection and child welfare services to children through contracting with community-based care lead agencies. It is further the Legislature's intent that communities and other stakeholders in the well-being of children participate in assuring safety, permanence, and well-being for all children in the state.

(b) The Legislature finds that, when private entities assume responsibility for the care of children in the child protection and child welfare system, adequate oversight of the programmatic, administrative, and fiscal operation of those entities is essential. The Legislature finds that, ultimately, the appropriate care of children is the responsibility of the

state and outsourcing the provision of such care does not relieve the state of its responsibility to ensure that appropriate care is provided.

(2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the goal of the department to achieve the following outcomes in conjunction with the community-based care lead agency, community-based subcontractors, and the community-based care alliance:

(a) Children are first and foremost protected from abuse and neglect.

(b) Children are safely maintained in their homes if possible and appropriate.

(c) Services are provided to protect children and prevent removal from the home.

(d) Children have permanency and stability in their living arrangements.

(e) Family relationships and connections are preserved for children.

(f) Families have enhanced capacity to provide for their children's needs.

(g) Children receive appropriate services to meet their educational needs.

(h) Children receive adequate services to meet their physical and mental health needs.

(3) DEFINITIONS.—As used in this part, except as otherwise specifically provided, the term:

(a) "Child" or "children" means has the same meaning as the term "child" as defined in s. 39.01.

(b) "Dependent child" means a child who has been determined

by the court to be in need of care due to allegations of abuse, neglect, or abandonment.

(c) "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed, or obtaining an alternative permanent home if he or she cannot remain home or be returned home.

(d) "Community-based care alliance" or "alliance" means the group of stakeholders, community leaders, client representatives, and funders of human services established to provide a focal point for community participation and governance of community-based services.

(e) "Community-based care lead agency" or "lead agency" means a single entity with which the department has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits. The secretary of the department may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children.

(f) "Related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, postplacement supervision, permanent foster care, and family reunification.

Section 12. Section 409.987, Florida Statutes, is created to read:

409.987 Lead agency procurement.—

(1) Community-based care lead agencies shall be procured by the department through a competitive process as required by chapter 287.

(2) The department shall produce a schedule for the procurement of community-based care lead agencies and provide the schedule to the community-based care alliances established pursuant to s. 409.998.

(3) Notwithstanding s. 287.057, the department shall use 5-year contracts with lead agencies.

(4) In order to compete for a contract to serve as a lead agency, an entity must:

(a) Be organized as a Florida corporation or a governmental entity.

(b) Be governed by a board of directors. The membership of the board of directors must be described in the bylaws or articles of incorporation of each lead agency. At least 75 percent of the membership of the board of directors must be composed of persons residing in this state. Of the state residents, at least 51 percent must also reside within the service area of the lead agency.

(c) Demonstrate financial responsibility through an organized plan for regular fiscal audits and the posting of a performance bond.

(5) The procurement of lead agencies must be done in consultation with the local community-based care alliances.

Section 13. Section 409.988, Florida Statutes, is created to read:

409.988 Lead agency duties; general provisions.—

(1) DUTIES.—A lead agency:

(a) Shall serve all children referred as a result of a report of abuse, neglect, or abandonment to the department's child abuse hotline regardless of the level of funding allocated to the lead agency by the state if all related funding is transferred.

(b) Shall provide accurate and timely information necessary for oversight by the department pursuant to the child welfare results-oriented accountability system required by s. 409.997.

(c) Shall follow the financial guidelines developed by the department and provide for a regular independent auditing of its financial activities. Such financial information shall be provided to the community-based care alliance established under s. 409.998.

(d) Shall prepare all judicial reviews, case plans, and other reports necessary for court hearings for dependent children, except those related to the investigation of a referral from the department's child abuse hotline, and shall provide testimony as required for dependency court proceedings. This duty does not include the preparation of legal pleadings or other legal documents, which remain the responsibility of the department.

(e) Shall ensure that all individuals providing care for dependent children receive appropriate training and meet the minimum employment standards established by the department.

(f) Shall maintain eligibility to receive all available federal child welfare funds.

(g) Shall maintain written agreements with Healthy Families Florida lead entities in its service area pursuant to s. 409.153 to promote cooperative planning for the provision of prevention

and intervention services.

(h) Shall comply with federal and state statutory requirements and agency rules in the provision of contractual services.

(i) May subcontract for the provision of services required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997.

(2) LICENSURE.—

(a) A lead agency must be licensed as a child-caring or child-placing agency by the department under this chapter.

(b) Each foster home, therapeutic foster home, emergency shelter, or other placement facility operated by the lead agency must be licensed by the department under chapter 402 or this chapter.

(c) Substitute care providers who are licensed under s. 409.175 and who have contracted with a lead agency are also authorized to provide registered or licensed family day care under s. 402.313 if such care is consistent with federal law and if the home has met the requirements of s. 402.313.

(d) A foster home licensed under s. 409.175 may be dually licensed as a child care home under chapter 402 and may receive a foster care maintenance payment and, to the extent permitted under federal law, school readiness funding for the same child.

(e) In order to eliminate or reduce the number of duplicate inspections by various program offices, the department shall coordinate inspections required for licensure of agencies under

this subsection.

(f) The department may adopt rules to administer this subsection.

(3) SERVICES.—A lead agency must serve dependent children through services that are supported by research or are best child welfare practices. The agency may also provide innovative services such as family-centered, cognitive-behavioral interventions designed to mitigate out-of-home placements.

(4) LEAD AGENCY ACTING AS GUARDIAN.—

(a) If a lead agency or other provider has accepted case management responsibilities for a child who is sheltered or found to be dependent and who is assigned to the care of the lead agency or other provider, the agency or provider may act as the child's guardian for the purpose of registering the child in school if a parent or guardian of the child is unavailable and his or her whereabouts cannot reasonably be ascertained.

(b) The lead agency or other provider may also seek emergency medical attention for the child, but only if a parent or guardian of the child is unavailable, the parent's whereabouts cannot reasonably be ascertained, and a court order for such emergency medical services cannot be obtained because of the severity of the emergency or because it is after normal working hours.

(c) A lead agency or other provider may not consent to sterilization, abortion, or termination of life support.

(d) If a child's parents' rights have been terminated, the lead agency shall act as guardian of the child in all circumstances.

Section 14. Section 409.990, Florida Statutes, is created

to read:

409.990 Funding for lead agencies.—A contract established between the department and a lead agency must be funded by a grant of general revenue, other applicable state funds, or applicable federal funding sources.

(1) The method of payment for a fixed-price contract with a lead agency must provide for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

(2) Notwithstanding s. 215.425, all documented federal funds earned for the current fiscal year by the department and lead agencies which exceed the amount appropriated by the Legislature shall be distributed to all entities that contributed to the excess earnings based on a schedule and methodology developed by the department and approved by the Executive Office of the Governor.

(a) Distribution shall be pro rata based on total earnings and shall be made only to those entities that contributed to excess earnings.

(b) Excess earnings of lead agencies shall be used only in the service district in which they were earned.

(c) Additional state funds appropriated by the Legislature for lead agencies or made available pursuant to the budgetary amendment process described in s. 216.177 shall be transferred to the lead agencies.

(d) The department shall amend a lead agency's contract to permit expenditure of the funds.

(3) Notwithstanding other provisions in this section, the amount of the annual contract for a lead agency may be increased

by excess federal funds earned in accordance with s. 216.181(11).

(4) Each contract with a lead agency shall provide for the payment by the department to the lead agency of a reasonable administrative cost in addition to funding for the provision of services.

(5) A lead agency may carry forward documented unexpended state funds from one fiscal year to the next; however, the cumulative amount carried forward may not exceed 8 percent of the total contract. Any unexpended state funds in excess of that percentage must be returned to the department.

(a) The funds carried forward may not be used in any way that would create increased recurring future obligations, and such funds may not be used for any type of program or service that is not currently authorized by the existing contract with the department.

(b) Expenditures of funds carried forward must be separately reported to the department.

(c) Any unexpended funds that remain at the end of the contract period shall be returned to the department.

(d) Funds carried forward may be retained through any contract renewals and any new procurements as long as the same lead agency is retained by the department.

(6) It is the intent of the Legislature to improve services and local participation in community-based care initiatives by fostering community support and providing enhanced prevention and in-home services, thereby reducing the risk otherwise faced by lead agencies. There is established a community partnership matching grant program to be operated by the department for the

purpose of encouraging local participation in community-based care for child welfare. A community-based care alliance direct-support organization, a children's services council, or another local entity that makes a financial commitment to a community-based care lead agency may be eligible for a matching grant. The total amount of the local contribution may be matched on a one-to-one basis up to a maximum annual amount of $500,000 per lead agency. Awarded matching grant funds may be used for any prevention or in-home services that can be reasonably expected to reduce the number of children entering the child welfare system. Funding available for the matching grant program is subject to legislative appropriation of nonrecurring funds provided for this purpose.

(7)(a) The department, in consultation with the Florida Coalition for Children, Inc., shall develop and implement a community-based care risk pool initiative to mitigate the financial risk to eligible lead agencies. This initiative must include:

1. A risk pool application and protocol developed by the department which outline submission criteria, including, but not limited to, financial and program management, descriptive data requirements, and timeframes for submission of applications. Requests for funding from risk pool applicants shall be based on relevant and verifiable service trends and changes that have occurred during the current fiscal year. The application shall confirm that expenditure of approved risk pool funds by the lead agency shall be completed within the current fiscal year.

2. A risk pool peer review committee, appointed by the secretary and consisting of department staff and representatives

from at least three nonapplicant lead agencies, which reviews and assesses all risk pool applications. Upon completion of each application review, the peer review committee shall report its findings and recommendations to the secretary providing, at a minimum, the following information:

a. Justification for the specific funding amount required by the risk pool applicant based on current year service trend data, including validation that the applicant's financial need was caused by circumstances beyond the control of the lead agency management;

b. Verification that the proposed use of risk pool funds meets at least one of the criteria in paragraph (c); and

c. Evidence of technical assistance provided in an effort to avoid the need to access the risk pool and recommendations for technical assistance to the lead agency to ensure that risk pool funds are expended effectively and that the agency's need for future risk pool funding is diminished.

(b) Upon approval by the secretary of a risk pool application, the department may request funds from the risk pool in accordance with s. 216.181(6)(a).

(c) The purposes for which the community-based care risk pool shall be used include:

1. Significant changes in the number or composition of clients eligible to receive services.

2. Significant changes in the services that are eligible for reimbursement.

3. Continuity of care in the event of failure, discontinuance of service, or financial misconduct by a lead agency.

4. Significant changes in the mix of available funds.

(d) The department may also request in its annual legislative budget request, and the Governor may recommend, that the funding necessary to carry out paragraph (c) be appropriated to the department. In addition, the department may request the allocation of funds from the community-based care risk pool in accordance with s. 216.181(6)(a). Funds from the pool may be used to match available federal dollars.

1. Such funds shall constitute partial security for contract performance by lead agencies and shall be used to offset the need for a performance bond.

2. The department may separately require a bond to mitigate the financial consequences of potential acts of malfeasance or misfeasance or criminal violations by the provider.

Section 15. Section 409.16713, Florida Statutes, is transferred, renumbered as section 409.991, Florida Statutes, and paragraph (a) of subsection (1) of that section is amended, to read:

409.991 ~~409.16713~~ Allocation of funds for community-based care lead agencies.—

(1) As used in this section, the term:

(a) "Core services funding" means all funds allocated to community-based care lead agencies operating under contract with the department pursuant to s. 409.987 ~~s. 409.1671~~, with the following exceptions:

1. Funds appropriated for independent living;

2. Funds appropriated for maintenance adoption subsidies;

3. Funds allocated by the department for protective investigations training;

4. Nonrecurring funds;

5. Designated mental health wrap-around services funds; and

6. Funds for special projects for a designated community-based care lead agency.

Section 16. Section 409.992, Florida Statutes, is created to read:

409.992 Lead agency expenditures.—

(1) The procurement of commodities or contractual services by lead agencies shall be governed by the financial guidelines developed by the department which comply with applicable state and federal law and follow good business practices. Pursuant to s. 11.45, the Auditor General may provide technical advice in the development of the financial guidelines.

(2) Notwithstanding any other provision of law, a community-based care lead agency may make expenditures for staff cellular telephone allowances, contracts requiring deferred payments and maintenance agreements, security deposits for office leases, related agency professional membership dues other than personal professional membership dues, promotional materials, and grant writing services. Expenditures for food and refreshments, other than those provided to clients in the care of the agency or to foster parents, adoptive parents, and caseworkers during training sessions, are not allowable.

(3) A lead community-based care agency and its subcontractors are exempt from state travel policies as provided in s. 112.061(3)(a) for their travel expenses incurred in order to comply with the requirements of this section.

Section 17. Section 409.993, Florida Statutes, is created to read:

409.993 Lead agencies and subcontractor liability.—

(1) FINDINGS.—

(a) The Legislature finds that the state has traditionally provided foster care services to children who have been the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services need to be outsourced pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose for such outsourcing is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. One of the components necessary to secure a safe and stable environment for such children is that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.

(b) The Legislature further finds that, by requiring the following minimum levels of insurance, children in outsourced foster care and related services will gain increased protection and rights of recovery in the event of injury as provided for in s. 768.28.

(2) LEAD AGENCY LIABILITY.—

(a) Other than an entity to which s. 768.28 applies, an eligible community-based care lead agency, or its employees or officers, except as otherwise provided in paragraph (b), must, as a part of its contract, obtain a minimum of $1 million per

claim/$3 million per incident in general liability insurance coverage. The eligible community-based care lead agency must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of $100,000 per claim, $300,000 per incident, on their personal automobiles. In lieu of personal motor vehicle insurance, the lead agency's casualty, liability, or motor vehicle insurance carrier may provide nonowned automobile liability coverage. Such insurance provides liability insurance for automobiles that the provider uses in connection with the agency's business but does not own, lease, rent, or borrow. Such coverage includes automobiles owned by the employees of the lead agency or a member of the employee's household but only while the automobiles are used in connection with the agency's business. The nonowned automobile coverage for the lead agency applies as excess coverage over any other collectible insurance. The personal automobile policy for the employee of the lead agency must be primary insurance, and the nonowned automobile coverage of the agency acts as excess insurance to the primary insurance. The lead agency shall provide a minimum limit of $1 million in nonowned automobile coverage. In a tort action brought against such an eligible community-based care lead agency or employee, net economic damages shall be limited to $1 million per liability claim and $100,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In any tort action brought against such an eligible

community-based care lead agency, noneconomic damages shall be limited to $200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76. The community-based care lead agency is not liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(b) The liability of an eligible community-based care lead agency described in this section shall be exclusive and in place of all other liability of such lead agency. The same immunities from liability enjoyed by such lead agencies shall extend as well to each employee of the lead agency when such employee is acting in furtherance of the agency's business, including the transportation of clients served, as described in this subsection, in privately owned vehicles. Such immunities are not applicable to a lead agency or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression if such acts result in injury or death or such acts proximately cause such injury or death. Such immunities are not applicable to employees of the same lead agency when each is operating in the furtherance of the agency's business, but they are assigned primarily to unrelated work within private or public employment. The same immunity provisions enjoyed by a lead agency also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct

that caused the alleged injury arose within the course and scope of those managerial or policymaking duties. As used in this subsection and subsection (3), the term "culpable negligence" means reckless indifference or grossly careless disregard of human life.

(3) SUBCONTRACTOR LIABILITY.—

(a) A subcontractor of an eligible community-based care lead agency which is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (b), must, as a part of its contract, obtain a minimum of $1 million per claim/$3 million per incident in general liability insurance coverage. The subcontractor of an eligible community-based care lead agency must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of $100,000 per claim, $300,000 per incident, on their personal automobiles. In lieu of personal motor vehicle insurance, the subcontractor's casualty, liability, or motor vehicle insurance carrier may provide nonowned automobile liability coverage. Such insurance provides liability insurance for automobiles that the subcontractor uses in connection with the subcontractor's business but does not own, lease, rent, or borrow. Such coverage includes automobiles owned by the employees of the subcontractor or a member of the employee's household but only while the automobiles are used in connection with the subcontractor's business. The nonowned automobile coverage for the subcontractor applies as excess coverage over any other collectible insurance. The personal

automobile policy for the employee of the subcontractor shall be primary insurance, and the nonowned automobile coverage of the subcontractor acts as excess insurance to the primary insurance. The subcontractor shall provide a minimum limit of $1 million in nonowned automobile coverage. In a tort action brought against such subcontractor or employee, net economic damages shall be limited to $1 million per liability claim and $100,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable. In a tort action brought against such subcontractor, noneconomic damages shall be limited to $200,000 per claim. A claims bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(b) The liability of a subcontractor of an eligible community-based care lead agency that is a direct provider of foster care and related services as described in this section shall be exclusive and in place of all other liability of such lead agency. The same immunities from liability enjoyed by such subcontractor provider shall extend as well to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business, including the transportation of clients served, as described in this subsection, in privately owned vehicles. Such immunities are not applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression when such acts result in injury or death or

such acts proximately cause such injury or death. Such immunities are not applicable to employees of the same subcontractor when each is operating in the furtherance of the subcontractor's business, but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties.

(4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of the increasing costs of goods and services each year and recognizes that fixing a set amount of compensation has the effect of a reduction in compensation each year. Accordingly, the conditional limitations on damages in this section shall be increased at the rate of 5 percent each year, prorated from July 1, 2014, to the date at which damages subject to such limitations are awarded by final judgment or settlement.

Section 18. Section 409.1675, Florida Statutes, is transferred and renumbered as section 409.994, Florida Statutes, and amended to read:

409.994 ~~409.1675~~ ~~Lead~~ Community-based care lead agencies ~~providers~~; receivership.—

(1) The Department of Children and Families ~~Family Services~~ may petition a court of competent jurisdiction for the appointment of a receiver for a ~~lead~~ community-based care lead agency ~~provider~~ established pursuant to s. 409.987 if ~~s. 409.1671 when~~ any of the following conditions exist:

(a) The lead agency ~~community-based provider~~ is operating without a license as a child-placing agency.

(b) The lead agency ~~community-based provider~~ has given less than 120 days' notice of its intent to cease operations, and arrangements have not been made for another lead agency ~~community-based provider~~ or for the department to continue the uninterrupted provision of services.

(c) The department determines that conditions exist in the lead agency ~~community-based provider~~ which present an imminent danger to the health, safety, or welfare of the dependent children under that agency's ~~provider's~~ care or supervision. Whenever possible, the department shall make a reasonable effort to facilitate the continued operation of the program.

(d) The lead agency ~~community-based provider~~ cannot meet its current financial obligations to its employees, contractors, or foster parents. Issuance of bad checks or the existence of delinquent obligations for payment of salaries, utilities, or invoices for essential services or commodities shall constitute prima facie evidence that the lead agency ~~community-based provider~~ lacks the financial ability to meet its financial obligations.

(2)(a) The petition for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having statutory precedence, has priority.

(b) A hearing shall be conducted within 5 days after the filing of the petition, at which time interested parties shall have the opportunity to present evidence as to whether a receiver should be appointed. The department shall give

reasonable notice of the hearing on the petition to the lead agency ~~community-based provider~~.

(c) The court shall grant the petition upon finding that one or more of the conditions in subsection (1) exists and the continued existence of the condition or conditions jeopardizes the health, safety, or welfare of dependent children. A receiver may be appointed ex parte when the court determines that one or more of the conditions in subsection (1) exists. After such finding, the court may appoint any person, including an employee of the department who is qualified by education, training, or experience to carry out the duties of the receiver pursuant to this section, except that the court may ~~shall~~ not appoint any member of the governing board or any officer of the lead agency ~~community-based provider~~. The receiver may be selected from a list of persons qualified to act as receivers which is developed by the department and presented to the court with each petition of receivership.

(d) A receiver may be appointed for up to 90 days, and the department may petition the court for additional 30-day extensions. Sixty days after appointment of a receiver and every 30 days thereafter until the receivership is terminated, the department shall submit to the court an assessment of the lead agency's ~~community-based provider's~~ ability to ensure the health, safety, and welfare of the dependent children under its supervision.

(3) The receiver shall take such steps as are reasonably necessary to ensure the continued health, safety, and welfare of the dependent children under the supervision of the lead agency ~~community-based provider~~ and shall exercise those powers and

perform those duties set out by the court, including, but not limited to:

(a) Taking such action as is reasonably necessary to protect or conserve the assets or property of the lead agency ~~community based provider~~. The receiver may use the assets and property and any proceeds from any transfer thereof only in the performance of the powers and duties provided ~~set forth~~ in this section and by order of the court.

(b) Using the assets of the lead agency ~~community-based provider~~ in the provision of care and services to dependent children.

(c) Entering into contracts and hiring agents and employees to carry out the powers and duties of the receiver under this section.

(d) Having full power to direct, manage, hire, and discharge employees of the lead agency ~~community-based provider~~. The receiver shall hire and pay new employees at the rate of compensation, including benefits, approved by the court.

(e) Honoring all leases, mortgages, and contractual obligations of the lead agency ~~community-based provider~~, but only to the extent of payments that become due during the period of the receivership.

(4)(a) The receiver shall deposit funds received in a separate account and shall use this account for all disbursements.

(b) A payment to the receiver of any sum owing to the lead agency ~~community based provider~~ shall discharge any obligation to the provider to the extent of the payment.

(5) A receiver may petition the court for temporary relief

from obligations entered into by the lead agency ~~community-based provider~~ if the rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable when compared to contracts negotiated under similar conditions. Any relief in this form provided by the court shall be limited to the life of the receivership, unless otherwise determined by the court.

(6) The court shall set the compensation of the receiver, which shall be considered a necessary expense of a receivership and may grant to the receiver such other authority necessary to ensure the health, safety, and welfare of the children served.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breaches of fiduciary duty. This section may ~~shall~~ not be interpreted to be a waiver of sovereign immunity should the department be appointed receiver.

(8) If the receiver is not the department, the court may require a receiver to post a bond to ensure the faithful performance of these duties.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions that gave rise to the receivership no longer exist; or

(b) The department has entered into a contract with a new lead agency ~~community based provider~~ pursuant to s. 409.987 ~~s. 409.1671~~, and that contractor is ready and able to assume the duties of the previous lead agency ~~provider~~.

(10) Within 30 days after the termination, unless this time period is extended by the court, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected and disbursed, and of the expenses of the receivership.

(11) ~~Nothing in~~ This section does not ~~shall be construed to~~ relieve any employee of the lead agency ~~community-based provider~~ placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the employee before ~~prior to~~ the appointment of a receiver, and~~; nor shall anything contained in~~ this section does not ~~be construed to~~ suspend during the receivership any obligation of the employee for payment of taxes or other operating or maintenance expenses of the lead agency ~~community-based provider~~ or for the payment of mortgages or liens. The lead agency ~~community-based provider~~ shall retain the right to sell or mortgage any facility under receivership, subject to the prior approval of the court that ordered the receivership.

Section 19. Section 409.996, Florida Statutes, is created to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that services are delivered in accordance with applicable federal and state statutes and regulations.

(1) The department shall enter into contracts with lead

agencies to perform the duties of a lead agency pursuant to s. 409.988. At a minimum, the contracts must:

(a) Provide for the services needed to accomplish the duties established in s. 409.988 and provide information to the department which is necessary to meet the requirements for a quality assurance program pursuant to subsection (18) and the child welfare results-oriented accountability system pursuant to s. 409.997.

(b) Provide for graduated penalties for failure to comply with contract terms. Such penalties may include financial penalties, enhanced monitoring and reporting, corrective action plans, and early termination of contracts or other appropriate action to ensure contract compliance.

(c) Ensure that the lead agency shall furnish current and accurate information on its activities in all cases in client case records in the state's statewide automated child welfare information system.

(d) Specify the procedures to be used by the parties to resolve differences in interpreting the contract or to resolve disputes as to the adequacy of the parties' compliance with their respective obligations under the contract.

(2) The department must adopt written policies and procedures for monitoring the contract for delivery of services by lead agencies. These policies and procedures must, at a minimum, address the evaluation of fiscal accountability and program operations, including provider achievement of performance standards, provider monitoring of subcontractors, and timely follow up of corrective actions for significant monitoring findings related to providers and subcontractors.

These policies and procedures must also include provisions for reducing the duplication of the department's program monitoring activities both internally and with other agencies, to the extent possible. The department's written procedures must ensure that the written findings, conclusions, and recommendations from monitoring the contract for services of lead agencies are communicated to the director of the provider agency and the community-based care alliance as expeditiously as possible.

(3) The department shall receive federal and state funds as appropriated for the operation of the child welfare system and shall transmit these funds to the lead agencies as agreed. The department retains responsibility for the appropriate spending of these funds. The department shall monitor lead agencies to assess compliance with the financial guidelines established pursuant to s. 409.992 and other applicable state and federal laws.

(4) The department shall provide technical assistance and consultation to lead agencies in the provision of care to children in the child protection and child welfare system.

(5) The department retains the responsibility for the review, approval or denial, and issuances of all foster home licenses.

(6) The department shall process all applications submitted by lead agencies for the Interstate Compact for Placement of Children and the Interstate Compact for Adoption and Medical Assistance.

(7) The department shall assist lead agencies with access to and coordination with other service programs within the department.

(8) The department shall determine Medicaid eligibility for all referred children and will coordinate services with the Agency for Health Care Administration.

(9) The department shall develop, in cooperation with the lead agencies, a standardized competency-based curriculum for certification training and for administering the certification testing program for child protection staff.

(10) The department shall maintain the statewide adoptions website and provide information and training to the lead agencies relating to the website.

(11) The department shall provide training and assistance to lead agencies regarding the responsibility of lead agencies relating to children receiving supplemental security income, social security, railroad retirement, or veterans' benefits.

(12) With the assistance of a lead agency, the department shall develop and implement statewide and local interagency agreements needed to coordinate services for children and parents involved in the child welfare system who are also involved with the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Education, the Department of Health, and other governmental organizations that share responsibilities for children or parents in the child welfare system.

(13) With the assistance of a lead agency, the department shall develop and implement a working agreement between the lead agency and the substance abuse and mental health managing entity to integrate services and supports for children and parents serviced in the child welfare system.

(14) The department shall work with the Agency for Health

Care Administration to provide each child the services of the Medicaid early and periodic screening, diagnosis, and treatment entitlement including 72-hour screening, periodic child health checkups, and prescribed followup for ordered services, including medical, dental, and vision care.

(15) The department shall assist lead agencies in developing an array of services in compliance with the Title IV-E Waiver and shall monitor the provision of those services.

(16) The department shall provide a mechanism to allow lead agencies to request a waiver of department policies and procedures that create inefficiencies or inhibit the performance of the lead agency duties.

(17) The department shall directly or through contract provide attorneys to prepare and present cases in dependency court and shall ensure that the court is provided with adequate information for informed decisionmaking in dependency cases, including a fact sheet for each case which lists the names and contact information for any child protective investigator, child protective investigation supervisor, case manager, case manager supervisor, and the regional department official responsible for the lead agency contract. For the Sixth Judicial Circuit, the department shall contract with the state attorney for the provision of these services.

(18) The department, in consultation with lead agencies, shall establish a quality assurance program for contracted services to dependent children. The quality assurance program shall be based on standards established by federal and state law and national accrediting organizations.

(a) The department must evaluate each lead agency under

contract at least annually. These evaluations shall cover the programmatic, operational, and fiscal operations of the lead agency and be consistent with the child welfare results-oriented accountability system pursuant to s. 409.997. The department must consult with the chief judge on the performance of the lead agency.

(b) The department shall, to the extent possible, use independent financial audits provided by the lead agency to eliminate or reduce the ongoing contract and administrative reviews conducted by the department. If the department determines that such independent financial audits are inadequate, other audits, as necessary, may be conducted by the department. This paragraph does not abrogate the requirements of s. 215.97.

(c) The department may suggest additional items to be included in such independent financial audits to meet the department's needs.

(d) The department may outsource programmatic, administrative, or fiscal monitoring oversight of lead agencies.

(e) A lead agency must assure that all subcontractors are subject to the same quality assurance activities as the lead agency.

Section 20. Section 409.997, Florida Statutes, is created to read:

409.997 Child welfare results-oriented accountability system.—

(1) The department and its contract providers, including lead agencies, community-based care providers, and other community partners participating in the state's child protection

and child welfare system, share the responsibility for achieving the outcome goals specified in s. 409.986(2).

(2) In order to assess the achievement of the goals specified in s. 409.986(2), the department shall 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. In maintaining the accountability system, the department shall:

(a) Identify valid and reliable outcome measures for each of the goals specified in this subsection. The outcome data set must consist of a limited number of understandable measures using available data to quantify outcomes as children move through the system of care. Such measures may aggregate multiple variables that affect the overall achievement of the outcome goal. Valid and reliable measures must be based on adequate sample sizes, be gathered over suitable time periods, reflect authentic rather than spurious results, and may not be susceptible to manipulation.

(b) Implement a monitoring system to track the identified outcome measures on a statewide, regional, and provider-specific basis. The monitoring system must identify trends and chart progress toward achievement of the goals specified in this section. The requirements of the monitoring system may be incorporated into the quality assurance system required under s. 409.996(18).

(c) Develop and maintain an analytical system that builds on the outcomes monitoring system to assess the statistical

validity of observed associations between child welfare interventions and the measured outcomes. The analysis must use quantitative methods to adjust for variations in demographic or other conditions. The analysis must include longitudinal studies to evaluate longer term outcomes such as continued safety, family permanence, and transition to self-sufficiency. The analysis may also include qualitative research methods to provide insight into statistical patterns.

(d) Develop and maintain a program of research review to identify interventions that are supported by evidence as causally linked to improved outcomes.

(e) Support an ongoing process of evaluation to determine the efficacy and effectiveness of various interventions. Efficacy evaluation is intended to determine the validity of a causal relationship between an intervention and an outcome. Effectiveness evaluation is intended to determine the extent to which the results can be generalized.

(f) Develop and maintain an inclusive, interactive, and evidence-supported program of quality improvement which promotes individual skill building as well as organizational learning.

(g) Develop and implement a method for making the results of the accountability system transparent for all parties involved in the child welfare system as well as policymakers and the public. The presentation shall provide a comprehensible, visual report card for the state and each community-based care region, indicating the current status relative to each goal and trends in that status over time.

(3) The department shall establish a technical advisory panel consisting of representatives from the Florida Institute

for Child Welfare established pursuant to s. 1004.615, lead agencies, community-based care providers, other contract providers, community-based care alliances, and family representatives. The President of the Senate and the Speaker of the House of Representatives shall each appoint a member to serve as a legislative liaison to the panel. The technical advisory panel shall advise the department on meeting the requirements of this section.

(4) The accountability system may not rank or compare performance among community-based care regions unless adequate and specific adjustments are adopted which account for the diversity in regions' demographics, resources, and other relevant characteristics.

(5) The results of the accountability system must provide the basis for performance incentives if funds for such payments are made available through the General Appropriations Act.

(6) At least quarterly, the department shall make the results of the accountability system available to the public through publication on its website. The website must allow for custom searches of the performance data.

(7) The department shall report by October 1 of each year the statewide and individual community-based care lead agency results for child protection and child welfare systems. The department shall use the accountability system and consult with the community-based care alliance and the chief judge or judges in the community-based care service area to prepare the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 21. Section 409.998, Florida Statutes, is created

to read:

409.998 Community-based care alliances.—

(1) The department shall, in consultation with local communities, establish at least one alliance in each community-based care service area to provide a focal point for community participation and governance of child protection and child welfare services. The alliance shall be administratively housed within the department.

(2) The primary duty of the alliance is to provide independent, community-focused oversight of child welfare services and the local system of community-based care. To perform this duty, the community alliance shall, with the assistance of the department, perform the following activities:

(a) Conduct a needs assessment and establishment of community priorities for child protection and child welfare services.

(b) Advise the department on the programmatic or financial performance of the lead agency.

(c) Recommend a competitive procurement for the lead agency if programmatic or financial performance is poor.

(d) Recommend a contract extension for the lead agency if programmatic or financial performance is superior.

(e) Make recommendations on the development of the procurement document. The alliance may suggest specific requirements relating to local needs and services.

(f) Make recommendations to the department on selection of a community-based care lead agency.

(g) Review the programmatic and financial performance of a lead agency at least quarterly.

(h) In partnership with the Florida Institute for Child Welfare established under s. 1004.615, develop recommendations to the department and the community-based care lead agency to improve child protection and child welfare policies and practices.

(i) Promote greater community involvement in community-based care through participation in community-based care lead agency services and activities, solicitation of local financial and in-kind resources, recruitment and retention of community volunteers, and public awareness efforts.

(3) The membership of the alliance shall be composed of the following:

(a) A representative from county government chosen by mutual agreement by the county boards of commission in the service area.

(b) A representative from the school district chosen by mutual agreement by the county school boards in the service area.

(c) A representative from the county sheriff's office chosen by mutual agreement by the county sheriffs in the service area.

(d) A representative from the circuit court chosen by the chief judge of the judicial circuit.

(e) An advocate for persons receiving child protection and child welfare services chosen by the secretary.

(f) One member appointed by the President of the Senate.

(g) One member appointed by the Speaker of the House of Representatives.

(h) Three other members chosen by the secretary of the

department based on their expertise in child protection and child welfare.

(4) A member of the alliance may not receive payment for contractual services from the department or a community-based care lead agency.

(5) A member of the alliance shall serve without compensation but is entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. Payment may also be authorized for preapproved child care expenses or lost wages for members who are consumers of the department's services and for preapproved child care expenses for other members who demonstrate hardship.

(6) A member of the alliance is subject to part III of chapter 112, the Code of Ethics for Public Officers and Employees.

(7) Actions taken by an alliance must be consistent with department, state, and federal laws, rules, and regulations.

(8) A member of the alliance shall annually submit a disclosure statement of services interests to the department's inspector general. A member who has an interest in a matter under consideration by the alliance must abstain from voting on that matter.

(9)(a) *Authority to create a direct-support organization.*—The alliance is authorized to create a direct-support organization.

1. The direct-support organization must be a Florida corporation, not for profit, incorporated under the provisions of chapter 617. The direct-support organization shall be exempt from paying fees under s. 617.0122.

2. The direct-support organization shall be organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the lead agency.

3. If the Secretary of Children and Families determines that the direct-support organization is operating in a manner that is inconsistent with the goals and purposes of community-based care or not acting in the best interest of the community, the secretary may terminate the contract and thereafter the organization may not use the name of the community-based care alliance.

(b) *Contract.*—The direct-support organization shall operate under a written contract with the department. The written contract must, at a minimum, provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the secretary.

2. Submission of an annual budget for the approval by the secretary or his or her designee.

3. The reversion without penalty to the department of all moneys and property held in trust by the direct-support organization for the community-based care alliance if the direct-support organization ceases to exist or if the contract is terminated.

4. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

5. The disclosure of material provisions of the contract and the distinction between the community-based care alliance and the direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

(c) *Board of directors.*—The secretary or his or her designee shall appoint a board of directors for the direct-support organization. The secretary or his or her designee may designate members of the alliance or employees of the department and the lead agency to serve on the board of directors. Members of the board shall serve at the pleasure of the secretary or his or her designee.

(d) *Use of property and services.*—The secretary or his or her designee may:

1. Authorize the use of facilities and property other than moneys that are owned by the state to be used by the direct-support organization.

2. Authorize the use of personal services provided by employees of the department. For the purposes of this section, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing.

3. Prescribe the conditions by which the direct-support organization may use property, facilities, or personal services of the office.

4. Not authorize the use of property, facilities, or personal services of the direct-support organization if the organization does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

(e) *Moneys.*—Moneys of the direct-support organization may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the department.

(f) *Annual audit.*—The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

(g) *Limits on the direct-support organization.*—The direct-support organization may not exercise any power under s. 617.0302(12) or (16). A state employee may not receive compensation from the direct-support organization for service on the board of directors or for services rendered to the direct-support organization.

(h) *Repeal.*—The authority to create a direct-support organization expires October 1, 2019, unless saved from repeal by reenactment by the Legislature.

(10) All alliance meetings are open to the public pursuant to s. 286.011 and the public records provision of s. 119.07(1).

Section 22. Subsection (4) of section 20.19, Florida Statutes, is repealed.

Section 23. Sections 409.1671, 409.16715, and 409.16745, Florida Statutes, are repealed.

Section 24. Paragraph (g) of subsection (1) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(1)

(g) Nothing in this chapter or in the contracting with community-based care providers for foster care and related

services as specified in s. 409.987 ~~s. 409.1671~~ shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

Section 25. Subsections (1), (3), and (5) of section 409.1676, Florida Statutes, are amended to read:

409.1676 Comprehensive residential group care services to children who have extraordinary needs.—

(1) It is the intent of the Legislature to provide comprehensive residential group care services, including residential care, case management, and other services, to children in the child protection system who have extraordinary needs. These services are to be provided in a residential group care setting by a not-for-profit corporation or a local government entity under a contract with the Department of Children and Families ~~Family Services~~ or by a lead agency as described in s. 409.986 ~~s. 409.1671~~. These contracts should be designed to provide an identified number of children with access to a full array of services for a fixed price. Further, it is the intent of the Legislature that the Department of Children and Families ~~Family Services~~ and the Department of Juvenile Justice establish an interagency agreement by December 1, 2002, which describes respective agency responsibilities for referral, placement, service provision, and service coordination for dependent and delinquent youth who are referred to these residential group care facilities. The agreement must require interagency collaboration in the development of terms,

conditions, and performance outcomes for residential group care contracts serving the youth referred who have been adjudicated both dependent and delinquent.

(3) The department, in accordance with a specific appropriation for this program, shall contract with a not-for-profit corporation, a local government entity, or the lead agency that has been established in accordance with s. 409.987 ~~s. 409.1671~~ for the performance of residential group care services described in this section. A lead agency that is currently providing residential care may provide this service directly with the approval of the local community alliance. The department or a lead agency may contract for more than one site in a county if that is determined to be the most effective way to achieve the goals set forth in this section.

(5) The department may transfer all casework responsibilities for children served under this program to the entity that provides this service, including case management and development and implementation of a case plan in accordance with current standards for child protection services. When the department establishes this program in a community that has a lead agency as described in s. 409.986 ~~s. 409.1671~~, the casework responsibilities must be transferred to the lead agency.

Section 26. Subsection (2) of section 409.1677, Florida Statutes, is amended to read:

409.1677 Model comprehensive residential services programs.—

(2) The department shall establish a model comprehensive residential services program in Manatee and Miami-Dade Counties through a contract with the designated lead agency established

in accordance with s. 409.987 ~~s. 409.1671~~ or with a private entity capable of providing residential group care and home-based care and experienced in the delivery of a range of services to foster children, if no lead agency exists. These model programs are to serve that portion of eligible children within each county which is specified in the contract, based on funds appropriated, to include a full array of services for a fixed price. The private entity or lead agency is responsible for all programmatic functions necessary to carry out the intent of this section.

Section 27. Subsection (24) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject

to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Families ~~Family Services~~, may establish a targeted case-management project in those counties identified by the Department of Children and Families ~~Family Services~~ and for all counties with a community-based child welfare project, as authorized under s. 409.987 ~~s. 409.1671~~, which have been specifically approved by the department. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management is limited to the number for whom the Department of Children and Families ~~Family Services~~ has matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.990 ~~s. 409.1671~~. The Department of Children and Families ~~Family Services~~ may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 28. Paragraph (b) of subsection (4) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy

management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules

to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(4) The agency may contract with:

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such entity must be licensed under chapter 624, chapter 636, or chapter 641, or authorized under paragraph (c) or paragraph (d), and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Families ~~Family Services~~ shall approve provisions of procurements related to children in the department's care or custody before enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. Except as provided in subparagraph 5., and except in counties where the Medicaid managed care pilot program is authorized pursuant to s.

409.91211, the agency shall seek federal approval to contract with a single entity meeting these requirements to provide comprehensive behavioral health care services to all Medicaid recipients not enrolled in a Medicaid managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in an AHCA area. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and are subject to this paragraph. Each entity must offer a sufficient choice of providers in its network to ensure recipient access to care and the opportunity to select a provider with whom they are satisfied. The network shall include all public mental health hospitals. To ensure unimpaired access to behavioral health care services by Medicaid recipients, all contracts issued pursuant to this paragraph must require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations and capitated provider service networks, to be expended for the provision of behavioral health care services. If the managed care plan expends less than 80 percent of the capitation paid for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the plan with a certification letter indicating the amount of capitation paid during each calendar year for behavioral health care services pursuant to this section. The agency may reimburse for substance abuse treatment services on a fee-for-service

basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. The agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance abuse treatment services.

2. Except as provided in subparagraph 5., the agency and the Department of Children and Families ~~Family Services~~ shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan to provide comprehensive behavioral health services to all recipients who are not enrolled in a Medicaid health maintenance organization, a provider service network authorized under paragraph (d), or a Medicaid capitated managed care plan authorized under s. 409.91211. The agency may contract with more than one comprehensive behavioral health provider to provide care to recipients who are not enrolled in a Medicaid capitated managed care plan authorized under s. 409.91211, a provider service network authorized under paragraph (d), or a Medicaid health maintenance organization in AHCA areas where the eligible population exceeds 150,000. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a

contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations are eligible to compete. Managed care plans contracting with the agency under subsection (3) or paragraph (d) shall provide and receive payment for the same comprehensive behavioral health benefits as provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts must be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-effectiveness of the provision of quality mental health services through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. Of the recipients in area 11 who are assigned to MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.

3. Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Families ~~Family Services~~ residential program approved as a Medicaid behavioral health overlay services provider may not be included in a behavioral health care prepaid

health plan or any other Medicaid managed care plan pursuant to this paragraph.

4. Traditional community mental health providers under contract with the Department of Children and Families ~~Family Services~~ pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Families ~~Family Services~~ in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

5. All Medicaid-eligible children, except children in area 1 and children in Highlands County, Hardee County, Polk County, or Manatee County of area 6, which ~~that~~ are open for child welfare services in the statewide automated child welfare information system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies through a single agency or formal agreements among several agencies. The agency shall work with the specialty plan to develop clinically effective, evidence-based alternatives as a downward substitution for the statewide inpatient psychiatric program and similar residential care and institutional services. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Families ~~Family Services~~. The agency may seek federal waivers to implement this initiative. Medicaid-

eligible children whose cases are open for child welfare services in the statewide automated child welfare information system and who reside in AHCA area 10 shall be enrolled in a capitated provider service network or other capitated managed care plan, which, in coordination with available community-based care providers specified in s. 409.987 ~~s. 409.1671~~, shall provide sufficient medical, developmental, and behavioral health services to meet the needs of these children.

Effective July 1, 2012, in order to ensure continuity of care, the agency is authorized to extend or modify current contracts based on current service areas or on a regional basis, as determined appropriate by the agency, with comprehensive behavioral health care providers as described in this paragraph during the period prior to its expiration. This paragraph expires October 1, 2014.

Section 29. Paragraph (dd) of subsection (3) of section 409.91211, Florida Statutes, is amended to read:

409.91211 Medicaid managed care pilot program.—

(3) The agency shall have the following powers, duties, and responsibilities with respect to the pilot program:

(dd) To implement service delivery mechanisms within a specialty plan in area 10 to provide behavioral health care services to Medicaid-eligible children whose cases are open for child welfare services in the HomeSafeNet system. These services must be coordinated with community-based care providers as specified in s. 409.986 ~~s. 409.1671~~, where available, and be sufficient to meet the developmental, behavioral, and emotional needs of these children. Children in area 10 who have an open

case in the HomeSafeNet system shall be enrolled into the specialty plan. These service delivery mechanisms must be implemented no later than July 1, 2011, in AHCA area 10 in order for the children in AHCA area 10 to remain exempt from the statewide plan under s. 409.912(4)(b)5. An administrative fee may be paid to the specialty plan for the coordination of services based on the receipt of the state share of that fee being provided through intergovernmental transfers.

Section 30. Paragraph (d) of subsection (1) of section 420.628, Florida Statutes, is amended to read:

420.628 Affordable housing for children and young adults leaving foster care; legislative findings and intent.—

(1)

(d) The Legislature intends that the Florida Housing Finance Corporation, agencies within the State Housing Initiative Partnership Program, local housing finance agencies, public housing authorities, and their agents, and other providers of affordable housing coordinate with the Department of Children and Families ~~Family Services~~, their agents, and community-based care providers who provide services under s. 409.986 ~~s. 409.1671~~ to develop and implement strategies and procedures designed to make affordable housing available whenever and wherever possible to young adults who leave the child welfare system.

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.

Senator Nancy C. Detert
Florida Senate, District 28

File signed original with committee office

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
	Sanford	Hendon		**CF SPB 7076 as introduced**
1.	Brown	Pigott	AHS	**Pre-meeting**
2.			AP	

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 negotiate[3] 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__

A bill to be entitled

An act relating to medically complex children; amending s. 39.001, F.S.; revising the purposes of ch. 39, F.S.; providing for the provision of services for medically complex children; conforming cross-references; amending s. 39.01, F.S.; defining the term "medical neglect"; conforming cross-references; amending s. 39.303, F.S.; revising legislative intent; 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; creating s. 39.3068, F.S.; providing requirements for an investigation of medical neglect; amending s. 409.165, F.S.; 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; conforming provisions to changes made by the act; amending s. 409.962, F.S.; redefining the term "provider service network"; amending s. 409.967, F.S.; requiring Medicaid managed care plans to provide specified information on children under the care of the Department of Children and Families; amending s. 409.974, F.S.; providing for contracting with eligible plans; revising provisions relating to negotiation with a provider service network; providing

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requirements for termination of a contract with a provider service network; amending ss. 39.302, 39.524, 316.613, 409.1678, and 960.065, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (o) is added to subsection (1) of section 39.001, Florida Statutes, and paragraph (k) of that subsection is amended, present paragraphs (f) through (h) of subsection (3) of that section are redesignated as paragraphs (g) through (i), respectively, and a new paragraph (f) is added to that subsection, and present subsections (4) through (11) of that section are redesignated as subsections (5) through (12), respectively, a new subsection (4) is added to that section, and paragraph (c) of present subsection (8) and paragraph (b) of present subsection (10) of that section are amended, to read:

39.001 Purposes and intent; personnel standards and screening.—

(1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

(k) To make every possible effort, if ~~when~~ two or more children who are in the care or under the supervision of the department are siblings, to place the siblings in the same home; and in the event of permanent placement of the siblings, to place them in the same adoptive home or, if the siblings are separated while under the care or supervision of the department or in a permanent placement, to keep them in contact with each other.

(o) To preserve and strengthen families who are caring for

medically complex children.

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(f) 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, which includes sufficient home and community-based services in an amount and scope comparable to those the child would receive in out-of-home care placement.

(4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the capacity of families to provide for their children's needs. Program services must include outreach, early intervention, and provision of home and community-based services such as care coordination, respite care, and direct home care. The department shall work with the Agency for Health Care Administration and the Department of Health to provide needed services.

(9) ~~(8)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (10) ~~(9)~~ and revise and update the state plan as necessary.

2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

d. Efforts to promote adoption.

e. Postadoptive services to support adoptive families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the head of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

a. A summary of the activities of the office.

b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.

c. A summary of the child abuse prevention data collected and reported to the National Child Abuse and Neglect Data System (NCANDS) and the federal Administration for Children and Families.

d. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system.

e. Recommendations, by state agency, for the further development and improvement of services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.

f. Budget requests, adoption promotion and support needs, and child abuse prevention program needs by state agency.

6. Work with the direct-support organization established under s. 39.0011 to receive financial assistance.

(11)~~(10)~~ FUNDING AND SUBSEQUENT PLANS.—

(b) The office and the other agencies and organizations listed in paragraph (10)(a) ~~(9)(a)~~ shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update

the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

Section 2. Present subsections (42) through (76) of section 39.01, Florida Statutes, are redesignated as subsections (43) through (77), respectively, a new subsection (42) is added to that section, and subsections (10) and (33) are amended, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (48) ~~(47)~~.

(33) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care as defined in subsection (48) ~~(47)~~.

(42) "Medical neglect" means 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. Medical neglect does not occur if:

(a) The parent or legal custodian of the child has made reasonable attempts to obtain necessary health care services or the immediate health condition giving rise to the allegation of neglect is a known and expected complication of the child's diagnosis or treatment; and

(b) The recommended care offers limited net benefit to the child and the morbidity or other side effects of the treatment may be considered to be greater than the anticipated benefit.

Section 3. Section 39.303, Florida Statutes, is amended to read:

39.303 Child protection teams; services; eligible cases.—The Children's Medical Services Program in the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. ~~The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between~~ The Department of Health and the Department of Children and Families ~~Family Services. The two departments~~ shall maintain an interagency

agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The State Surgeon General and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall use ~~utilize~~ and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation program of the Department of Children and Families ~~Family Services~~. ~~Nothing in~~ This section does not ~~shall be construed to~~ remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of related findings ~~relative thereto~~.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who is alleged or is shown to be abused, abandoned, or neglected. The~~,~~ ~~which~~ consultation shall be provided at the request of a representative of the family safety and preservation program or at the request of any other professional involved with a child or the child's parent or parents, legal custodian or custodians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a family safety and preservation program representative shall attend and participate.

(g) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(h) Such training services for program and other employees of the Department of Children and Families ~~Family Services~~,

employees of the Department of Health, and other medical professionals as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse, abandonment, and neglect cases.

(i) Educational and community awareness campaigns on child abuse, abandonment, and neglect in an effort to enable citizens more successfully to prevent, identify, and treat child abuse, abandonment, and neglect in the community.

(j) Child protection team assessments that include, as appropriate, medical evaluations, medical consultations, family psychosocial interviews, specialized clinical interviews, or forensic interviews.

All medical personnel participating on a child protection team must successfully complete the required child protection team training curriculum as set forth in protocols determined by the Deputy Secretary for Children's Medical Services and the Statewide Medical Director for Child Protection. A child protection team that is evaluating a report of medical neglect and assessing the health care needs of a medically complex child shall consult with a physician who has experience in treating children with the same condition.

(2) The child abuse, abandonment, and neglect reports that must be referred by the department to child protection teams of the Department of Health for an assessment and other appropriate available support services as set forth in subsection (1) must include cases involving:

(a) Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.

(b) Bruises anywhere on a child 5 years of age or under.

(c) Any report alleging sexual abuse of a child.

(d) Any sexually transmitted disease in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

(3) All abuse and neglect cases transmitted for investigation to a district by the hotline must be simultaneously transmitted to the Department of Health child protection team for review. For the purpose of determining whether face-to-face medical evaluation by a child protection team is necessary, all cases transmitted to the child protection team which meet the criteria in subsection (2) must be timely reviewed by:

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of a physician licensed under chapter 458 or

chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(c) An advanced registered nurse practitioner licensed under chapter 464 who has a specialty ~~speciality~~ in pediatrics or family medicine and is a member of a child protection team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of a physician licensed under chapter 458 or chapter 459 who holds certification in pediatrics and is a member of a child protection team.

(4) A face-to-face medical evaluation by a child protection team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team board-certified pediatrician, advanced registered nurse practitioner, physician assistant working under the supervision of a child protection team board-certified pediatrician, or registered nurse working under the direct supervision of a child protection team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as

described in paragraphs (2)(a)-(h) as reported; or

(c) The child protection team board-certified pediatrician, as authorized in subsection (3), determines that a medical evaluation is not required.

Notwithstanding paragraphs (a), (b), and (c), a child protection team pediatrician, as authorized in subsection (3), may determine that a face-to-face medical evaluation is necessary.

(5) In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Families ~~Family Services~~, shall avoid duplicating the provision of those services.

(6) The Department of Health child protection team quality assurance program and the Department of Children and Families' ~~Family Services'~~ Family Safety Program Office quality assurance program shall collaborate to ensure referrals and responses to child abuse, abandonment, and neglect reports are appropriate. Each quality assurance program shall include a review of records in which there are no findings of abuse, abandonment, or neglect, and the findings of these reviews shall be included in each department's quality assurance reports.

Section 4. Section 39.3068, Florida Statutes, is created to read:

39.3068 Reports of medical neglect.—

(1) A report of medical neglect as defined in s. 39.01 must be investigated by staff who have specialized training in medical neglect and medically complex children.

(2) The investigation must identify any immediate medical needs of the child and must use a family-centered approach to assess the capacity of the family to meet those needs.

(3) A family-centered approach is intended to increase independence on the part of the family, accessibility to programs and services within the community, and collaboration between families and their service providers. The ethnic, cultural, economic, racial, social, and religious diversity of families must be respected and considered in the development and provision of services.

(4) An investigation of cases involving medically complex children must include determination of Medicaid coverage for needed services and coordination with the Agency for Health Care Administration to secure such covered services.

Section 5. Section 409.165, Florida Statutes, is amended to read:

409.165 Alternate care for children.—

(1) Within funds appropriated, the department shall establish and supervise a program of emergency shelters, runaway shelters, foster homes, group homes, agency-operated group treatment homes, nonpsychiatric residential group care facilities, psychiatric residential treatment facilities, and other appropriate facilities to provide shelter and care for dependent children who must be placed away from their families. The department, in accordance with outcome ~~established~~ goals established in s. 409.986, shall contract for the provision of such shelter and care by counties, municipalities, nonprofit corporations, and other entities capable of providing needed services if:

(a) The services so provided comply with all department standards, policies, and procedures ~~are available~~;

(b) The services can be ~~so~~ provided at a reasonable cost ~~are more cost-effective than those provided by the department~~; and

(c) Unless otherwise provided by law, such providers of shelter and care are licensed by the department.

~~It is the legislative intent that the~~

(2) Funds appropriated for the alternate care of children as described in this section may be used to meet the needs of children in their own homes or those of relatives if the children can be safely served in such settings ~~their own homes, or the homes of relatives~~, and the expenditure of funds in such manner is equal to or less than the cost of out-of-home placement ~~calculated by the department to be an eventual cost savings over placement of children~~.

(3)~~(2)~~ The department shall ~~may~~ cooperate with all child service institutions or agencies within the state which meet the department's standards in order to maintain a comprehensive, coordinated, and inclusive system for promoting and protecting the well-being of children, consistent with the goals established in s. 409.986 ~~rules for proper care and supervision prescribed by the department for the well-being of children~~.

(a) The department shall work with the Department of Health in the development, utilization, and monitoring of medical foster homes for medically complex children.

(b) The department shall work with the Agency for Health Care Administration 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.

(4)~~(3)~~ With the written consent of parents, custodians, or guardians, or in accordance with those provisions in chapter 39 that relate to dependent children, the department, under rules properly adopted, may place a child:

(a) With a relative;

(b) With an adult nonrelative approved by the court for long-term custody;

(c) With a person who is considering the adoption of a child in the manner provided for by law;

(d) When limited, except as provided in paragraph (b), to temporary emergency situations, with a responsible adult approved by the court;

(e) With a person or family approved by the department to serve as a medical foster home;

(f)~~(c)~~ With a person or agency licensed by the department in accordance with s. 409.175; or

(g)~~(f)~~ In a subsidized independent living situation, subject to the provisions of s. 409.1451(4)(c),

under such conditions as are determined to be for the best interests or the welfare of the child. Any child placed in an institution or in a family home by the department or its agency may be removed by the department or its agency, and such other disposition may be made as is for the best interest of the child, including transfer of the child to another institution, another home, or the home of the child. Expenditure of funds

appropriated for out-of-home care can be used to meet the needs of a child in the child's own home or the home of a relative if the child can be safely served in the child's own home or that of a relative if placement can be avoided by the expenditure of such funds, and if the expenditure of such funds in this manner is equal to or less than the cost of out-of-home placement ~~calculated by the department to be a potential cost savings~~.

Section 6. Subsection (13) of section 409.962, Florida Statutes, is amended to read:

409.962 Definitions.—As used in this part, except as otherwise specifically provided, the term:

(13) "Provider service network" means an entity qualified pursuant to s. 409.912(4)(d) of which a controlling interest is owned by a health care provider, or group of ~~affiliated~~ providers affiliated for the purpose of providing health care, or a public agency or entity that delivers health services. Health care providers include Florida-licensed health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.

Section 7. Paragraph (c) of subsection (2) of section 409.967, Florida Statutes, is amended to read:

409.967 Managed care plan accountability.—

(2) The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract must require:

(c) *Access.*—

1. The agency shall establish specific standards for the number, type, and regional distribution of providers in managed

care plan networks to ensure access to care for both adults and children. Each plan must maintain a regionwide network of providers in sufficient numbers to meet the access standards for specific medical services for all recipients enrolled in the plan. The exclusive use of mail-order pharmacies may not be sufficient to meet network access standards. Consistent with the standards established by the agency, provider networks may include providers located outside the region. A plan may contract with a new hospital facility before the date the hospital becomes operational if the hospital has commenced construction, will be licensed and operational by January 1, 2013, and a final order has issued in any civil or administrative challenge. Each plan shall establish and maintain an accurate and complete electronic database of contracted providers, including information about licensure or registration, locations and hours of operation, specialty credentials and other certifications, specific performance indicators, and such other information as the agency deems necessary. The database must be available online to both the agency and the public and have the capability to compare the availability of providers to network adequacy standards and to accept and display feedback from each provider's patients. Each plan shall submit quarterly reports to the agency identifying the number of enrollees assigned to each primary care provider.

2. Each managed care plan must publish any prescribed drug formulary or preferred drug list on the plan's website in a manner that is accessible to and searchable by enrollees and providers. The plan must update the list within 24 hours after making a change. Each plan must ensure that the prior

authorization process for prescribed drugs is readily accessible to health care providers, including posting appropriate contact information on its website and providing timely responses to providers. For Medicaid recipients diagnosed with hemophilia who have been prescribed anti-hemophilic-factor replacement products, the agency shall provide for those products and hemophilia overlay services through the agency's hemophilia disease management program.

3. Managed care plans, and their fiscal agents or intermediaries, must accept prior authorization requests for any service electronically.

4. Managed care plans serving children in the care and custody of the Department of Children and Families must maintain complete medical, dental, and behavioral health information and provide such information to the department for inclusion in the state's child welfare data system. Using such documentation, the agency and the department shall determine the plan's compliance with standards for access to medical, dental, and behavioral health services, the use of psychotropic medications, and followup on all medically necessary services recommended as a result of early and periodic screening diagnosis and treatment.

Section 8. Subsection (1) of section 409.974, Florida Statutes, is amended to read:

409.974 Eligible plans.—

(1) ELIGIBLE PLAN SELECTION AND CONTRACTING.—The agency shall select eligible plans through the procurement process described in s. 409.966. The agency shall notice invitations to negotiate no later than January 1, 2013.

(a) The agency shall procure and contract with two plans

for Region 1. At least one plan shall be a provider service network if any provider service networks submit a responsive bid.

(b) The agency shall procure and contract with two plans for Region 2. At least one plan shall be a provider service network if any provider service networks submit a responsive bid.

(c) The agency shall procure and contract with at least three plans and up to five plans for Region 3. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(d) The agency shall procure and contract with at least three plans and up to five plans for Region 4. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(e) The agency shall procure and contract with at least two plans and up to four plans for Region 5. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(f) The agency shall procure and contract with at least four plans and up to seven plans for Region 6. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(g) The agency shall procure and contract with at least three plans and up to six plans for Region 7. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(h) The agency shall procure and contract with at least two plans and up to four plans for Region 8. At least one plan must

be a provider service network if any provider service networks submit a responsive bid.

(i) The agency shall procure and contract with at least two plans and up to four plans for Region 9. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(j) The agency shall procure and contract with at least two plans and up to four plans for Region 10. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

(k) The agency shall procure and contract with at least five plans and up to 10 plans for Region 11. At least one plan must be a provider service network if any provider service networks submit a responsive bid.

If no provider service network submits a responsive bid, the agency shall procure and contract with no more than one less than the maximum number of eligible plans permitted in that region, and, within the next~~. Within~~ 12 months ~~after the initial invitation to negotiate~~, the agency shall issue an invitation to negotiate in order ~~attempt~~ to procure and contract with a provider service network. The agency shall terminate the contract and provide notice for another invitation to negotiate when changes in the corporate ownership and structure of the only ~~with~~ provider service network ~~networks~~ in a region causes the managed care plan to no longer meet the definition of a provider service network under s. 409.962(13) ~~those regions where no provider service network has been selected~~.

Section 9. Subsection (1) of section 39.302, Florida

Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(33) or (48) ~~(47)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information

regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 10. Subsection (1) of section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in s. 39.01(68)(g) ~~s. 39.01(67)(g)~~ must be assessed for placement in a safe house as provided in s. 409.1678. The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports; psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and any other information concerning the availability and suitability of safe-house placement. If such placement is determined to be appropriate as a result of this assessment, the child may be placed in a safe house, if one is available. As used in this section, the term "available" as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.

Section 11. Subsection (6) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(6) The child restraint requirements imposed by this section do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation. It is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare~~,~~ as defined in s. 39.01~~(47),~~ to comply with the requirements of this section.

Section 12. Paragraph (d) of subsection (1) of section 409.1678, Florida Statutes, is amended to read:

409.1678 Safe harbor for children who are victims of sexual exploitation.—

(1) As used in this section, the term:

(d) "Sexually exploited child" means a dependent child who has suffered sexual exploitation as defined in s. 39.01(68)(g) ~~s. 39.01(67)(g)~~ and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

Section 13. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(68)(g) ~~s. 39.01(67)(g)~~.

Section 14. This act shall take effect July 1, 2014.

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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. 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


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otherwise, the meanings given to them in this subsection:

~~(d) "Fund" means the Florida Cancer Control and Research Fund established by this section.~~

~~(e) "Qualified nonprofit association" means any association, incorporated or unincorporated, that has received tax-exempt status from the Internal Revenue Service.~~

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(a) There is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc., the Florida Cancer Control and Research Advisory Council. The council shall consist of 15 ~~35~~ members, which includes the chairperson, all of whom must be residents of this state. The State Surgeon General or his or her designee within the Department of Health shall be one of the 15 members. ~~All~~ Members, except those appointed by the Governor, the Speaker of the House of Representatives, or ~~and~~ the President of the Senate, must be appointed by the chief executive officer of the institution or organization represented, or his or her designee ~~Governor~~. ~~At least one of the members appointed by the Governor must be 60 years of age or older.~~ One member must be a representative of the American Cancer Society; ~~one member must be a representative of the Florida Tumor Registrars Association;~~ one member must be a representative of the Sylvester Comprehensive Cancer Center of the University of Miami; ~~one member must be a representative of the Department of Health;~~ one member must be a representative of the University of Florida Shands Cancer Center; ~~one member must be a representative of the Agency for Health Care Administration;~~ one member must be a representative of the

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Florida Nurses Association who specializes in the field of oncology and is not from an institution or organization already represented on the council; one member must be a representative of the Florida Osteopathic Medical Association who specializes in the field of oncology; ~~one member must be a representative of the American College of Surgeons; one member must be a representative of the School of Medicine of the University of Miami; one member must be a representative of the College of Medicine of the University of Florida; one member must be a representative of NOVA Southeastern College of Osteopathic Medicine; one member must be a representative of the College of Medicine of the University of South Florida; one member must be a representative of the College of Public Health of the University of South Florida; one member must be a representative of the Florida Society of Clinical Oncology; one member must be a representative of the Florida Obstetric and Gynecologic Society who has had training in the specialty of gynecologic oncology; one member must be a representative of the Florida Ovarian Cancer Alliance Speaks (FOCAS) organization;~~ one member must be a member ~~representative~~ of the Florida Medical Association who specializes in the field of oncology and who represents a cancer center not already represented on the council; ~~one member must be a member of the Florida Pediatric Society; one member must be a representative of the Florida Radiological Society; one member must be a representative of the Florida Society of Pathologists;~~ one member must be a representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.; one member must be a member of the Florida Hospital Association who specializes in the field of oncology

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and who represents a comprehensive cancer center not already represented on the council; one member must be a representative of the Association of Community Cancer Centers; one member must specialize in pediatric oncology research or clinical care appointed by the Governor; one member must specialize in oncology clinical care or research appointed by the President of the Senate; one member must be a current or former cancer patient or a current or former caregiver to a cancer patient appointed by the Speaker of the House of Representatives ~~three members must be representatives of the general public acting as consumer advocates~~; one member must be a member of the House of Representatives appointed by the Speaker of the House of Representatives; and one member must be a member of the Senate appointed by the President of the Senate~~; one member must be a representative of the Florida Dental Association; one member must be a representative of the Florida Hospital Association; one member must be a representative of the Association of Community Cancer Centers; one member shall be a representative from a statutory teaching hospital affiliated with a community-based cancer center; one member must be a representative of the Florida Association of Pediatric Tumor Programs, Inc.; one member must be a representative of the Cancer Information Service; one member must be a representative of the Florida Agricultural and Mechanical University Institute of Public Health; and one member must be a representative of the Florida Society of Oncology Social Workers~~. ~~Of the members of the council appointed by the Governor,~~ At least four of the members ~~10~~ must be individuals who are minority persons as defined by s. 288.703.

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(b) The terms of the members shall be 4 years from their respective dates of appointment with the option of renewal.

(c) A chairperson shall be selected by the council ~~appointed by the Governor~~ for a term of 2 years. The chairperson shall appoint an executive committee of no fewer than three persons to serve at the pleasure of the chairperson. This committee will prepare material for the council but make no final decisions.

(d) The council shall meet no less than semiannually at the call of the chairperson or, in his or her absence or incapacity, at the call of the State Surgeon General. Eight ~~Sixteen~~ members constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present is sufficient for all actions of the council.

(e) The council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members may be entitled to be reimbursed for ~~per diem and~~ travel expenses by the institution or organization the member represents. If a member is not affiliated with an institution or organization, the member shall be reimbursed for travel expenses by the H. Lee Moffitt Cancer Center and Research Institute, Inc.

~~(f) No member of the council shall participate in any discussion or decision to recommend grants or contracts to any qualified nonprofit association or to any agency of this state or its political subdivisions with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.~~

(f) ~~(g)~~ The council may prescribe, amend, and repeal bylaws

governing the manner in which the business of the council is conducted.

(g) ~~(h)~~ The council shall advise the Board of Governors, the State Surgeon General, and the Legislature with respect to cancer control and research in this state.

(h) ~~(i)~~ The council shall approve each year a program for cancer control and research to be known as the "Florida Cancer Control and Research Plan" which shall be consistent with the State Health Plan and integrated and coordinated with existing programs in this state.

(i) ~~(j)~~ The council shall collaborate with the Florida Biomedical Research Advisory Council to formulate and annually review and recommend to the State Surgeon General a statewide research plan. Additionally, the council shall develop and annually review a statewide "Florida Cancer Treatment Plan" ~~plan~~ for the care and treatment of persons suffering from cancer. The council shall ~~and~~ recommend the establishment of standard requirements for the organization, equipment, and conduct of cancer units or departments in hospitals and clinics in this state. The council may recommend to the State Surgeon General the designation of cancer units following a survey of the needs and facilities for treatment of cancer in the various localities throughout the state. The State Surgeon General shall consider the plans ~~plan~~ in developing departmental priorities and funding priorities and standards under chapter 395.

(j) ~~(k)~~ The council is responsible for including in the Florida Cancer Control and Research Plan recommendations for the coordination and integration of medical, nursing, paramedical, lay, and other plans concerned with cancer control and research.


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Committees shall be formed by the council so that the following areas will be established as entities for actions:

1. Cancer plan evaluation: tumor registry, data retrieval systems, and epidemiology of cancer in the state and its relation to other areas.

2. Cancer prevention.

3. Cancer detection.

4. Cancer patient management: treatment, rehabilitation, terminal care, and other patient-oriented activities.

5. Cancer education: lay and professional.

6. Unproven methods of cancer therapy: quackery and unorthodox therapies.

7. Investigator-initiated project research.

~~(l) In order to implement in whole or in part the Florida Cancer Plan, the council shall recommend to the Board of Governors or the State Surgeon General the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research.~~

~~(m) If funds are specifically appropriated by the Legislature, the council shall develop or purchase standardized written summaries, written in layperson's terms and in language easily understood by the average adult patient, informing actual and high-risk breast cancer patients, prostate cancer patients, and men who are considering prostate cancer screening of the medically viable treatment alternatives available to them in the effective management of breast cancer and prostate cancer; describing such treatment alternatives; and explaining the~~


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~~relative advantages, disadvantages, and risks associated therewith. The breast cancer summary, upon its completion, shall be printed in the form of a pamphlet or booklet and made continuously available to physicians and surgeons in this state for their use in accordance with s. 458.324 and to osteopathic physicians in this state for their use in accordance with s. 459.0125. The council shall periodically update both summaries to reflect current standards of medical practice in the treatment of breast cancer and prostate cancer. The council shall develop and implement educational programs, including distribution of the summaries developed or purchased under this paragraph, to inform citizen groups, associations, and voluntary organizations about early detection and treatment of breast cancer and prostate cancer.~~

(k) ~~(n)~~ The council shall have the responsibility to advise the Board of Governors and the State Surgeon General on methods of enforcing and implementing laws already enacted and concerned with cancer control, research, and education.

(l) ~~(o)~~ The council may recommend to the Board of Governors or the State Surgeon General rules not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this section.

(m) ~~(p)~~ The council shall formulate and put into effect a continuing educational program for the prevention of cancer and its early diagnosis and disseminate to hospitals, cancer patients, and the public information concerning the proper treatment of cancer.

(n) ~~(q)~~ The council shall be physically located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., at the

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University of South Florida.

(o) ~~(r)~~ The council shall select, by majority vote, seven members of the council who must combine with six members of the Biomedical Research Advisory Council to form a joint committee to develop performance measures, a rating system, a rating standard, and an application form for the Cancer Center of Excellence Award created in s. 381.925.

(p) ~~(s)~~ On February 15 of each year, the council shall report to the Governor and to the Legislature.

(5) RESPONSIBILITIES OF ~~THE BOARD OF GOVERNORS,~~ THE H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC.~~, AND THE STATE SURGEON GENERAL.~~

~~(a) The Board of Governors or the State Surgeon General, after consultation with the council, shall award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish, or conduct programs in cancer control and prevention, cancer education and training, and cancer research.~~

~~(b)~~ The H. Lee Moffitt Cancer Center and Research Institute, Inc., shall provide such staff, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council.

~~(c) The department may furnish to citizens of this state who are afflicted with cancer financial aid to the extent of the appropriation provided for that purpose in a manner which in its opinion will afford the greatest benefit to those afflicted and may make arrangements with hospitals, laboratories, or clinics to afford proper care and treatment for cancer patients in this state.~~

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~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.—~~

~~(a) There is created the Florida Cancer Control and Research Fund consisting of funds appropriated therefor from the General Revenue Fund and any gifts, grants, or funds received from other sources.~~

~~(b) The fund shall be used exclusively for grants and contracts to qualified nonprofit associations or 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 this section and the programs funded through the grants and contracts authorized by the State Board of Education or the State Surgeon General.~~

Section 2. Subsections (1) and (2) of section 458.324, Florida Statutes, are amended to read:

458.324 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term "medically viable," as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards~~, including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m)~~.

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) Each physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer shall inform such patient of the medically viable treatment alternatives available to such patient; shall

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describe such treatment alternatives; and shall explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection,~~:~~

~~(a)~~ the physician may, in his or her discretion,~~:~~

~~1.~~ orally communicate such information directly to the patient or the patient's legal representative~~;~~

~~2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express a willingness to discuss the summary with the patient or the patient's legal representative; or~~

~~3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion~~.

(b) In providing such information, the physician shall take into consideration the emotional state of the patient, the physical state of the patient, and the patient's ability to understand the information.

(c) The physician may, in his or her discretion and without restriction, recommend any mode of treatment which is in his or her judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 3. Subsections (1) and (2) of section 459.0125, Florida Statutes, are amended to read:

459.0125 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term "medically viable," as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards~~, including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m)~~.

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) It is the obligation of every physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer to inform such patient of the medically viable treatment alternatives available to such patient; to describe such treatment alternatives; and to explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection,~~:~~

~~(a)~~ the physician may, in her or his discretion,~~:~~

~~1.~~ orally communicate such information directly to the patient or the patient's legal representative~~;~~

~~2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express her or his willingness to discuss the summary with the patient or the patient's legal representative; or~~

~~3. Both communicate such information directly and provide a~~

~~copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion~~.

(b) In providing such information, the physician shall take into consideration the emotional state of the patient, the physical state of the patient, and the patient's ability to understand the information.

(c) The physician may, in her or his discretion and without restriction, recommend any mode of treatment which is in the physician's judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 4. This act shall take effect July 1, 2014.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to cancer control and research; amending s. 1004.435, F.S.; revising definitions; revising the membership of the Florida Cancer Control and Research Advisory Council and selection of the council chairperson; authorizing renewal of member terms; revising compensation of council members; renaming the Florida Cancer Plan; requiring the council to collaborate with the Florida Biomedical Research Advisory Council to formulate and review a

statewide research plan; requiring the council to develop and review a statewide treatment plan; deleting council, Board of Governors, and State Surgeon General duties 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; amending ss. 458.324 and 459.0125, F.S.; conforming provisions; providing an 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.	Looke	Stovall	HP	**Favorable**
2.	Brown/Loe	Pigott	AHS	**Fav/CS**
3.			AP	

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 members[6] 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 2014734__

A bill to be entitled

An act relating to cancer control and research; amending s. 1004.435, F.S.; revising definitions; revising the membership of the Florida Cancer Control and Research Advisory Council; requiring that the council chairperson be selected by the council; authorizing renewal of member terms; revising the compensation of council members; 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; amending ss. 458.324, and 459.0125, F.S.; conforming provisions to changes made by the act; making technical changes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (d) and (e) of subsection (3) and subsections (4) through (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 otherwise, the meanings given to them in this subsection:

~~(d) "Fund" means the Florida Cancer Control and Research Fund established by this section.~~

~~(e) "Qualified nonprofit association" means any association, incorporated or unincorporated, that has received tax-exempt status from the Internal Revenue Service.~~

(4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL; CREATION; COMPOSITION.—

(a) There is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc., the Florida Cancer Control and Research Advisory Council. The council shall consist of 15 ~~35~~ members, which includes the chairperson, all of whom must be residents of this state. The State Surgeon General or his or her designee within the Department of Health shall be one of the 15 members. ~~All~~ Members, except those appointed by the Governor, the Speaker of the House of Representatives, or ~~and~~ the President of the Senate, must be appointed by the chief executive officer of the institution or organization represented, or his or her designee ~~Governor~~. ~~At least one of the members appointed by the Governor must be 60 years of age or older.~~ One member must be a representative of the American Cancer Society; ~~one member must be a representative of the Florida Tumor Registrars Association;~~ one member must be a representative of the Sylvester Comprehensive Cancer Center of the University of Miami; ~~one member must be a representative of the Department of Health;~~ one member must be a representative of the University of Florida Shands Cancer Center; ~~one member must be a representative of the Agency for Health Care Administration;~~ one member must be a representative of the Florida Nurses Association who specializes in the field of oncology; one member must be a representative of the Florida

Osteopathic Medical Association who specializes in the field of oncology; ~~one member must be a representative of the American College of Surgeons; one member must be a representative of the School of Medicine of the University of Miami; one member must be a representative of the College of Medicine of the University of Florida; one member must be a representative of NOVA Southeastern College of Osteopathic Medicine; one member must be a representative of the College of Medicine of the University of South Florida; one member must be a representative of the College of Public Health of the University of South Florida; one member must be a representative of the Florida Society of Clinical Oncology; one member must be a representative of the Florida Obstetric and Gynecologic Society who has had training in the specialty of gynecologic oncology; one member must be a representative of the Florida Ovarian Cancer Alliance Speaks (FOCAS) organization;~~ one member must be a representative of the Florida Medical Association who specializes in the field of oncology; ~~one member must be a member of the Florida Pediatric Society; one member must be a representative of the Florida Radiological Society; one member must be a representative of the Florida Society of Pathologists;~~ one member must be a representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.; one member must be a representative of the Florida Hospital Association who specializes in the field of oncology; one member must be a representative of the Association of Community Cancer Centers; one member, who shall be appointed by the Governor, must specialize in pediatric oncology research or clinical care; one member, who shall be appointed by the President of the Senate, must specialize in oncology clinical

care or research; one member, who shall be appointed by the Speaker of the House of Representatives, must be a current or former cancer patient or a current or former caregiver to a cancer patient ~~three members must be representatives of the general public acting as consumer advocates~~; one member must be a member of the House of Representatives appointed by the Speaker of the House of Representatives; and one member must be a member of the Senate appointed by the President of the Senate~~;~~ ~~one member must be a representative of the Florida Dental Association; one member must be a representative of the Florida Hospital Association; one member must be a representative of the Association of Community Cancer Centers; one member shall be a representative from a statutory teaching hospital affiliated with a community-based cancer center; one member must be a representative of the Florida Association of Pediatric Tumor Programs, Inc.; one member must be a representative of the Cancer Information Service; one member must be a representative of the Florida Agricultural and Mechanical University Institute of Public Health; and one member must be a representative of the Florida Society of Oncology Social Workers. Of the members of the council appointed by the Governor,~~ At least four members ~~10~~ must be individuals who are minority persons as defined under ~~by~~ s. 288.703.

(b) The terms of the members shall be 4 years from their respective dates of appointment with the option of reappointment.

(c) A chairperson shall be selected by the council ~~appointed by the Governor~~ for a term of 2 years. The chairperson shall appoint an executive committee of at least ~~no fewer than~~

three persons to serve at the pleasure of the chairperson. This committee shall ~~will~~ prepare material for the council but make no final decisions.

(d) The council shall meet at least ~~no less than~~ semiannually at the call of the chairperson or, in his or her absence or incapacity, at the call of the State Surgeon General. Eight ~~Sixteen~~ members constitute a quorum for the purpose of exercising ~~all of~~ the powers of the council. A vote of the majority of the members present is sufficient for all actions of the council.

(e) The council members ~~shall~~ serve without pay. Pursuant to ~~the provisions of~~ s. 112.061, a ~~the~~ council member ~~members~~ may be entitled to be reimbursed for ~~per diem and~~ travel expenses by the institution or organization he or she represents. A member who is not affiliated with an institution or organization shall be reimbursed for travel expenses by the H. Lee Moffitt Cancer Center and Research Institute, Inc.

~~(f) No member of the council shall participate in any discussion or decision to recommend grants or contracts to any qualified nonprofit association or to any agency of this state or its political subdivisions with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.~~

(f) ~~(g)~~ The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.

(g) ~~(h)~~ The council shall advise the Board of Governors, the State Surgeon General, and the Legislature with respect to

cancer control and research in this state.

(h) ~~(i)~~ The council shall annually approve ~~each year~~ a program for cancer control and research to be known as the "Florida Cancer Plan," which shall be consistent with the State Health Plan and integrated and coordinated with existing programs in this state.

(i) ~~(j)~~ The council shall formulate and recommend to the State Surgeon General a statewide research plan and a plan for the care and treatment of persons suffering from cancer and shall recommend the establishment of standard requirements for the organization, equipment, and conduct of cancer units or departments in hospitals and clinics in this state. The council may recommend to the State Surgeon General the designation of cancer units following a survey of the needs and facilities for treatment of cancer in the various localities throughout the state. The State Surgeon General shall consider the plan in developing departmental priorities and funding priorities and standards under chapter 395.

(j) ~~(k)~~ The council shall include ~~is responsible for including~~ in the Florida Cancer Plan recommendations for the coordination and integration of medical, nursing, paramedical, lay, and other plans concerned with cancer control and research. The council shall form committees ~~shall be formed by the council~~ so that the following areas will be established as entities for actions:

1. Cancer plan evaluation: tumor registry, data retrieval systems, and epidemiology of cancer in the state and its relation to other areas.

2. Cancer prevention.

3. Cancer detection.

4. Cancer patient management, including~~:~~ treatment, rehabilitation, terminal care, and other patient-oriented activities.

5. Lay and professional cancer education~~: lay and professional~~.

6. Unproven methods of cancer therapy, including~~:~~ quackery and unorthodox therapies.

7. Investigator-initiated project research.

~~(l) In order to implement in whole or in part the Florida Cancer Plan, the council shall recommend to the Board of Governors or the State Surgeon General the awarding of grants and contracts to qualified profit or nonprofit associations or governmental agencies in order to plan, establish, or conduct programs in cancer control or prevention, cancer education and training, and cancer research.~~

~~(m) If funds are specifically appropriated by the Legislature, the council shall develop or purchase standardized written summaries, written in layperson's terms and in language easily understood by the average adult patient, informing actual and high-risk breast cancer patients, prostate cancer patients, and men who are considering prostate cancer screening of the medically viable treatment alternatives available to them in the effective management of breast cancer and prostate cancer; describing such treatment alternatives; and explaining the relative advantages, disadvantages, and risks associated therewith. The breast cancer summary, upon its completion, shall be printed in the form of a pamphlet or booklet and made continuously available to physicians and surgeons in this state for their use in accordance with s. 458.324 and to osteopathic physicians in this state for their use in accordance with s. 459.0125. The council shall periodically update both summaries to reflect current standards of medical practice in the treatment of breast cancer and prostate cancer. The council shall develop and implement educational programs, including distribution of the summaries developed or purchased under this paragraph, to inform citizen groups, associations, and voluntary organizations about early detection and treatment of breast cancer and prostate cancer.~~

(k) ~~(n)~~ The council shall ~~have the responsibility to~~ advise the Board of Governors and the State Surgeon General on methods of enforcing and implementing laws already enacted and concerned with cancer control, research, and education.

(l) ~~(o)~~ The council may recommend to the Board of Governors or the State Surgeon General rules not inconsistent with law as it may deem necessary for the performance of its duties and the proper administration of this section.

(m) ~~(p)~~ The council shall formulate and put into effect a continuing educational program for the prevention of cancer and its early diagnosis and disseminate to hospitals, cancer patients, and the public information concerning the proper treatment of cancer.

(n) ~~(q)~~ The council shall be physically located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., at the University of South Florida.

(o) ~~(r)~~ The council shall select, by majority vote, seven members of the council who, ~~must combine~~ with six members of the Biomedical Research Advisory Council, shall ~~to~~ form a joint

committee to develop performance measures, a rating system, a rating standard, and an application form for the Cancer Center of Excellence Award created in s. 381.925.

(p) ~~(s) On February 15 of each year,~~ The council shall report to the Governor and ~~to~~ the Legislature on February 15 of each year.

(5) RESPONSIBILITIES OF ~~THE BOARD OF GOVERNORS,~~ THE H. LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC.~~, AND THE STATE SURGEON GENERAL.~~

~~(a) The Board of Governors or the State Surgeon General, after consultation with the council, shall award grants and contracts to qualified nonprofit associations and governmental agencies in order to plan, establish, or conduct programs in cancer control and prevention, cancer education and training, and cancer research.~~

~~(b)~~ The H. Lee Moffitt Cancer Center and Research Institute, Inc., shall provide such staff, information, and other assistance as reasonably necessary for the completion of the responsibilities of the council.

~~(c) The department may furnish to citizens of this state who are afflicted with cancer financial aid to the extent of the appropriation provided for that purpose in a manner which in its opinion will afford the greatest benefit to those afflicted and may make arrangements with hospitals, laboratories, or clinics to afford proper care and treatment for cancer patients in this state.~~

~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.~~

~~(a) There is created the Florida Cancer Control and Research Fund consisting of funds appropriated therefor from the~~

~~General Revenue Fund and any gifts, grants, or funds received from other sources.~~

~~(b) The fund shall be used exclusively for grants and contracts to qualified nonprofit associations or 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 this section and the programs funded through the grants and contracts authorized by the State Board of Education or the State Surgeon General.~~

Section 2. Subsections (1) and (2) of section 458.324, Florida Statutes, are amended to read:

458.324 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term "medically viable," as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards~~, including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m)~~.

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) Each physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer shall inform such patient of the medically viable treatment alternatives available to such patient; shall describe such treatment alternatives; and shall explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to

allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection, ~~:~~

~~(a)~~ the physician may~~, in his or her discretion:~~

~~1.~~ orally communicate such information directly to the patient or the patient's legal representative~~;~~

~~2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express a willingness to discuss the summary with the patient or the patient's legal representative; or~~

~~3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion~~.

(b) In providing such information, the physician shall consider ~~take into consideration~~ the emotional and physical state of the patient~~, the physical state of the patient,~~ and the patient's ability to understand the information.

(c) The physician may, ~~in his or her discretion and~~ without restriction, recommend any mode of treatment which is in his or her judgment the best treatment for the patient.

~~Nothing in~~ This subsection does not ~~shall~~ reduce other provisions of law regarding informed consent.

Section 3. Subsections (1) and (2) of section 459.0125, Florida Statutes, are amended to read:

459.0125 Breast cancer; information on treatment alternatives.—

(1) DEFINITION.—As used in this section, the term

"medically viable," as applied to treatment alternatives, means modes of treatment generally considered by the medical profession to be within the scope of current, acceptable standards~~, including treatment alternatives described in the written summary prepared by the Florida Cancer Control and Research Advisory Council in accordance with s. 1004.435(4)(m)~~.

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

(a) It is the obligation of every physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer to inform such patient of the medically viable treatment alternatives available to such patient; to describe such treatment alternatives; and to explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection, ~~:~~

~~(a)~~ the physician may, ~~in her or his discretion:~~

~~1.~~ orally communicate such information directly to the patient or the patient's legal representative~~;~~

~~2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 1004.435(4)(m) and express her or his willingness to discuss the summary with the patient or the patient's legal representative; or~~

~~3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion~~.

(b) In providing such information, the physician shall consider ~~take into consideration~~ the emotional and physical state of the patient~~, the physical state of the patient,~~ and the patient's ability to understand the information.

(c) The physician may, ~~in her or his discretion and~~ without restriction, recommend any mode of treatment which is in the physician's judgment the best treatment for the patient.

~~Nothing in~~ This subsection does not ~~shall~~ reduce other provisions of law regarding informed consent.

Section 4. This act shall take effect July 1, 2014.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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,

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

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

434510

act; and an uncertified person who administers an epinephrine auto-injector as authorized under subsection (4) in compliance with this act, is afforded the civil liability immunity 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.	Lloyd	Stovall	HP	**Fav/CS**
2.	Brown/Loe	Pigott	AHS	**Fav/CS**
3.			AP	

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

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[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 distributer 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 20141122c1

A bill to be entitled

An act relating to emergency allergy treatment; amending s. 381.88, F.S.; defining terms; expanding provisions to apply to all emergency allergy reactions, rather than to insect bites only; creating s. 381.885, F.S.; 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; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.88, Florida Statutes, is amended to read:

381.88 ~~Insect sting~~ Emergency allergy treatment.—

(1) This section and s. 381.885 may be cited as the "~~Insect Sting~~ Emergency Allergy Treatment Act."

(2) As used in this section and s. 381.885, the term:

(a) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual.

(b) "Authorized entity" means an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports

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588-02479-14 20141122c1

leagues, theme parks and resorts, and sports arenas. However, a school as described in s. 1002.20(3)(i) is an authorized entity for the purposes of subsection (5) only.

(c) "Authorized health care practitioner" means a licensed practitioner authorized by the laws of the state to prescribe drugs.

(d) "Department" means the Department of Health.

(e) "Epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(f) "Self-administration" means an individual's discretionary administration of an epinephrine auto-injector on herself or himself.

(3) ~~(2)~~ The purpose of this section is to provide for the certification of persons who administer lifesaving treatment to persons who have severe allergic ~~adverse~~ reactions ~~to insect stings~~ when a physician is not immediately available.

(4) ~~(3)~~ The department ~~of Health~~ may:

(a) Adopt rules necessary to administer this section.

(b) Conduct educational training programs as described in subsection (5) ~~(4),~~ and approve programs conducted by other persons or governmental agencies.

(c) Issue and renew certificates of training to persons who have complied with this section and the rules adopted by the department.

(d) Collect fees necessary to administer this section.

(5) ~~(4)~~ Educational training programs required by this section must be conducted by a nationally recognized organization experienced in training laypersons in emergency

health treatment or an entity or individual approved by the department ~~physician licensed to practice medicine in this state~~. The curriculum must include at a minimum:

(a) Recognition of the symptoms of systemic reactions to food, insect stings, and other allergens; and

(b) The proper administration of an ~~a subcutaneous injection of~~ epinephrine auto-injector.

(6)~~(5)~~ A certificate of training may be given to a person who:

(a) Is 18 years of age or older;

(b) Has, or reasonably expects to have, responsibility for or contact with at least one other person ~~who has severe adverse reactions to insect stings~~ as a result of his or her occupational or volunteer status, including, but not limited to, a camp counselor, scout leader, school teacher, forest ranger, tour guide, or chaperone; and

(c) Has successfully completed an educational training program as described in subsection (5) ~~(4)~~.

(7)~~(6)~~ A person who successfully completes an educational training program may obtain a certificate upon payment of an application fee of $25.

(8)~~(7)~~ A certificate issued pursuant to this section authorizes the holder ~~thereof~~ to receive, upon presentment of the certificate, ~~from any physician licensed in this state or from the department,~~ a prescription for ~~premeasured doses of~~ epinephrine auto-injectors from an authorized health care practitioner or the department ~~and the necessary paraphernalia for administration~~. The certificate also authorizes the holder ~~thereof~~ to possess and ~~administer~~, in an emergency situation

when a physician is not immediately available, to administer a ~~the~~ prescribed epinephrine auto-injector to a person experiencing ~~suffering~~ a severe allergic ~~adverse~~ reaction ~~to an insect sting~~.

Section 2. Section 381.885, Florida Statutes, is created to read:

381.885 Epinephrine auto-injectors; emergency administration.—

(1) PRESCRIBING TO AN AUTHORIZED ENTITY.—An authorized health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

(2) MAINTENANCE OF SUPPLY.—An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors must be stored in accordance with the epinephrine auto-injector's instructions for use and with any additional requirements that may be established by the department. An authorized entity shall designate employees or agents who hold a certificate issued pursuant to s. 381.88 to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

(3) USE OF EPINEPHRINE AUTO-INJECTORS.—An individual who holds a certificate issued pursuant to s. 381.88 may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors prescribed pursuant to subsection (1) to:

(a) Provide an epinephrine auto-injector to a person who the certified individual in good faith believes is experiencing a severe allergic reaction for that person's immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(b) Administer an epinephrine auto-injector to a person who the certified individual in good faith believes is experiencing a severe allergic reaction, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(4) EXPANDED AVAILABILITY.—An authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant to a prescription issued by an authorized health care practitioner in accordance with this section may make the auto-injectors available to individuals other than certified individuals identified in subsection (3) who may administer the auto-injector to a person believed in good faith to be experiencing a severe allergic reaction if the epinephrine auto-injectors are stored in a locked, secure container and are made available only upon remote authorization by an authorized health care practitioner after consultation with the authorized health care practitioner by audio, televideo, or other similar means of electronic communication. Consultation with an authorized health care practitioner for this purpose is not considered the practice of telemedicine or otherwise construed as violating any law or rule regulating the authorized health care practitioner's professional practice.

(5) IMMUNITY FROM LIABILITY.—

(a) The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine.

(b) Any authorized health care practitioner who prescribes epinephrine auto-injectors to an authorized entity or to an individual that holds a certificate issued pursuant to s. 381.88; any authorized entity that possesses and makes available epinephrine auto-injectors; any individual who holds a certificate issued pursuant to s. 381.88; any noncertified individual under subsection (4); and any person that conducts the training under s. 381.88 is not liable for civil damages that result from the administration or self-administration of an epinephrine auto-injector, the failure to administer an epinephrine auto-injector, or any other act or omission committed, in good faith, pursuant to this section or s. 381.88.

(c) An authorized entity doing business in this state is not liable for injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside this state if the entity or its employees or agents would not have been liable for such injuries or related damages had the provision or administration occurred within this state, or would not have been liable under the law of the state in which such provision or administration occurred.

(d) This section does not eliminate, limit, or reduce any other immunity or defense that may be available under state law, including the immunity provided under s. 768.13.

Section 3. 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

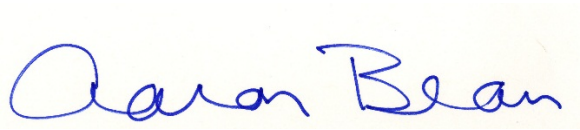
Subject: Committee Agenda Request

Date: March 14, 2014

I respectfully request that **Senate Bill # 1122**, relating to Emergency Allergy Treatment, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.



Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

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.	Looke	Stovall	HP	**Fav/CS**
2.	Crosier	Hendon	CF	**Fav/CS**
3.	Brown	Pigott	AHS	**Favorable**
4.			AP	

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 districts[6] based on a formula[7] 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

A bill to be entitled

An act relating to certificates of need; amending s. 408.034, F.S.; 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; conforming a provision to changes made by the act; authorizing an applicant to aggregate the need of geographically contiguous subdistricts within a district for a proposed community nursing home under certain circumstances; requiring the proposed nursing home site to be located in the subdistrict with the greater need under certain circumstances; recognizing an additional positive application factor for an applicant who voluntarily relinquishes certain nursing home beds; requiring the applicant to demonstrate that it meets certain requirements; amending s. 408.036, F.S.; 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; conforming a cross-reference; revising the requirements for projects that are exempted from applying for a certificate of need; repealing s. 408.0435, F.S., relating to the moratorium on the approval of certificates of need for additional community nursing home beds; creating s. 408.0436, F.S.; prohibiting the agency from approving a

certificate-of-need application for new community nursing home beds under certain circumstances; defining the term "batching cycle"; providing a repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 408.034, Florida Statutes, is amended, present subsection (6) of that section is redesignated as subsection (8), and a new subsection (6) and subsection (7) are added to that section, to read:

408.034 Duties and responsibilities of agency; rules.—

(5) The agency shall establish by rule a nursing-home-bed-need methodology that has a goal of maintaining a subdistrict average occupancy rate of 92 ~~94~~ percent ~~and that reduces the community nursing home bed need for the areas of the state where the agency establishes pilot community diversion programs through the Title XIX aging waiver program~~.

(6) If nursing home bed need is determined to exist in geographically contiguous subdistricts within a district, an applicant may aggregate the subdistricts' need for a new community nursing home in one of the subdistricts. If need is aggregated from two subdistricts, the proposed nursing home site must be located in the subdistrict with the greater need as published by the agency in the Florida Administrative Register. However, if need is aggregated from more than two subdistricts, the location of the proposed nursing home site must provide reasonable geographic access for residents in the respective subdistricts given the relative bed need in each.

(7) If nursing home bed need is determined to exist in a subdistrict, an additional positive application factor may be recognized in the application review process for an applicant who agrees to voluntarily relinquish licensed nursing home beds in one or more subdistricts where there is no calculated need. The applicant must demonstrate that it operates, controls, or has an agreement with another licensed community nursing home to ensure that beds are voluntarily relinquished if the application is approved and the applicant is licensed.

Section 2. Subsection (2) and paragraphs (f), (k), (p), and (q) of subsection (3) of section 408.036, Florida Statutes, are amended to read:

408.036 Projects subject to review; exemptions.—

(2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt pursuant to subsection (3), the following projects are subject to ~~an~~ expedited review ~~shall include, but not be limited to~~:

(a) ~~A~~ Transfer of a certificate of need, except that when an existing hospital is acquired by a purchaser, all certificates of need issued to the hospital which are not yet operational shall be acquired by the purchaser~~,~~ without need for a transfer.

(b) Replacement of a nursing home ~~within the same district~~, if the proposed project site is ~~located within a geographic area that contains at least 65 percent of the facility's current residents and is~~ within a 30-mile radius of the replaced nursing home. If the proposed project site is outside the subdistrict where the replaced nursing home is located, the prior 6-month occupancy rate for licensed community nursing homes in the proposed subdistrict must be at least 85 percent in accordance

with the agency's most recently published inventory.

(c) Replacement of a nursing home within the same district, if the proposed project site is outside a 30-mile radius of the replaced nursing home but within the same subdistrict or a geographically contiguous subdistrict. If the proposed project site is in the geographically contiguous subdistrict, the prior 6-month occupancy rate for licensed community nursing homes for that subdistrict must be at least 85 percent in accordance with the agency's most recently published inventory.

(d) ~~(c)~~ Relocation of a portion of a nursing home's licensed beds to another ~~a~~ facility or to establish a new facility within the same district or within a geographically contiguous district, if the relocation is within a 30-mile radius of the existing facility and the total number of nursing home beds in the state ~~district~~ does not increase.

(e) ~~(d)~~ ~~The~~ New construction of a community nursing home in a retirement community as further provided in this paragraph.

1. Expedited review under this paragraph is available if all of the following criteria are met:

a. The residential use area of the retirement community is deed-restricted as housing for older persons as defined in s. 760.29(4)(b).

b. The retirement community is located in a county in which 25 percent or more of its population is age 65 and older.

c. The retirement community is located in a county that has a rate of no more than 16.1 beds per 1,000 persons age 65 years or older. The rate shall be determined by using the current number of licensed and approved community nursing home beds in the county per the agency's most recent published inventory.

d. The retirement community has a population of at least 8,000 residents within the county, based on a population data source accepted by the agency.

e. The number of proposed community nursing home beds in an application does not exceed the projected bed need after applying the rate of 16.1 beds per 1,000 persons aged 65 years and older projected for the county 3 years into the future using the estimates adopted by the agency reduced by~~, after subtracting~~ the agency's most recently published inventory of licensed and approved community nursing home beds in the county ~~per the agency's most recent published inventory~~.

2. No more than 120 community nursing home beds shall be approved for a qualified retirement community under each request ~~for application~~ for expedited review. Subsequent requests for expedited review under this process may ~~shall~~ not be made until 2 years after construction of the facility has commenced or 1 year after the beds approved through the initial request are licensed, whichever occurs first.

3. The total number of community nursing home beds which may be approved for any single deed-restricted community pursuant to this paragraph may ~~shall~~ not exceed 240, regardless of whether the retirement community is located in more than one qualifying county.

4. Each nursing home facility approved under this paragraph must ~~shall~~ be dually certified for participation in the Medicare and Medicaid programs.

5. Each nursing home facility approved under this paragraph must ~~shall~~ be at least 1 mile, as measured over publicly owned roadways, from an existing approved and licensed community

nursing home~~, measured over publicly owned roadways~~.

~~6. Section 408.0435 does not apply to this paragraph.~~

6.~~7.~~ A retirement community requesting expedited review under this paragraph shall submit a written request to the agency for ~~an~~ expedited review. The request must ~~shall~~ include the number of beds to be added and provide evidence of compliance with the criteria specified in subparagraph 1.

7.~~8.~~ After verifying that the retirement community meets the criteria for expedited review specified in subparagraph 1., the agency shall publicly notice in the Florida Administrative Register that a request for an expedited review has been submitted by a qualifying retirement community and that the qualifying retirement community intends to make land available for the construction and operation of a community nursing home. The agency's notice must ~~shall~~ identify where potential applicants can obtain information describing the sales price of, or terms of the land lease for, the property on which the project will be located and the requirements established by the retirement community. The agency notice must ~~shall~~ also specify the deadline for submission of the ~~any~~ certificate-of-need application, which may ~~shall~~ not be earlier than the 91st day or ~~and not be~~ later than the 125th day after the date the notice appears in the Florida Administrative Register.

8.~~9.~~ The qualified retirement community shall make land available to applicants it deems to have met its requirements for the construction and operation of a community nursing home but may ~~will~~ sell or lease the land only to the applicant that is issued a certificate of need by the agency under ~~the provisions of~~ this paragraph.

a. A certificate-of-need ~~certificate of need~~ application submitted under ~~pursuant to~~ this paragraph must ~~shall~~ identify the intended site for the project within the retirement community and the anticipated costs for the project based on that site. The application must ~~shall~~ also include written evidence that the retirement community has determined that both the provider submitting the application and the project satisfy ~~proposed by that provider satisfies~~ its requirements for the project.

b. If the retirement community determines ~~community's determination~~ that more than one provider satisfies its requirements for the project, it may notify ~~does not preclude the retirement community from notifying~~ the agency of the provider it prefers.

9.~~10.~~ The agency shall review each submitted application ~~submitted shall be reviewed by the agency~~. If multiple applications are submitted for a ~~the~~ project ~~as~~ published pursuant to subparagraph 7. ~~8.~~, ~~then~~ the agency shall review the competing applications ~~shall be reviewed by the agency~~.

The agency shall develop rules to implement the ~~provisions for~~ expedited review process, including time schedule, application content that ~~which~~ may be reduced from the full requirements of s. 408.037(1), and application processing.

(3) EXEMPTIONS.—Upon request, the following projects are subject to exemption from the provisions of subsection (1):

(f) For the addition of nursing home beds licensed under chapter 400 in a number not exceeding 30 total beds or 25 percent of the number of beds licensed in the facility being

replaced under paragraph (2)(b), paragraph (2)(c), or paragraph (p), whichever is less ~~For the creation of a single nursing home within a district by combining licensed beds from two or more licensed nursing homes within such district, regardless of subdistrict boundaries, if 50 percent of the beds in the created nursing home are transferred from the only nursing home in a county and its utilization data demonstrate that it had an occupancy rate of less than 75 percent for the 12-month period ending 90 days before the request for the exemption~~. ~~This paragraph is repealed upon the expiration of the moratorium established in s. 408.0435(1).~~

(k) For the addition of nursing home beds licensed under chapter 400 in a number not exceeding 10 total beds or 10 percent of the number of beds licensed in the facility being expanded, whichever is greater; or, for the addition of nursing home beds licensed under chapter 400 at a facility that has been designated as a Gold Seal nursing home under s. 400.235 in a number not exceeding 20 total beds or 10 percent of the number of licensed beds in the facility being expanded, whichever is greater.

1. In addition to any other documentation required by the agency, a request for exemption submitted under this paragraph must certify that:

a. ~~Certify that~~ The facility has not had any class I or class II deficiencies within the 30 months preceding the request ~~for addition~~.

b. ~~Certify that~~ The prior 12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 ~~96~~ percent.

c. ~~Certify that~~ Any beds authorized for the facility under this paragraph before the date of the current request for an exemption have been licensed and operational for at least 12 months.

2. The timeframes and monitoring process specified in s. 408.040(2)(a)-(c) apply to any exemption issued under this paragraph.

3. The agency shall count beds authorized under this paragraph as approved beds in the published inventory of nursing home beds until the beds are licensed.

(p) For replacement of a licensed nursing home on the same site, or within 5 ~~3~~ miles of the same site if within the same subdistrict, if the number of licensed beds does not increase except as allowed by paragraph (f).

(q) For consolidation or combination of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning district ~~subdistrict~~, by ~~providers that operate multiple~~ nursing homes with any shared controlled interest within that planning district ~~subdistrict~~, if there is no increase in the planning district ~~subdistrict~~ total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location.

Section 3. Section 408.0435, Florida Statutes, is repealed.

Section 4. Section 408.0436, Florida Statutes, is created to read:

408.0436 Limitation on nursing home certificates of need.—Notwithstanding the establishment of need as provided in this chapter, the agency may not approve a certificate-of-need application for new community nursing home beds following the

batching cycle in which the cumulative number of new community nursing home beds approved from July 1, 2014 to June 30, 2017, equals or exceeds 3,750. As used in this section, the term "batching cycle" means the grouping for comparative review of certificate-of-need applications submitted for beds, services, or programs having a like certificate-of-need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict. This section is repealed July 1, 2017.

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.	Peterson	Stovall	HP	**Favorable**
2.	McVaney/Jones	McVaney	GO	**Fav/CS**
3.	Brown/Loe	Pigott	AHS	**Favorable**
4.			AP	

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]

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[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 prevalence[6] 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

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[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 negotiate[15] 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.

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[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.

By the Committee on Governmental Oversight and Accountability; and Senators Garcia and Flores

585-02563-14 2014694c1

A bill to be entitled

An act relating to the Diabetes Advisory Council; amending s. 385.203, F.S.; 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; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present paragraph (c) of subsection (1) of section 385.203, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

385.203 Diabetes Advisory Council; creation; function; membership.—

(1) To guide a statewide comprehensive approach to diabetes prevention, diagnosis, education, care, treatment, impact, and costs thereof, there is created a Diabetes Advisory Council that serves as the advisory unit to the Department of Health, other governmental agencies, professional and other organizations, and the general public. The council shall:

(c) In conjunction with the department, the Agency for Health Care Administration, and the Department of Management Services, submit by January 10 of each odd-numbered year to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report containing the following information:

1. The public health consequences and financial impact on the state from all types of diabetes and resulting health complications, including the number of persons with diabetes covered by Medicaid, the number of persons with diabetes who are insured by the Division of State Group Insurance, and the number of persons with diabetes who are impacted by state agency diabetes programs and activities.

2. A description and an assessment of the effectiveness of the diabetes programs and activities implemented by each state agency, the amount and source of funding for such programs and activities, and the cost savings realized as a result of the implementation of such programs and activities.

3. A description of the coordination among state agencies of programs, activities, and communications designed to manage, treat, and prevent all types of diabetes.

4. The development of and revisions to a detailed action plan for reducing and controlling the number of new cases of diabetes and identification of proposed action steps to reduce the impact of all types of diabetes, identification of expected outcomes if the plan is implemented, and establishment of benchmarks for preventing and controlling diabetes.

Section 2. This act shall take effect July 1, 2014.

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,

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

[1]Other 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 application[5] 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;

[2]Section 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-parmacy.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 products[8] 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 rule[9] 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).
[14]The 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).
[16]House 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:

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~~

~~pharmacy is located and the regulatory or licensing agency fails to investigate within 180 days of the referral~~.

(6) A nonresident pharmacy is subject to s. 456.0635.

Section 3. Section 465.0158, Florida Statutes, is created to read:

465.0158 Nonresident sterile compounding permit.—

(1) In order to ship, mail, deliver, or dispense, in any manner, a compounded sterile product into this state, a nonresident pharmacy registered under s. 465.0156, or an outsourcing facility, must hold a nonresident sterile compounding permit.

(2) An application for a nonresident sterile compounding permit shall be submitted on a form furnished by the board. The board may require such information as it deems reasonably necessary to carry out the purposes of this section. The fee for an initial permit and biennial renewal of the permit shall be set by the board pursuant to s. 465.022(14).

(3) An applicant must submit the following to the board to obtain an initial permit, or to the department to renew a permit:

(a) Proof of registration as an outsourcing facility with the Secretary of the United States Department of Health and Human Services if the applicant is eligible for such registration pursuant to the federal Drug Quality and Security Act, Pub. L. No. 113-54.

(b) Proof of registration as a nonresident pharmacy, pursuant to s. 465.0156, unless the applicant is an outsourcing facility and not a pharmacy, in which case the application must include proof of an active and unencumbered license, permit, or

registration issued by the state, territory, or district in which the outsourcing facility is physically located which allows the outsourcing facility to engage in compounding and to ship, mail, deliver, or dispense a compounded sterile product into this state if required by the state, territory, or district in which the outsourcing facility is physically located.

(c) Written attestation by an owner or officer of the applicant, and by the applicant's prescription department manager or pharmacist in charge, that:

1. The applicant has read and understands the laws and rules governing sterile compounding in this state.

2. A compounded sterile product shipped, mailed, delivered, or dispensed into this state meets or exceeds this state's standards for sterile compounding.

3. A compounded sterile product shipped, mailed, delivered, or dispensed into this state must not have been, and may not be, compounded in violation of the laws and rules of the state in which the applicant is located.

(d) The applicant's existing policies and procedures for sterile compounding, which must comply with pharmaceutical standards in chapter 797 of the United States Pharmacopoeia and any standards for sterile compounding required by board rule or current good manufacturing practices for an outsourcing facility.

(e) A current inspection report from an inspection conducted by the regulatory or licensing agency of the state, territory, or district in which the applicant is located. The inspection report must reflect compliance with this section. An inspection report is current if the inspection was conducted

within 6 months before the date of submitting the application for the initial permit or within 1 year before the date of submitting an application for permit renewal. If the applicant is unable to submit a current inspection report conducted by the regulatory or licensing agency of the state, territory, or district in which the applicant is located due to acceptable circumstances, as established by rule, the department shall:

1. Conduct, or contract with an entity approved by the board to conduct, an onsite inspection for which all costs shall be borne by the applicant;

2. Accept a current and satisfactory inspection report, as determined by rule, from an entity approved by the board; or

3. Accept a current inspection report from the United States Food and Drug Administration conducted pursuant to the federal Drug Quality and Security Act, Pub. L. No. 113-54.

(4) A permittee may not ship, mail, deliver, or dispense a compounded sterile product into this state if the product was compounded in violation of the laws or rules of the state in which the permittee is located or does not meet or exceed this state's sterile compounding standards.

(5) In accordance with this chapter, the board may deny, revoke, or suspend the permit of, fine, or reprimand a permittee for:

(a) Failure to comply with this section;

(b) A violation listed under s. 456.0635, s. 456.065, or s. 456.072, except s. 456.072(1)(s) or (1)(u);

(c) A violation under s. 465.0156(5); or

(d) A violation listed under s. 465.016.

(6) A nonresident pharmacy registered under s. 465.0156

which ships, mails, delivers, or dispenses a compounded sterile product into this state may continue to do so if the product meets or exceeds the standards for sterile compounding in this state, the product is not compounded in violation of any law or rule 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.

(7) An applicant registering on or after October 1, 2014, as a nonresident pharmacy under s. 465.0156 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.

(8) The board shall adopt rules as necessary to administer this section, including rules for:

(a) Submitting an application for the permit required by this section.

(b) Determining how, when, and under what circumstances an inspection of a nonresident sterile compounding permittee must be conducted.

(c) Evaluating and approving entities from which a satisfactory inspection report will be accepted in lieu of an onsite inspection by the department or an inspection by the licensing or regulatory agency of the state, territory, or district where the applicant is located.

Section 4. Section 465.017, Florida Statutes, is amended to read:

465.017 Authority to inspect; disposal.—

(1) Duly authorized agents and employees of the department may ~~shall have the power to~~ inspect in a lawful manner at all

reasonable hours any pharmacy, hospital, clinic, wholesale establishment, manufacturer, physician's office, or any other place in the state in which drugs and medical supplies are compounded, manufactured, packed, packaged, made, stored, sold, offered for sale, exposed for sale, or kept for sale for the purpose of:

(a) Determining if any provision ~~of the provisions~~ of this chapter or any rule adopted ~~promulgated~~ under its authority is being violated;

(b) Securing samples or specimens of any drug or medical supply after paying or offering to pay for such sample or specimen; or

(c) Securing such other evidence as may be needed for prosecution under this chapter.

(2) Duly authorized agents and employees of the department may inspect a nonresident pharmacy registered under s. 465.0156 or a nonresident sterile compounding permittee under s. 465.0158 pursuant to this section. The costs of such inspections shall be borne by such pharmacy or permittee.

(3)~~(2)(a)~~ Except as permitted by this chapter, and chapters 406, 409, 456, 499, and 893, records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs may ~~shall not~~ be furnished only to ~~any person other than to~~ the patient for whom the drugs were dispensed, or her or his legal representative, or to the department pursuant to existing law, or, if ~~in the event that~~ the patient is incapacitated or unable to request such ~~said~~ records, her or his spouse except upon the written authorization of such patient.

(a) Such records may be furnished in any civil or criminal

proceeding, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or her or his legal representative by the party seeking such records.

(b) The board shall adopt rules establishing ~~to establish~~ practice guidelines for pharmacies to dispose of records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs. Such rules must ~~shall~~ be consistent with the duty to preserve the confidentiality of such records in accordance with applicable state and federal law.

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,

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 participant[2] 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 20141082c1

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)

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

Administration pursuant to this part. A license issued by the agency is required in order to operate an adult day care center in this state.

(2)(a) Except as otherwise provided in this subsection, 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.

(b) If a licensed center becomes wholly or substantially unusable due to a disaster or ~~due to~~ an emergency as those terms are defined in s. 252.34 or due to alterations to the building that may constitute a hazard to the safety of participants:

1. The licensee may continue to operate under its current license in premises separate from that authorized under the license if the licensee has:

a. Specified the location of the premises in its comprehensive emergency management plan submitted to and approved by the applicable county emergency management authority; ~~and~~

b. Notified the agency and the county emergency management authority within 24 hours after beginning to operate in another ~~of operating in the separate~~ premises; or

c. Notified the agency within 30 days after commencement of building alterations that require the licensee to temporarily relocate to another premises for the safety of participants.

2. The licensee shall operate the separate premises only while the licensed center's original location is substantially unusable and for up to 180 days. The agency may extend use of the alternate premises beyond the initial 180 days. The agency

may also review the operation of the ~~disaster~~ premises quarterly.

3. A center may be granted a conditional license pursuant to s. 429.915 if the center has been in operation for more than 1 year before moving to a new location. The agency must inspect the new location within 6 months after the center relocates. The center must submit an application for conditional license renewal at least 60 days before the conditional license expires.

(3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under this part and part II of chapter 408. The amount of the fee shall be established by rule ~~and may not exceed $150~~.

~~(4) County operated or municipally operated centers applying for licensure under this part are exempt from the payment of license fees.~~

Section 3. Paragraph (a) of subsection (2) of section 429.911, Florida Statutes, is amended to read:

429.911 Denial, suspension, revocation of license; emergency action; administrative fines; investigations and inspections.—

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(a) An intentional or negligent act or the existence of unsafe conditions at the center which materially affect ~~affecting~~ the well-being, health, or safety of center participants.

Section 4. Section 429.915, Florida Statutes, is amended to

read:

429.915 Conditional license.—In addition to the license categories available in part II of chapter 408, the agency may issue a conditional license to an applicant for license renewal, temporary relocation, or change of ownership if the applicant fails to meet all standards and requirements for licensure. A conditional license issued under this subsection must be limited to a specific period not exceeding 6 months, as determined by the agency, and must be accompanied by an approved plan of correction.

Section 5. Paragraph (c) of subsection (1) and subsection (2) of section 429.917, Florida Statutes, are amended to read:

429.917 Patients with Alzheimer's disease or other related disorders; staff training requirements; certain disclosures.—

(1) An adult day care center licensed under this part must provide the following staff training:

(c) In addition to the requirements of paragraphs (a) and (b), an employee who will be providing direct care to a participant who has Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers, and the most current information regarding Alzheimer's disease and dementia-related disorders. This training must be offered annually and is required for all employees providing direct care to participants.

(2) A center licensed under this part which claims 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 and document how ~~in its advertisements or in a separate document~~ those services that distinguish the care as being especially applicable to, or suitable for, such persons. ~~The center must give a copy of all such advertisements or a copy of the document to each person who requests information about the center and must maintain a copy of all such advertisements and documents in its records.~~ The agency shall examine all such documentation ~~advertisements and documents in the center's records~~ as part of the license renewal procedure. An adult day care center may not claim to be licensed or designated to provide specialized Alzheimer's services unless the adult day care center's license has been designated as such pursuant to s. 429.918.

Section 6. Section 429.931, Florida Statutes, is amended to read:

429.931 Construction, repair, and renovation; requirements.—

(1) The requirements for the construction, repair, and ~~the~~ renovation of a center must comply with the provisions of chapter 553 which pertain to building construction standards, including plumbing, electrical code, glass, manufactured buildings, accessibility by physically handicapped persons, and the state minimum building codes.

(2) The center must notify the agency 30 days before commencement of building construction, repairs, or renovation to

request a conditional license if the construction, repairs, or renovation will require the center to temporarily relocate.

Section 7. Paragraph (f) of subsection (1) of section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.—

(1) Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(f) Be allowed and encouraged by the agency to provide other needed services under certain conditions. If the facility has a standard licensure status, it may provide services, including, but not limited to, respite, therapeutic spa, and adult day services to nonresidents of the facility. A facility is not subject to any additional licensure requirements for providing these services. Respite care may be offered to persons in need of short-term or temporary nursing home services. Respite care must be provided in accordance with this part. ~~Providers of adult day services must comply with the requirements of s. 429.905(2).~~ The agency shall allow for shared programming and staff in a facility which meets minimum standards and offers services pursuant to this paragraph, but, if the facility is cited for deficiencies in patient care, may require additional staff and programs appropriate to the needs of service recipients. A person who receives respite care may not be counted as a resident of the facility for purposes of the facility's licensed capacity unless that person receives 24-hour respite care. A person receiving either respite care for 24 hours or longer or adult day services must be included when calculating minimum staffing for the facility. Any costs and

revenues generated by a nursing home facility from nonresidential programs or services shall be excluded from the calculations of Medicaid per diems for nursing home institutional care reimbursement.

Section 8. This act shall take effect July 1, 2014.

The Florida Senate

Committee Agenda Request

To: Honorable Senator Denise Grimsley, Chair
Appropriations Subcommittee on Health and Human Services

CC: Scarlet Pigott, Staff Director

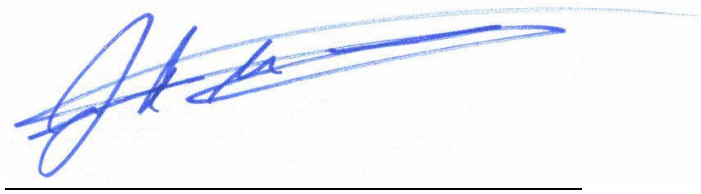
Subject: Committee Agenda Request

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.



Senator John Legg
Florida Senate, District 17
316 Senate Office Building
(850) 487-5017

File signed original with committee office

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

975000

is limited to administering, facilitating, processing, or enforcing a financial transaction initiated by an individual with no direct relationship with the contractor.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete line 21

and insert:

a contractor; providing exceptions; specifying that a 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.	McKay	McVaney	GO	**Fav/CS**
2.	Brown	Pigott	AHS	**Fav/CS**
3.			AP	

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 cookies[1] 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 Schedules[2] 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://dlis.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#PatientSaftey, 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 reports[37] 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] S*upra* 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/CommiteesCouncils/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

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A bill to be entitled

An act relating to government data practices; amending s. 257.36, F.S.; 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; creating part IV of ch. 282, F.S., consisting of s. 282.801, F.S.; providing definitions; requiring an agency that collects and maintains personal identification information to post a privacy policy on the agency's website; prescribing minimum requirements for a privacy policy; requiring an agency to provide notice of the installation of cookies on an individual's computer; requiring that an individual who would otherwise be granted access to an agency's website be granted access even if he or she declines to have the cookie installed; providing an exception; requiring that privacy policy requirements be specified in a contract between a public agency and a contractor; specifying that a violation does not create a civil cause of action; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature by a specified date; providing report requirements; creating s. 429.55, F.S.; requiring the Agency for Health Care Administration to provide specified data on assisted living facilities by a certain date; providing minimum requirements for such data;

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authorizing the agency to create a comment webpage regarding assisted living facilities; providing minimum requirements; authorizing the agency to provide links to certain third-party websites; authorizing the agency to adopt rules; amending s. 408.05, F.S.; dissolving the Center for Health Information and Policy Analysis within the Agency for Health Care Administration; requiring the agency to coordinate a system to promote access to certain data and information; requiring that certain health-related data be included within the system; assigning duties to the agency relating to the collection and dissemination of data; establishing conditions for the funding of the system; requiring the Office of Program Policy Analysis and Government Accountability to monitor the agency's implementation of the health information system; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature after completion of the implementation; providing report requirements; reenacting s. 120.54(8), F.S., relating to rulemaking, to incorporate the amendment made to s. 257.36, F.S., in a reference thereto; amending ss. 20.42, 381.026, 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244, 627.6499, and 641.54, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 257.36, Florida Statutes, is amended to read:

257.36 Records and information management.—

(6) A public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division shall adopt ~~reasonable~~ rules consistent ~~not inconsistent~~ with this chapter which are ~~shall be~~ binding on all agencies relating to the destruction and disposition of records. Such rules must ~~shall~~ provide, but need not be limited to:

(a) Procedures for complying and submitting to the division records-retention schedules.

(b) Procedures for the physical destruction or other disposal of records.

(c) 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.

(d) ~~(c)~~ Standards for the reproduction of records for security or with a view to the disposal of the original record.

Section 2. Part IV of chapter 282, Florida Statutes, consisting of section 282.801, Florida Statutes, is created to read:

PART IV

GOVERNMENT DATA COLLECTION PRACTICES

282.801 Government data practices.—

(1) For purposes of this part, the term:

(a) "Agency" has the same meaning as in s. 119.011.

(b) "Cookie" means data sent from a website which is electronically installed on a computer or electronic device of an individual who has accessed the website and transmits certain information to the server of that website.

(c) "Individual" means a human being and does not include a corporation, a partnership, or any other business entity.

(d) "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:

1. Name;

2. Postal or e-mail address;

3. Telephone number;

4. Social security number;

5. Date of birth;

6. Mother's maiden name;

7. 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;

8. Bank account number, credit or debit card number, or other number or information that can be used to access an individual's financial resources;

9. Educational records;

10. Medical records;

11. License plate number of a registered motor vehicle;

12. Images, including facial images;

13. Biometric identification information;

14. Criminal history; or

15. Employment history.

(2) An agency that collects personal identification information through a website and retains such information shall maintain and conspicuously post a privacy policy on such website. At a minimum, the privacy policy must provide:

(a) A description of the services the website provides.

(b) A description of the personal identification information that the agency collects and maintains from an individual accessing or using the website.

(c) An explanation of whether the agency's data collecting and sharing practices are mandatory or allow a user to opt out of those practices.

(d) Any available alternatives to using the website.

(e) A statement as to how the agency uses the personal identification information, including, but not limited to, whether and under what circumstances the agency discloses such information.

(f) Whether any other person, as defined in s. 671.201, collects personal identification information through the website.

(g) A general description of the security measures in place to protect personal identification information; however, such description must not compromise the integrity of the security measures.

(h) 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.

(3)(a) An agency that uses a website to install a cookie on an individual's computer or electronic device shall inform an individual accessing the website of the use of cookies and request permission to install a cookie on the individual's computer.

(b) If an individual accessing the website of an agency declines to have cookies installed, such individual shall still be allowed to access and use the website.

(c) This subsection does not apply to a cookie temporarily installed on an individual's computer or electronic device by an agency if the cookie is installed only in the computer's or electronic device's memory and is deleted from such memory when the website browser or website application is closed.

(4) Any contract between a public agency, as defined in s. 119.0701(1)(b), and a contractor, as defined in s. 119.0701(1)(a), must specify that the contractor must comply with the requirements in subsections (2) and (3).

(5) The failure of an agency to comply with this section does not create a civil cause of action.

Section 3. The Office of Program Policy Analysis and Government Accountability shall submit a report to the President of the Senate and the Speaker of the House of Representatives by July 1, 2015, which:

(1) Identifies personal identification information, as defined in s. 282.801, Florida Statutes, and the records in which such information is contained, held by a state agency. For purposes of this section, the term "state agency" has the same meaning as in s. 216.011(1)(qq), but does not include state

attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, the Florida Public Service Commission, and the judicial branch.

(2) 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.

(3) Identifies any obstacles that inhibit an individual's access to such records.

Section 4. Section 429.55, Florida Statutes, is created to read:

429.55 Public access to data; comment page.—

(1) By November 1, 2014, the agency shall provide, maintain, and update at least quarterly, electronically accessible data on assisted living facilities. Such data must be searchable, downloadable, and available in generally accepted formats. At a minimum, such data must include:

(a) Information on each assisted living facility licensed under this part, including:

1. The name and address of the facility.

2. The number and type of licensed beds in the facility.

3. The types of licenses held by the facility.

4. The facility's license expiration date and status.

5. Other relevant information that the agency currently collects.

(b) A list of the facility's violations, including, for

each violation:

1. A summary of the violation presented in a manner understandable by the general public;

2. Any sanctions imposed by final order; and

3. The date the corrective action was confirmed by the agency.

(c) Links to inspection reports on file with the agency.

(2)(a) The agency may provide a monitored comment webpage that allows members of the public to comment on specific assisted living facilities licensed to operate in this state. At a minimum, the comment webpage must allow members of the public to identify themselves, provide comments on their experiences with, or observations of, an assisted living facility, and view others' comments.

(b) The agency shall review comments for profanities and redact any profanities before posting the comments to the webpage. After redacting any profanities, the agency shall post all comments, and shall retain all comments as they were originally submitted, which are subject to the requirements of chapter 119, Florida Statutes, and which shall be retained by the agency for inspection by the public without further redaction pursuant to retention schedules and disposal processes for such records.

(c) A controlling interest, as defined in s. 408.803, Florida Statutes, in an assisted living facility, or an employee or owner of an assisted living facility, is prohibited from posting comments on the page. A controlling interest, employee, or owner may respond to comments on the page, and the agency shall ensure that such responses are identified as being from a

representative of the facility.

(3) The agency may provide links to third-party websites that use the data published pursuant to this section to assist consumers in evaluating the quality of care and service in assisted living facilities.

(4) The agency may adopt rules to administer this section.

Section 5. Section 408.05, Florida Statutes, is amended to read:

408.05 Florida Health Information Transparency Initiative ~~Center for Health Information and Policy Analysis~~.—

(1) CREATION AND PURPOSE ~~ESTABLISHMENT~~.—The agency shall create a comprehensive health information system to promote accessibility, transparency, and utility of state-collected data and information about health providers, facilities, services, and payment sources. The agency is responsible for making state-collected health data available in a manner that allows for and encourages multiple and innovative uses of data sets. Subject to funding by the General Appropriations Act, the agency shall develop and deploy, through a contract award with one or more vendors or internal development, new methods of dissemination and ways to convert data into easily usable electronic formats ~~establish a Florida Center for Health Information and Policy Analysis~~. ~~The center shall establish a comprehensive health information system to provide for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-related data and statistics. The center shall be staffed with public health experts, biostatisticians, information system analysts, health policy experts, economists, and other staff necessary to carry~~

~~out its functions.~~

(2) HEALTH-RELATED DATA.—The comprehensive health information system must include the following data and information ~~operated by the Florida Center for Health Information and Policy Analysis shall identify the best available data sources and coordinate the compilation of extant health-related data and statistics and purposefully collect data on~~:

~~(a) The extent and nature of illness and disability of the state population, including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality.~~

~~(b) The impact of illness and disability of the state population on the state economy and on other aspects of the well-being of the people in this state.~~

~~(c) Environmental, social, and other health hazards.~~

~~(d) Health knowledge and practices of the people in this state and determinants of health and nutritional practices and status.~~

(a) ~~(c)~~ Health resources, including licensed health professionals, licensed health care facilities, managed care organizations, and other health services regulated or funded by the state ~~physicians, dentists, nurses, and other health professionals, by specialty and type of practice and acute, long-term care and other institutional care facility supplies and specific services provided by hospitals, nursing homes, home health agencies, and other health care facilities~~.

(b) ~~(f)~~ Utilization of health resources ~~care by type of provider~~.

(c) ~~(g)~~ Health care costs and financing, including Medicaid claims and encounter data and data from other public and private payors ~~trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care~~.

~~(h) Family formation, growth, and dissolution.~~

(d) ~~(i)~~ The extent, source, and type of public and private health insurance coverage in this state.

(e) ~~(j)~~ The data necessary for measuring value and quality of care provided by various health care providers, including applicable credentials, accreditation status, use, revenues and expenses, outcomes, site visits, and other regulatory reports, and the results of administrative and civil litigation related to health care.

(3) COORDINATION ~~COMPREHENSIVE HEALTH INFORMATION SYSTEM~~.—In order to collect comprehensive ~~produce comparable and uniform~~ health information and statistics and to disseminate such information to ~~for~~ the public, as well as for the development of policy recommendations, the agency shall perform the following functions:

(a) Collect and compile data from all agencies and programs that provide, regulate, and pay for health services ~~Coordinate the activities of state agencies involved in the design and implementation of the comprehensive health information system~~.

(b) Promote data sharing through the ~~Undertake research,~~ development, dissemination, and evaluation of state-collected health data and by making such data available, transferable, and readily usable ~~respecting the comprehensive health information system~~.

~~(c) Review the statistical activities of state agencies to ensure that they are consistent with the comprehensive health information system.~~

(c) ~~(d)~~ Develop written agreements with local, state, and federal agencies for the sharing of health-care-related data or using the facilities and services of such agencies. State agencies, local health councils, and other agencies under state contract shall assist the agency ~~center~~ in obtaining, compiling, and transferring health-care-related data maintained by state and local agencies. ~~Written agreements must specify the types, methods, and periodicity of data exchanges and specify the types of data that will be transferred to the center.~~

(d) ~~(e)~~ Enable and facilitate the sharing and use of all state-collected health data to the maximum extent allowed by law ~~Establish by rule the types of data collected, compiled, processed, used, or shared. Decisions regarding center data sets should be made based on consultation with the State Consumer Health Information and Policy Advisory Council and other public and private users regarding the types of data which should be collected and their uses. The center shall establish standardized means for collecting health information and statistics under laws and rules administered by the agency.~~

~~(f) Establish minimum health-care-related data sets which are necessary on a continuing basis to fulfill the collection requirements of the center and which shall be used by state agencies in collecting and compiling health-care-related data. The agency shall periodically review ongoing health care data collections of the Department of Health and other state agencies to determine if the collections are being conducted in~~

~~accordance with the established minimum sets of data.~~

~~(g) Establish advisory standards to ensure the quality of health statistical and epidemiological data collection, processing, and analysis by local, state, and private organizations.~~

(e) ~~(h)~~ Monitor data collection procedures, test data quality, and take such corrective actions as are necessary to ensure that data and information disseminated under the initiative are accurate, valid, reliable, and complete ~~Prescribe standards for the publication of health-care-related data reported pursuant to this section which ensure the reporting of accurate, valid, reliable, complete, and comparable data. Such standards should include advisory warnings to users of the data regarding the status and quality of any data reported by or available from the center.~~

(f) ~~(i)~~ Initiate and maintain activities necessary to collect, edit, verify, archive, and retrieve data compiled pursuant to this section ~~Prescribe standards for the maintenance and preservation of the center's data. This should include methods for archiving data, retrieval of archived data, and data editing and verification.~~

~~(j) Ensure that strict quality control measures are maintained for the dissemination of data through publications, studies, or user requests.~~

~~(k) Develop, in conjunction with the State Consumer Health Information and Policy Advisory Council, and implement a long-range plan for making available health care quality measures and financial data that will allow consumers to compare health care services. The health care quality measures and financial data~~

~~the agency must make available include, but are not limited to, pharmaceuticals, physicians, health care facilities, and health plans and managed care entities. The agency shall update the plan and report on the status of its implementation annually. The agency shall also make the plan and status report available to the public on its Internet website. As part of the plan, the agency shall identify the process and timeframes for implementation, barriers to implementation, and recommendations of changes in the law that may be enacted by the Legislature to eliminate the barriers. As preliminary elements of the plan, the agency shall:~~

~~1. Make available patient safety indicators, inpatient quality indicators, and performance outcome and patient charge data collected from health care facilities pursuant to s. 408.061(1)(a) and (2). The terms "patient safety indicators" and "inpatient quality indicators" have the same meaning as that ascribed by the Centers for Medicare and Medicaid Services, an accrediting organization whose standards incorporate comparable regulations required by this state, or a national entity that establishes standards to measure the performance of health care providers, or by other states. The agency shall determine which conditions, procedures, health care quality measures, and patient charge data to disclose based upon input from the council. When determining which conditions and procedures are to be disclosed, the council and the agency shall consider variation in costs, variation in outcomes, and magnitude of variations and other relevant information. When determining which health care quality measures to disclose, the agency:~~

~~a. Shall consider such factors as volume of cases; average~~

~~patient charges; average length of stay; complication rates; mortality rates; and infection rates, among others, which shall be adjusted for case mix and severity, if applicable.~~

~~b. May consider such additional measures that are adopted by the Centers for Medicare and Medicaid Studies, an accrediting organization whose standards incorporate comparable regulations required by this state, the National Quality Forum, the Joint Commission on Accreditation of Healthcare Organizations, the Agency for Healthcare Research and Quality, the Centers for Disease Control and Prevention, or a similar national entity that establishes standards to measure the performance of health care providers, or by other states.~~

~~When determining which patient charge data to disclose, the agency shall include such measures as the average of undiscounted charges on frequently performed procedures and preventive diagnostic procedures, the range of procedure charges from highest to lowest, average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission, among others.~~

~~2. Make available performance measures, benefit design, and premium cost data from health plans licensed pursuant to chapter 627 or chapter 641. The agency shall determine which health care quality measures and member and subscriber cost data to disclose, based upon input from the council. When determining which data to disclose, the agency shall consider information that may be required by either individual or group purchasers to assess the value of the product, which may include membership satisfaction, quality of care, current enrollment or membership,~~

~~coverage areas, accreditation status, premium costs, plan costs, premium increases, range of benefits, copayments and deductibles, accuracy and speed of claims payment, credentials of physicians, number of providers, names of network providers, and hospitals in the network. Health plans shall make available to the agency such data or information that is not currently reported to the agency or the office.~~

~~3. Determine the method and format for public disclosure of data reported pursuant to this paragraph. The agency shall make its determination based upon input from the State Consumer Health Information and Policy Advisory Council. At a minimum, the data shall be made available on the agency's Internet website in a manner that allows consumers to conduct an interactive search that allows them to view and compare the information for specific providers. The website must include such additional information as is determined necessary to ensure that the website enhances informed decisionmaking among consumers and health care purchasers, which shall include, at a minimum, appropriate guidance on how to use the data and an explanation of why the data may vary from provider to provider.~~

~~4. Publish on its website undiscounted charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, and preventative procedures.~~

~~(4) TECHNICAL ASSISTANCE.—~~

~~(a) The center shall provide technical assistance to persons or organizations engaged in health planning activities in the effective use of statistics collected and compiled by the center. The center shall also provide the following additional~~

~~technical assistance services:~~

~~1. Establish procedures identifying the circumstances under which, the places at which, the persons from whom, and the methods by which a person may secure data from the center, including procedures governing requests, the ordering of requests, timeframes for handling requests, and other procedures necessary to facilitate the use of the center's data. To the extent possible, the center should provide current data timely in response to requests from public or private agencies.~~

~~2. Provide assistance to data sources and users in the areas of database design, survey design, sampling procedures, statistical interpretation, and data access to promote improved health care related data sets.~~

~~3. Identify health care data gaps and provide technical assistance to other public or private organizations for meeting documented health care data needs.~~

~~4. Assist other organizations in developing statistical abstracts of their data sets that could be used by the center.~~

~~5. Provide statistical support to state agencies with regard to the use of databases maintained by the center.~~

~~6. To the extent possible, respond to multiple requests for information not currently collected by the center or available from other sources by initiating data collection.~~

~~7. Maintain detailed information on data maintained by other local, state, federal, and private agencies in order to advise those who use the center of potential sources of data which are requested but which are not available from the center.~~

~~8. Respond to requests for data which are not available in published form by initiating special computer runs on data sets~~

~~available to the center.~~

~~9. Monitor innovations in health information technology, informatics, and the exchange of health information and maintain a repository of technical resources to support the development of a health information network.~~

~~(b) The agency shall administer, manage, and monitor grants to not-for-profit organizations, regional health information organizations, public health departments, or state agencies that submit proposals for planning, implementation, or training projects to advance the development of a health information network. Any grant contract shall be evaluated to ensure the effective outcome of the health information project.~~

~~(c) The agency shall initiate, oversee, manage, and evaluate the integration of health care data from each state agency that collects, stores, and reports on health care issues and make that data available to any health care practitioner through a state health information network.~~

~~(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:~~

~~(a) The center shall publish and make available periodically to agencies and individuals health statistics publications of general interest, including health plan consumer reports and health maintenance organization member satisfaction surveys; publications providing health statistics on topical health policy issues; publications that provide health status profiles of the people in this state; and other topical health statistics publications.~~

~~(b) The center shall publish, make available, and disseminate, promptly and as widely as practicable, the results of special health surveys, health care research, and health care evaluations conducted or supported under this section. Any publication by the center must include a statement of the limitations on the quality, accuracy, and completeness of the data.~~

~~(c) The center shall provide indexing, abstracting, translation, publication, and other services leading to a more effective and timely dissemination of health care statistics.~~

~~(d) The center shall be responsible for publishing and disseminating an annual report on the center's activities.~~

~~(e) The center shall be responsible, to the extent resources are available, for conducting a variety of special studies and surveys to expand the health care information and statistics available for health policy analyses, particularly for the review of public policy issues. The center shall develop a process by which users of the center's data are periodically surveyed regarding critical data needs and the results of the survey considered in determining which special surveys or studies will be conducted. The center shall select problems in health care for research, policy analyses, or special data collections on the basis of their local, regional, or state importance; the unique potential for definitive research on the problem; and opportunities for application of the study findings.~~

(4) ~~(6)~~ PROVIDER DATA REPORTING.—This section does not confer on the agency the power to demand or require that a health care provider or professional furnish information,

records of interviews, written reports, statements, notes, memoranda, or data other than as expressly required by law.

(5) ~~(7)~~ HEALTH INFORMATION ENTERPRISE ~~BUDGET; FEES~~.—

(a) The agency shall implement the comprehensive health information system in a manner that recognizes state-collected data as an asset and rewards taxpayer investment in information collection and management ~~Legislature intends that funding for the Florida Center for Health Information and Policy Analysis be appropriated from the General Revenue Fund~~.

(b) The agency ~~Florida Center for Health Information and Policy Analysis~~ may apply for, ~~and~~ receive, and accept grants, gifts, and other payments, including property and services, from a ~~any~~ governmental or other public or private entity or person and make arrangements for ~~as to~~ the use of such funds ~~same~~, including the undertaking of special studies and other projects relating to health-care-related topics. ~~Funds obtained pursuant to this paragraph may not be used to offset annual appropriations from the General Revenue Fund.~~

(c) The agency shall ensure that a vendor who enters into a contract with the state under this section does not inhibit or impede public access to state-collected health data and information ~~center may charge such reasonable fees for services as the agency prescribes by rule~~. ~~The established fees may not exceed the reasonable cost for such services. Fees collected may not be used to offset annual appropriations from the General Revenue Fund.~~

~~(8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY COUNCIL.—~~

~~(a) There is established in the agency the State Consumer~~

~~Health Information and Policy Advisory Council to assist the 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, and transparency of consumer health care information. The council shall consist of the following members:~~

~~1. An employee of the Executive Office of the Governor, to be appointed by the Governor.~~

~~2. An employee of the Office of Insurance Regulation, to be appointed by the director of the office.~~

~~3. An employee of the Department of Education, to be appointed by the Commissioner of Education.~~

~~4. Ten persons, to be appointed by the Secretary of Health Care Administration, representing other state and local agencies, state universities, business and health coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.~~

~~(b) Each member of the council shall be appointed to serve for a term of 2 years following the date of appointment, except the term of appointment shall end 3 years following the date of appointment for members appointed in 2003, 2004, and 2005. A vacancy shall be filled by appointment for the remainder of the term, and each appointing authority retains the right to reappoint members whose terms of appointment have expired.~~

~~(c) The council may meet at the call of its chair, at the request of the agency, or at the request of a majority of its~~

~~membership, but the council must meet at least quarterly.~~

~~(d) Members shall elect a chair and vice chair annually.~~

~~(e) A majority of the members constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take action.~~

~~(f) The council shall maintain minutes of each meeting and shall make such minutes available to any person.~~

~~(g) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.~~

~~(h) The council's duties and responsibilities include, but are not limited to, the following:~~

~~1. To develop a mission statement, goals, and a plan of action for the identification, collection, standardization, sharing, and coordination of health-related data across federal, state, and local government and private sector entities.~~

~~2. To develop a review process to ensure cooperative planning among agencies that collect or maintain health-related data.~~

~~3. To create ad hoc issue-oriented technical workgroups on an as-needed basis to make recommendations to the council.~~

~~(9) APPLICATION TO OTHER AGENCIES.—Nothing in this section shall limit, restrict, affect, or control the collection, analysis, release, or publication of data by any state agency pursuant to its statutory authority, duties, or responsibilities.~~

Section 6. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall monitor the Agency for Health Care Administration's implementation of s. 408.05,

Florida Statutes, as amended by this act. No later than 1 year after the agency completes implementation, OPPAGA shall 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, Florida Statutes, to other executive branch agencies.

Section 7. For the purpose of incorporating the amendment made by this act to section 257.36, Florida Statutes, in a reference thereto, subsection (8) of section 120.54, Florida Statutes, is reenacted to read:

120.54 Rulemaking.—

(8) RULEMAKING RECORD.—In all rulemaking proceedings the agency shall compile a rulemaking record. The record shall include, if applicable, copies of:

(a) All notices given for the proposed rule.

(b) Any statement of estimated regulatory costs for the rule.

(c) A written summary of hearings on the proposed rule.

(d) The written comments and responses to written comments as required by this section and s. 120.541.

(e) All notices and findings made under subsection (4).

(f) All materials filed by the agency with the committee under subsection (3).

(g) All materials filed with the Department of State under subsection (3).

(h) All written inquiries from standing committees of the Legislature concerning the rule.

Each state agency shall retain the record of rulemaking as long

as the rule is in effect. When a rule is no longer in effect, the record may be destroyed pursuant to the records-retention schedule developed under s. 257.36(6).

Section 8. Subsection (3) of section 20.42, Florida Statutes, is amended to read:

20.42 Agency for Health Care Administration.—

(3) The department is ~~shall be~~ the chief health policy and planning entity for the state. The department is responsible for health facility licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the implementation of the certificate of need program; ~~the operation of the Florida Center for Health Information and Policy Analysis;~~ the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; the certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641; and any other duties prescribed by statute or agreement.

Section 9. Paragraph (c) of subsection (4) of section 381.026, Florida Statutes, is amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(4) RIGHTS OF PATIENTS.—Each health care facility or provider shall observe the following standards:

(c) *Financial information and disclosure.*—

1. A patient has the right to be given, upon request, by the responsible provider, his or her designee, or a representative of the health care facility full information and

necessary counseling on the availability of known financial resources for the patient's health care.

2. A health care provider or a health care facility shall, upon request, disclose to each patient who is eligible for Medicare, before treatment, whether the health care provider or the health care facility in which the patient is receiving medical services accepts assignment under Medicare reimbursement as payment in full for medical services and treatment rendered in the health care provider's office or health care facility.

3. A primary care provider may publish a schedule of charges for the medical services that the provider offers to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the provider's office and must include, but is not limited to, the 50 services most frequently provided by the primary care provider. The schedule may group services by three price levels, listing services in each price level. The posting must be at least 15 square feet in size. A primary care provider who publishes and maintains a schedule of charges for medical services is exempt from the license fee requirements for a single period of renewal of a professional license under chapter 456 for that licensure term and is exempt from the continuing education requirements of chapter 456 and the rules implementing those requirements for a single 2-year period.

4. If a primary care provider publishes a schedule of charges pursuant to subparagraph 3., he or she shall ~~must~~ continually post it at all times for the duration of active

licensure in this state when primary care services are provided to patients. If a primary care provider fails to post the schedule of charges in accordance with this subparagraph, the provider shall ~~be required to~~ pay any license fee and comply with ~~any~~ continuing education requirements for which an exemption was received.

5. A health care provider or a health care facility shall, upon request, furnish a person, before the provision of medical services, a reasonable estimate of charges for such services. The health care provider or the health care facility shall provide an uninsured person, before the provision of a planned nonemergency medical service, a reasonable estimate of charges for such service and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. Such estimates by a primary care provider must be consistent with the schedule posted under subparagraph 3. To the extent possible, estimates shall~~, to the extent possible,~~ be written in language comprehensible to an ordinary layperson. Such reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

6. Each licensed facility not operated by the state shall make available to the public on its ~~Internet~~ website or by other electronic means a description of and a link to the performance outcome and financial data that is published by the agency ~~pursuant to s. 408.05(3)(k)~~. The facility shall place in its reception area a notice stating that the ~~in the reception area that such~~ information is available electronically and providing

the facility's website address. The licensed facility may indicate that the pricing information is based on a compilation of charges for the average patient and that each patient's bill may vary from the average depending upon the severity of illness and individual resources consumed. The licensed facility may also indicate that the price of service is negotiable for eligible patients based upon the patient's ability to pay.

7. A patient has the right to receive a copy of an itemized bill and ~~upon request. A patient has a right to be given~~ an explanation of charges upon request.

Section 10. Subsection (11) of section 395.301, Florida Statutes, is amended to read:

395.301 Itemized patient bill; form and content prescribed by the agency.—

(11) Each licensed facility shall make available on its ~~Internet~~ website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration ~~pursuant to s. 408.05(3)(k)~~. The facility shall place in its reception area a notice stating ~~in the reception area~~ that the information is available electronically and providing the facility's ~~Internet~~ website address.

Section 11. Paragraph (e) of subsection (2) of section 395.602, Florida Statutes, is amended to read:

395.602 Rural hospitals.—

(2) DEFINITIONS.—As used in this part:

(e) "Rural hospital" means an acute care hospital licensed under this chapter, having 100 or fewer licensed beds and an emergency room, which is:

1. The sole provider within a county with a population

density of no greater than 100 persons per square mile;

2. An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;

3. A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

4. A hospital in a constitutional charter county with a population of more than ~~over~~ 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency pursuant to chapter 125, and has 120 beds or less that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid inpatient utilization rate greater than 15 percent;

5. A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this subparagraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the agency's hospital inpatient discharge database ~~in the Florida Center for Health Information and Policy Analysis at the agency~~; or

6. A hospital designated as a critical access hospital, as defined in s. 408.07.

Population densities used in this paragraph must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2015, if the hospital continues to have 100 or fewer licensed beds and an emergency room, or meets the criteria of subparagraph 4. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this paragraph shall be granted such designation upon application, including supporting documentation, to the agency. A hospital that was licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year shall continue to be a rural hospital from the date of designation through June 30, 2015, if the hospital continues to have 100 or fewer licensed beds and an emergency room.

Section 12. Section 395.6025, Florida Statutes, is amended to read:

395.6025 Rural hospital replacement facilities.—Notwithstanding ~~the provisions of~~ s. 408.036, a hospital defined as a statutory rural hospital in accordance with s. 395.602, or a not-for-profit operator of rural hospitals, is not required to obtain a certificate of need for the construction of a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, if ~~provided that~~ the replacement, or new, facility is located within 10 miles of the site of the currently licensed rural hospital and within the current primary service area. As used in this

section, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the Agency for Health Care Administration's hospital inpatient discharge database ~~in the Florida Center for Health Information and Policy Analysis at the Agency for Health Care Administration~~.

Section 13. Subsection (43) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(43) "Rural hospital" means an acute care hospital licensed under chapter 395, having 100 or fewer licensed beds and an emergency room, and which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county;

(c) A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

(d) A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this paragraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from

the Agency for Health Care Administration's hospital inpatient discharge database ~~in the Florida Center for Health Information and Policy Analysis at the Agency for Health Care Administration~~; or

(e) A critical access hospital.

Population densities used in this subsection must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2015, if the hospital continues to have 100 or fewer licensed beds and an emergency room, or meets the criteria of s. 395.602(2)(e)4. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this subsection shall be granted such designation upon application, including supporting documentation, to the Agency for Health Care Administration.

Section 14. Paragraph (a) of subsection (4) of section 408.18, Florida Statutes, is amended to read:

408.18 Health Care Community Antitrust Guidance Act; antitrust no-action letter; market-information collection and education.—

(4)(a) Members of the health care community who seek antitrust guidance may request a review of their proposed business activity by the Attorney General's office. In conducting its review, the Attorney General's office may seek whatever documentation, data, or other material it deems necessary from the Agency for Health Care Administration~~, the~~

~~Florida Center for Health Information and Policy Analysis,~~ and the Office of Insurance Regulation of the Financial Services Commission.

Section 15. Section 465.0244, Florida Statutes, is amended to read:

465.0244 Information disclosure.—Every pharmacy shall make available on its ~~Internet~~ website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall place in the area where customers receive filled prescriptions notice that such information is available electronically and the address of its ~~Internet~~ website.

Section 16. Subsection (2) of section 627.6499, Florida Statutes, is amended to read:

627.6499 Reporting by insurers and third-party administrators.—

(2) Each health insurance issuer shall make available on its ~~Internet~~ website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall include in every policy delivered or issued for delivery to any person in the state or any materials provided as required by s. 627.64725 notice that such information is available electronically and the address of its ~~Internet~~ website.

Section 17. Subsection (7) of section 641.54, Florida Statutes, is amended to read:

641.54 Information disclosure.—

(7) Each health maintenance organization shall make available on its ~~Internet~~ website a link to the performance

outcome and financial data that is published by the Agency for Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall include in every policy delivered or issued for delivery to any person in the state or ~~any~~ materials provided as required by s. 627.64725 notice that such information is available electronically and the address of its ~~Internet~~ website.

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

STAFF DIR STAFF

14 MAR 20 PM 3:08

SENATE APPROPRIATIONS
RECEIVED

File signed original with committee office

(03/2004)

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 *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *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)

2 April 2014
Meeting Date

Topic Child Welfare

Bill Number 1666 *(if applicable)*

Name Esther Jacobo

Amendment Barcode ~~915912~~ 915912 *(if applicable)*

Job Title Interim Secretary

Address 1317 Winewood Blvd
Street
Tallahassee FL 32399
City *State* *Zip*

Phone 487 1111

E-mail esther_jacobo@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

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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 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@bigbendcbc.us

Speaking: ☐ For ☐ Against ☑ Information

Representing BIG BEND COMMUNITY BASED CARE, INC.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

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 Kenwood Drive — Phone _____
Street

Tallahassee FL 32303 — E-mail _____
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing National Assn. of Social Workers - Florida

Appearing at request of Chair: ☐ Yes ☑ No — Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-14
Meeting Date

Topic CHILD Welfare — Bill Number SB 1666 *(if applicable)*

Name MARK FONTAINE — Amendment Barcode _____ *(if applicable)*

Job Title EXECUTIVE DIRECTOR

Address 2868 MAHAN DRIVE — Phone 878-2196
Street

TALLAHASSEE FL 32308 — E-mail _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

Representing FLORIDA Alcohol + Drug Abuse Association

Appearing at request of Chair: ☐ Yes ☑ No — Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

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
Tallahassee Fl 32301
City *State* *Zip*

Phone 561-1102

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

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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 /2014
Meeting Date

Topic _____ Bill Number 1666 *(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

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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 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

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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 Patrick J. McCabe

Amendment Barcode _____ *(if applicable)*

Job Title Foster Parent

Address 8023 S.W. 133 Place
Street
Miami, FL 33183
City *State* *Zip*

Phone 305-383-6261

E-mail pat@miamileather.com

Speaking: [X] For [ ] Against [X] Information

Representing Foster Parents

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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

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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 MERJMartinez@gmail.com

Speaking: ☐ For ☐ Against ☑ Information

Representing Foster Parents

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

(W)

4/2/2014
Meeting Date

Topic Cancer Control & Research

Bill Number 734 *(if applicable)*

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

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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)

4/2/2014
Meeting Date

Topic _____ Bill Number 1128 *(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

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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)

W

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 FL 200 W College Av., Suite 300
Street

Phone 850-228-7295

Tallahassee FL 32301
City *State* *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

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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)

(W)

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 *Street*

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

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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

(W)

Topic CON

Bill Number 268 *(if applicable)*

Name TONY 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: [X] For [ ] Against [ ] Information

Representing FLORIDA HEALTH CARE ASSOCIATION

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4 / 2 /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 *City* FLORIDA *State* 33705 *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

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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)

(10)

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 lawgonz@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

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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)

1/12/2014
Meeting Date

Topic _____ Bill Number 662 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH 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

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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)

4/2/2014
Meeting Date

Topic _____ Bill Number 1670 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *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

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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 *City* FLORIDA *State* 33705 *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

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S-001 (10/20/11)

CourtSmart Tag Report

Room: KN 412 **Case:** **Type:**
Caption: Appropriations Subcommitee on Health and Human Services **Judge:**

Started: 4/2/2014 1:06:49 PM
Ends: 4/2/2014 2:22:44 PM Length: 01:15:56

1:06:53 PM	Meeting Called to Order
1:07:00 PM	Roll Call
1:07:28 PM	Opening Remarks by Chair Grimsley
1:07:35 PM	Tab 10
1:07:53 PM	CS/SB 782 by Sen Brandes; Government Data Practices
1:08:32 PM	Amendment #975000 - Adopted
1:09:10 PM	Public Testimony
1:09:21 PM	Brian Pitts, Justice 2 Jesus
1:12:35 PM	Roll Call Motion on CS/SB 782 - FAV
1:13:25 PM	Motion CS/SB 1082 Sen Flores moves Temporarily Adopted
1:13:28 PM	Tab 1
1:13:30 PM	SB 1666 by Sen Sobel; Child Abuse and Child Welfare Services
1:13:55 PM	Strike-All Amendment #915192
1:19:05 PM	Amendment #879306 - Adopted
1:19:27 PM	Amendment #456776 - Adopted
1:20:02 PM	Amendment #575546 - Adopted
1:20:31 PM	Amendment #251198 - Adopted
1:21:05 PM	Amendment #960672 - Adopted
1:21:51 PM	Amendment #241332 - Adopted
1:22:37 PM	Public Testimony
1:22:55 PM	Esther Jacobo, Interim Secretary Dept. of Children & Families
1:25:23 PM	Mike Watkins, CEO, Big Bend Community Based Care
1:34:55 PM	Jim Akin, Executive Director, National Association of Social Workers of Florida
1:36:34 PM	Mark Fontaine, Executive Director, Florida Alcohol & Drug Abuse Association
1:39:15 PM	Kurt Kelly, President, Florida Coalition for Children
1:43:39 PM	Brian Pitts, Justice 2 Jesus
1:46:49 PM	Brigitta Johnson, Pinellas County Sheriffs Office
1:48:22 PM	Patrick McCabe, Foster Parent
1:50:49 PM	Denise Beeman Sasiain, Foster Parent
1:55:05 PM	Ricardo Martinez, Foster Parent
1:58:27 PM	Roll Call Motion on SB 1666 - FAV
1:59:01 PM	Motion by Sen Sobel SB 1668 & SB 1670 Temporarily Passes
1:59:17 PM	Tab 4
1:59:20 PM	SB 734 by Sen Sobel; Cancer Control and Research
1:59:30 PM	Strike-All Amendment #657682 - Adopted
2:01:41 PM	Roll Call Motion on SB 734 - FAV
2:02:11 PM	Tab 5
2:02:21 PM	CS/SB 1122 by Sen Bean; Emergency Allergy Treatment
2:04:19 PM	Amendment #434510 - Adopted
2:05:07 PM	Public Testimony
2:05:08 PM	Brian Pitts, Justice 2 Jesus
2:07:16 PM	Roll Call Motion on CS/SB 1122 - FAV
2:07:50 PM	Tab 6
2:07:52 PM	CS/CS SB 268 by Sen Grimsley; Certificates of Need
2:09:24 PM	Roll Call Motion on CS/CS/SB 268 - FAV
2:09:52 PM	Tab 7
2:10:01 PM	CS/SB 694 by Sen Garcia; Diabetes Advisory Council
2:10:24 PM	Public Testimony
2:10:33 PM	Brian Pitts, Justice 2 Jesus
2:15:05 PM	Roll Call Motion on CS/SB 694 - FAV
2:15:34 PM	Tab 8
2:15:45 PM	CS/SB 662 by Sen Bean; Nonresident Sterile Compounding Permits

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