

<b>Tab 1</b>	<b>CS/SB 358</b> by <b>HP, Rodriguez</b> ; (Similar to CS/H 01521) Professional Counselors Licensure Compact						
126144	A	S	RCS	AHS, Rodriguez	Delete L.612 - 1340:	02/22 11:03 AM	
141836	AA	S	RCS	AHS, Rodriguez	Delete L.555 - 601:	02/22 11:03 AM	

<b>Tab 2</b>	<b>SB 764</b> by <b>Albritton (CO-INTRODUCERS) Rouson</b> ; (Similar to H 00757) Step Into Success Internship Program						
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<b>Tab 3</b>	<b>CS/SB 1010</b> by <b>HP, Gibson</b> ; (Similar to CS/CS/CS/H 00543) Uterine Fibroid Research and Education						
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<b>Tab 4</b>	<b>CS/SB 1040</b> by <b>CF, Brodeur</b> ; (Compare to CS/H 00733) Special Persons Registry						
128694	D	S	RS	AHS, Brodeur	Delete everything after	02/22 11:03 AM	
521594	SD	S	RCS	AHS, Brodeur	Delete everything after	02/22 11:03 AM	

<b>Tab 5</b>	<b>CS/SB 1042</b> by <b>CF, Brodeur</b> ; (Similar to H 00735) Public Records/Special Persons Registry						
768172	A	S	RS	AHS, Brodeur	Delete L.69:	02/22 11:03 AM	
569488	SA	S	RCS	AHS, Brodeur	Delete L.19 - 69:	02/22 11:03 AM	

<b>Tab 6</b>	<b>CS/SB 1452</b> by <b>CF, Book (CO-INTRODUCERS) Jones</b> ; (Compare to CS/CS/H 00963) Funding for Sheriffs Providing Child Protective Investigative Services						
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<b>Tab 7</b>	<b>SB 1598</b> by <b>Garcia</b> ; Domestic Violence Task Force						
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES**  
**Senator Bean, Chair**  
**Senator Rodriguez, Vice Chair**

**MEETING DATE:** Tuesday, February 22, 2022  
**TIME:** 9:00 a.m.—1:00 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Bean, Chair; Senator Rodriguez, Vice Chair; Senators Book, Brodeur, Burgess, Diaz, Farmer, Harrell, Jones, Rodrigues, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 358</b> Health Policy / Rodriguez (Similar CS/H 1521, Compare H 1523, Linked CS/CS/S 590)	Professional Counselors Licensure Compact; Creating the Professional Counselors Licensure Compact; providing for recognition of the privilege to practice licensed professional counseling in member states; providing for the recognition of the practice of professional counseling through telehealth in member states; providing for the development of the data system, reporting procedures, and the exchange of specified information between member states; specifying that licensees practicing in a remote state under the compact must adhere to the laws and rules of the remote state; requiring the Department of Health to notify the Division of Law Revision upon enactment of the compact into law by 10 states, etc.  HP 11/03/2021 Fav/CS AHS 02/22/2022 Fav/CS AP	Fav/CS Yeas 10 Nays 0
2	<b>SB 764</b> Albritton (Similar H 757)	Step Into Success Internship Program; Designating the “Step Into Success Act”; establishing the Step Into Success internship program within the Department of Children and Families for eligible foster youth; requiring that eligible foster youth receive priority consideration for certain internship positions; requiring the department to publicize internship opportunities and inform foster youth of where to locate the information; requiring approved agencies to provide and monthly update a list of open employment opportunities for which eligible foster youth may apply; specifying requirements and conditions for foster youth to earn college credit for work performed in the internship program, etc.  CF 11/30/2021 Favorable AHS 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Subcommittee on Health and Human Services  
 Tuesday, February 22, 2022, 9:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>CS/SB 1010</b> Health Policy / Gibson (Similar CS/H 543)	Uterine Fibroid Research and Education; Requiring the Department of Health to develop and maintain an electronic database of information related to uterine fibroids; requiring health care providers to submit certain information to the department for inclusion in the database; prohibiting the database from including any personal identifying information; providing that such information is confidential; authorizing certain persons to use such information for a specified purpose; requiring the department to develop and include information related to fibroids in certain literature currently made available to the public for a specified purpose, etc.  HP 02/02/2022 Fav/CS AHS 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
4	<b>CS/SB 1040</b> Children, Families, and Elder Affairs / Brodeur (Compare CS/H 733, H 735, Linked CS/S 1042)	Special Persons Registry; Citing this act as the "Protect Our Loved Ones Act"; requiring the Department of Health to develop and maintain a database, to be known as the "Special Persons Registry," for a specified purpose; specifying information the registry may include; requiring the Department of Law Enforcement to provide relevant information from the registry to law enforcement officers upon request through a specified system, etc.  CF 02/08/2022 Fav/CS AHS 02/22/2022 Fav/CS AP	Fav/CS Yeas 10 Nays 0
5	<b>CS/SB 1042</b> Children, Families, and Elder Affairs / Brodeur (Similar H 735, Compare CS/H 733, Linked CS/S 1040)	Public Records/Special Persons Registry; Providing an exemption from public records requirements for all records, data, information, correspondence, and communications relating to the enrollment of persons in the Special Persons Registry maintained by the Department of Health; providing exceptions; authorizing law enforcement agencies, county emergency management agencies, and local fire departments to further disclose confidential and exempt information under certain circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CF 02/08/2022 Fav/CS AHS 02/22/2022 Fav/CS AP	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Subcommittee on Health and Human Services  
Tuesday, February 22, 2022, 9:00 a.m.—1:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	<b>CS/SB 1452</b> Children, Families, and Elder Affairs / Book (Similar CS/H 963)	Funding for Sheriffs Providing Child Protective Investigative Services; Authorizing sheriffs who provide child protective investigative services to carry forward a certain percentage of unexpended state funds each fiscal year; requiring certain funds to be returned to the Department of Children and Families; prohibiting funds carried forward from being used in certain ways; requiring that certain expenditures be reported to the department; authorizing unexpended funds to be retained through contract or grant agreement renewals under certain circumstances, etc.  CF 01/25/2022 Fav/CS AHS 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0
7	<b>SB 1598</b> Garcia	Domestic Violence Task Force; Creating the Domestic Violence Task Force adjunct to the Department of Children and Families; requiring the department to provide certain services to the task force; providing purposes of the task force; specifying the composition of the task force; providing for the appointment of task force members and requirements for meetings; specifying duties of the task force; requiring state departments and agencies to provide requested assistance to the task force; requiring the task force to submit reports to the Governor and the Legislature by certain dates; providing for dissolution of the task force; providing for future repeal, unless saved by the Legislature through reenactment, etc.  CF 01/25/2022 Favorable AHS 02/22/2022 Favorable AP	Favorable Yeas 10 Nays 0

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Other Related Meeting Documents

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By the Committee on Health Policy; and Senator Rodriguez

588-01039-22

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1 A bill to be entitled  
 2 An act relating to the Professional Counselors  
 3 Licensure Compact; creating s. 491.017, F.S.; creating  
 4 the Professional Counselors Licensure Compact;  
 5 providing purposes and objectives; defining terms;  
 6 specifying requirements for state participation in the  
 7 compact; specifying duties of member states;  
 8 authorizing member states to charge a fee for granting  
 9 a privilege to practice under the compact; specifying  
 10 that that compact does not affect an individual's  
 11 ability to apply for, and a member state's ability to  
 12 grant, a single state license pursuant to the laws of  
 13 that state; providing construction; providing for  
 14 recognition of the privilege to practice licensed  
 15 professional counseling in member states; specifying  
 16 criteria a licensed professional counselor must meet  
 17 for the privilege to practice under the compact;  
 18 providing for the expiration and renewal of the  
 19 privilege to practice; providing construction;  
 20 specifying that a licensee with a privilege to  
 21 practice in a remote state must adhere to the laws and  
 22 rules of that state; authorizing member states to act  
 23 on a licensee's privilege to practice under certain  
 24 circumstances; specifying the consequences and  
 25 parameters of practice for a licensee whose privilege  
 26 to practice has been acted on or whose home state  
 27 license is encumbered; specifying that a licensed  
 28 professional counselor may hold a home state license  
 29 in only one member state at a time; specifying

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30 requirements and procedures for changing a home state  
 31 license designation; providing construction;  
 32 authorizing active duty military personnel or their  
 33 spouses to keep their home state designation during  
 34 active duty; specifying how such individuals may  
 35 subsequently change their home state license  
 36 designation; providing for the recognition of the  
 37 practice of professional counseling through telehealth  
 38 in member states; specifying that licensees must  
 39 adhere to the laws and rules of the remote state in  
 40 which they provide professional counseling through  
 41 telehealth; authorizing member states to take adverse  
 42 actions against licensees and issue subpoenas for  
 43 hearings and investigations under certain  
 44 circumstances; providing requirements and procedures  
 45 for adverse action; authorizing member states to  
 46 engage in joint investigations under certain  
 47 circumstances; providing that a licensee's privilege  
 48 to practice must be deactivated in all member states  
 49 for the duration of an encumbrance imposed by the  
 50 licensee's home state; providing for notice to the  
 51 data system and the licensee's home state of any  
 52 adverse action taken against a licensee; providing  
 53 construction; establishing the Counseling Compact  
 54 Commission; providing for the jurisdiction and venue  
 55 for court proceedings; providing construction;  
 56 providing for membership, meetings, and powers of the  
 57 commission; specifying powers and duties of the  
 58 commission's executive committee; providing for the

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59 financing of the commission; providing commission  
60 members, officers, executive directors, employees, and  
61 representatives immunity from civil liability under  
62 certain circumstances; providing exceptions; requiring  
63 the commission to defend the commission's members,  
64 officers, executive directors, employees, and  
65 representative in civil actions under certain  
66 circumstances; providing construction; requiring the  
67 commission to indemnify and hold harmless such  
68 individuals for any settlement or judgment obtained in  
69 such actions under certain circumstances; providing  
70 for the development of the data system, reporting  
71 procedures, and the exchange of specified information  
72 between member states; requiring the commission to  
73 notify member states of any adverse action taken  
74 against a licensee or applicant for licensure;  
75 authorizing member states to designate as confidential  
76 information provided to the data system; requiring the  
77 commission to remove information from the data system  
78 under certain circumstances; providing rulemaking  
79 procedures for the commission; providing for member  
80 state enforcement of the compact; specifying that the  
81 compact and commission rules have standing as  
82 statutory law in member states; specifying that the  
83 commission is entitled to receive notice of process,  
84 and has standing to intervene, in certain judicial and  
85 administrative proceedings; rendering certain  
86 judgments and orders void as to the commission, the  
87 compact, or commission rules under certain

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88 circumstances; providing for defaults and termination  
89 of compact membership; providing procedures for the  
90 resolution of certain disputes; providing for  
91 commission enforcement of the compact; providing for  
92 remedies; providing construction; providing for  
93 implementation of, withdrawal from, and amendment to  
94 the compact; providing construction; specifying that  
95 licensees practicing in a remote state under the  
96 compact must adhere to the laws and rules of the  
97 remote state; providing construction; specifying that  
98 the compact, commission rules, and commission actions  
99 are binding on member states; providing construction  
100 and severability; amending s. 456.073, F.S.; requiring  
101 the Department of Health to report certain  
102 investigative information to the data system; amending  
103 s. 456.076, F.S.; requiring monitoring contracts for  
104 impaired practitioners participating in treatment  
105 programs to contain certain terms; amending s.  
106 491.004, F.S.; requiring the Board of Clinical Social  
107 Work, Marriage and Family Therapy, and Mental Health  
108 Counseling to appoint an individual to serve as the  
109 state's delegate on the commission; amending ss.  
110 491.005 and 491.006, F.S.; exempting certain persons  
111 from licensure requirements; amending s. 491.009,  
112 F.S.; authorizing certain disciplinary action under  
113 the compact for specified prohibited acts; amending s.  
114 768.28, F.S.; designating the state delegate and other  
115 members or employees of the commission as state agents  
116 for the purpose of applying waivers of sovereign

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117 immunity; requiring the commission to pay certain  
 118 claims or judgments; authorizing the commission to  
 119 maintain insurance coverage to pay such claims or  
 120 judgments; requiring the department to notify the  
 121 Division of Law Revision upon enactment of the compact  
 122 into law by 10 states; providing a contingent  
 123 effective date.

124  
 125 Be It Enacted by the Legislature of the State of Florida:

126  
 127 Section 1. Section 491.017, Florida Statutes, is created to  
 128 read:

129 491.017 Professional Counselors Licensure Compact.—The  
 130 Professional Counselors Licensure Compact is hereby enacted and  
 131 entered into by this state with all other jurisdictions legally  
 132 joining therein in the form substantially as follows:

133  
 134 ARTICLE I

135 PURPOSE

136 The compact is designed to achieve the following purposes  
 137 and objectives:

138 (1) Facilitate interstate practice of licensed professional  
 139 counseling to increase public access to professional counseling  
 140 services by providing for the mutual recognition of other member  
 141 state licenses.

142 (2) Enhance the member states' ability to protect the  
 143 public's health and safety.

144 (3) Encourage the cooperation of member states in  
 145 regulating multistate practice of licensed professional

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146 counselors.

147 (4) Support spouses of relocating active duty military  
 148 personnel.

149 (5) Facilitate the exchange of information between member  
 150 states regarding licensure, investigations, adverse actions, and  
 151 disciplinary history of licensed professional counselors.

152 (6) Allow for the use of telehealth technology to  
 153 facilitate increased access to professional counseling services.

154 (7) Support the uniformity of professional counseling  
 155 licensure requirements throughout member states to promote  
 156 public safety and public health benefits.

157 (8) Provide member states with the authority to hold a  
 158 licensed professional counselor accountable for meeting all  
 159 state practice laws in the state in which the client is located  
 160 at the time care is rendered through the mutual recognition of  
 161 member state licenses.

162 (9) Eliminate the necessity for licensed professional  
 163 counselors to hold licenses in multiple states and provide  
 164 opportunities for interstate practice by licensed professional  
 165 counselors who meet uniform licensure requirements.

166  
 167 ARTICLE II

168 DEFINITIONS

169 As used in this compact, the term:

170 (1) "Active duty military" means full-time duty status in  
 171 the active uniformed service of the United States, including,  
 172 but not limited to, members of the National Guard and Reserve on  
 173 active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

174 (2) "Adverse action" means any administrative, civil, or

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175 criminal action authorized by a state's laws which is imposed by  
 176 a licensing board or other authority against a licensed  
 177 professional counselor, including actions against an  
 178 individual's license or privilege to practice, such as  
 179 revocation, suspension, probation, monitoring of the licensee,  
 180 limitation on the licensee's practice, issuance of a cease and  
 181 desist action, or any other encumbrance on licensure affecting a  
 182 licensed professional counselor's authorization to practice.

183 (3) "Alternative program" means a nondisciplinary  
 184 monitoring or practice remediation process approved by a  
 185 professional counseling licensing board to address impaired  
 186 practitioners.

187 (4) "Continuing education" means a requirement, as a  
 188 condition of license renewal, to participate in or complete  
 189 educational and professional activities relevant to the  
 190 licensee's practice or area of work.

191 (5) "Counseling Compact Commission" or "commission" means  
 192 the national administrative body whose membership consists of  
 193 all states that have enacted the compact.

194 (6) "Current significant investigative information" means:

195 (a) Investigative information that a licensing board, after  
 196 a preliminary inquiry that includes notification and an  
 197 opportunity for the licensed professional counselor to respond,  
 198 if required by state law, has reason to believe is not  
 199 groundless and, if proved true, would indicate more than a minor  
 200 infraction; or

201 (b) Investigative information that indicates that the  
 202 licensed professional counselor represents an immediate threat  
 203 to public health and safety, regardless of whether the licensed

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204 professional counselor has been notified and had an opportunity  
 205 to respond.

206 (7) "Data system" means a repository of information about  
 207 licensees, including, but not limited to, information relating  
 208 to continuing education, examinations, licensure statuses,  
 209 investigations, the privilege to practice, and adverse actions.

210 (8) "Encumbered license" means a license in which an  
 211 adverse action restricts the practice of licensed professional  
 212 counseling by the licensee and said adverse action has been  
 213 reported to the National Practitioner Data Bank.

214 (9) "Encumbrance" means a revocation or suspension of, or  
 215 any limitation on, the full and unrestricted practice of  
 216 licensed professional counseling by a licensing board.

217 (10) "Executive committee" means a group of directors  
 218 elected or appointed to act on behalf of, and within the powers  
 219 granted to them by, the commission.

220 (11) "Home state" means the member state that is the  
 221 licensee's primary state of residence.

222 (12) "Impaired practitioner" means an individual who has a  
 223 condition that may impair his or her ability to safely practice  
 224 as a licensed professional counselor without intervention. Such  
 225 impairment may include, but is not limited to, alcohol or drug  
 226 dependence, mental health conditions, and neurological or  
 227 physical conditions.

228 (13) "Investigative information" means information,  
 229 records, or documents received or generated by a professional  
 230 counseling licensing board pursuant to an investigation.

231 (14) "Jurisprudence requirement," if required by a member  
 232 state, means the assessment of an individual's knowledge of the



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233 laws and rules governing the practice of professional counseling  
 234 in a state.

235 (15) "Licensed professional counselor" means a mental  
 236 health counselor licensed under chapter 491 or a counselor  
 237 licensed by a member state, regardless of the title used by that  
 238 state, to independently assess, diagnose, and treat behavioral  
 239 health conditions.

240 (16) "Licensee" means an individual who currently holds an  
 241 authorization from the state to practice as a licensed  
 242 professional counselor.

243 (17) "Licensing board" means the agency of a state, or  
 244 equivalent, that is responsible for the licensing and regulation  
 245 of licensed professional counselors.

246 (18) "Member state" means a state that has enacted the  
 247 compact.

248 (19) "Privilege to practice" means a legal authorization,  
 249 which is equivalent to a license, authorizing the practice of  
 250 professional counseling in a remote state.

251 (20) "Professional counseling" means the assessment,  
 252 diagnosis, and treatment of behavioral health conditions by a  
 253 licensed professional counselor.

254 (21) "Remote state" means a member state, other than the  
 255 home state, where a licensee is exercising or seeking to  
 256 exercise the privilege to practice.

257 (22) "Rule" means a regulation adopted by the commission  
 258 which has the force of law.

259 (23) "Single state license" means a licensed professional  
 260 counselor license issued by a member state which authorizes  
 261 practice only within the issuing state and does not include a

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262 privilege to practice in any other member state.

263 (24) "State" means any state, commonwealth, district, or  
 264 territory of the United States of America which regulates the  
 265 practice of professional counseling.

266 (25) "Telehealth" means the application of  
 267 telecommunication technology to deliver professional counseling  
 268 services remotely to assess, diagnose, and treat behavioral  
 269 health conditions.

270 (26) "Unencumbered license" means a license that authorizes  
 271 a licensed professional counselor to engage in the full and  
 272 unrestricted practice of professional counseling.

## ARTICLE III

## STATE PARTICIPATION

273  
 274  
 275  
 276 (1) To participate in the compact, a state must currently  
 277 do all of the following:

278 (a) License and regulate licensed professional counselors.

279 (b) Require licensees to pass a nationally recognized exam  
 280 approved by the commission.

281 (c) Require licensees to have a 60 semester hour, or 90  
 282 quarter hour, master's degree in counseling or 60 semester  
 283 hours, or 90 quarter hours, of graduate coursework including all  
 284 of the following topic areas:

285 1. Professional counseling orientation and ethical  
 286 practice.

287 2. Social and cultural diversity.

288 3. Human growth and development.

289 4. Career development.

290 5. Counseling and helping relationships.

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291 6. Group counseling and group work.  
 292 7. Diagnosis, assessment, testing, and treatment.  
 293 8. Research and program evaluation.  
 294 9. Other areas as determined by the commission.  
 295 (d) Require licensees to complete a supervised postgraduate  
 296 professional experience as defined by the commission.  
 297 (e) Have a mechanism in place for receiving and  
 298 investigating complaints about licensees.  
 299 (2) A member state shall do all of the following:  
 300 (a) Participate fully in the commission's data system,  
 301 including using the commission's unique identifier as defined in  
 302 rules adopted by the commission.  
 303 (b) Notify the commission, in compliance with the terms of  
 304 the compact and rules adopted by the commission, of any adverse  
 305 action or the availability of investigative information  
 306 regarding a licensee.  
 307 (c) Implement or utilize procedures for considering the  
 308 criminal history records of applicants for an initial privilege  
 309 to practice. These procedures must include the submission of  
 310 fingerprints or other biometric-based information by applicants  
 311 for the purpose of obtaining an applicant's criminal history  
 312 record information from the Federal Bureau of Investigation and  
 313 the agency responsible for retaining that state's criminal  
 314 records.  
 315 1. A member state must fully implement a criminal  
 316 background check requirement, within a timeframe established by  
 317 rule, by receiving the results of the Federal Bureau of  
 318 Investigation record search and shall use the results in making  
 319 licensure decisions.

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320 2. Communication between a member state and the commission  
 321 and among member states regarding the verification of  
 322 eligibility for licensure through the compact may not include  
 323 any information received from the Federal Bureau of  
 324 Investigation relating to a federal criminal records check  
 325 performed by a member state under Public Law 92-544.  
 326 (d) Comply with the rules adopted by the commission.  
 327 (e) Require an applicant to obtain or retain a license in  
 328 the home state and meet the home state's qualifications for  
 329 licensure or renewal of licensure, as well as all other  
 330 applicable state laws.  
 331 (f) Grant the privilege to practice to a licensee holding a  
 332 valid unencumbered license in another member state in accordance  
 333 with the terms of the compact and rules adopted by the  
 334 commission.  
 335 (g) Provide for the attendance of the state's commissioner  
 336 at the commission meetings.  
 337 (3) Member states may charge a fee for granting the  
 338 privilege to practice.  
 339 (4) Individuals not residing in a member state may continue  
 340 to apply for a member state's single state license as provided  
 341 under the laws of each member state. However, the single state  
 342 license granted to these individuals may not be recognized as  
 343 granting a privilege to practice professional counseling under  
 344 the compact in any other member state.  
 345 (5) Nothing in this compact affects the requirements  
 346 established by a member state for the issuance of a single state  
 347 license.  
 348 (6) A professional counselor license issued by a home state

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349 to a resident of that state must be recognized by each member  
 350 state as authorizing that licensed professional counselor to  
 351 practice professional counseling, under a privilege to practice,  
 352 in each member state.

## ARTICLE IV

## PRIVILEGE TO PRACTICE

356 (1) To exercise the privilege to practice under the terms  
 357 and provisions of the compact, the licensee must meet all of the  
 358 following criteria:

- 359 (a) Hold a license in the home state.  
 360 (b) Have a valid United States Social Security Number or  
 361 national provider identifier.  
 362 (c) Be eligible for a privilege to practice in any member  
 363 state in accordance with subsections (4), (7), and (8).  
 364 (d) Have not had any encumbrance or restriction against any  
 365 license or privilege to practice within the preceding 2 years.  
 366 (e) Notify the commission that the licensee is seeking the  
 367 privilege to practice within a remote state.  
 368 (f) Pay any applicable fees, including any state fee, for  
 369 the privilege to practice.  
 370 (g) Meet any continuing education requirements established  
 371 by the home state.  
 372 (h) Meet any jurisprudence requirements established by the  
 373 remote state in which the licensee is seeking a privilege to  
 374 practice.  
 375 (i) Report to the commission any adverse action,  
 376 encumbrance, or restriction on a license taken by any nonmember  
 377 state within 30 days after the action is taken.

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378 (2) The privilege to practice is valid until the expiration  
 379 date of the home state license. The licensee must continue to  
 380 meet the criteria specified in subsection (1) to renew the  
 381 privilege to practice in the remote state.

382 (3) For purposes of the compact, the practice of  
 383 professional counseling occurs in the state where the client is  
 384 located at the time of the counseling services. The compact does  
 385 not affect the regulatory authority of states to protect public  
 386 health and safety through their own system of state licensure.

387 (4) A licensee providing professional counseling in a  
 388 remote state under the privilege to practice must adhere to the  
 389 laws and regulations of the remote state.

390 (5) A licensee providing professional counseling services  
 391 in a remote state is subject to that state's regulatory  
 392 authority. A remote state may, in accordance with due process  
 393 and that state's laws, remove a licensee's privilege to practice  
 394 in the remote state for a specified period of time, impose  
 395 finances, or take any other action necessary to protect the health  
 396 and safety of its residents. The licensee may be ineligible for  
 397 a privilege to practice in any member state until the specific  
 398 time for removal has passed and all fines are paid.

399 (6) If a home state license is encumbered, a licensee loses  
 400 the privilege to practice in any remote state until both of the  
 401 following conditions are met:

- 402 (a) The home state license is no longer encumbered.  
 403 (b) The licensee has not had any encumbrance or restriction  
 404 against any license or privilege to practice within the  
 405 preceding 2 years.  
 406 (7) Once an encumbered license in the licensee's home state

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407 is restored to good standing, the licensee may obtain a  
 408 privilege to practice in any remote state if he or she meets the  
 409 requirements of subsection (1).

410 (8) If a licensee's privilege to practice in any remote  
 411 state is removed, the individual may lose the privilege to  
 412 practice in all other remote states until all of the following  
 413 conditions are met:

414 (a) The specified period of time for which the privilege to  
 415 practice was removed has ended.

416 (b) The licensee has paid all fines imposed.

417 (c) The licensee has not had any encumbrance or restriction  
 418 against any license or privilege to practice within the  
 419 preceding 2 years.

420 (9) Once the requirements of subsection (8) have been met,  
 421 the licensee may obtain a privilege to practice in a remote  
 422 state if he or she meets the requirements in subsection (1).

#### ARTICLE V

##### OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

427 (1) A licensed professional counselor may hold a home state  
 428 license, which allows for a privilege to practice in other  
 429 member states, in only one member state at a time.

430 (2) If a licensed professional counselor changes his or her  
 431 primary state of residence by moving between two member states,  
 432 then the licensed professional counselor must file an  
 433 application for obtaining a new home state license based on a  
 434 privilege to practice, pay all applicable fees, and notify the  
 435 current and new home state in accordance with applicable rules

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436 adopted by the commission.

437 (3) Upon receipt of an application for obtaining a new home  
 438 state license based on a privilege to practice, the new home  
 439 state must verify that the licensed professional counselor meets  
 440 the criteria outlined in article IV through the data system. The  
 441 new home state does not need to seek primary source verification  
 442 for information obtained from the data system, except for the  
 443 following:

444 (a) A Federal Bureau of Investigation fingerprint-based  
 445 criminal background check, if not previously performed or  
 446 updated pursuant to applicable rules adopted by the commission  
 447 in accordance with Public Law 92-544;

448 (b) Any other criminal background check as required by the  
 449 new home state; and

450 (c) Proof of completion of any requisite jurisprudence  
 451 requirements of the new home state.

452 (4) The former home state shall convert the former home  
 453 state license into a privilege to practice once the new home  
 454 state has activated the new home state license in accordance  
 455 with applicable rules adopted by the commission.

456 (5) Notwithstanding any other provision of the compact, if  
 457 the licensed professional counselor does not meet the criteria  
 458 in article IV, the new home state may apply its own requirements  
 459 for issuing a new single state license.

460 (6) The licensed professional counselor must pay all  
 461 applicable fees to the new home state in order to be issued a  
 462 new home state license for purposes of the compact.

463 (7) If a licensed professional counselor changes his or her  
 464 primary state of residence by moving from a member state to a

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465 nonmember state or from a nonmember state to a member state, the  
 466 new state's own criteria apply for issuance of a single state  
 467 license in the new state.

468 (8) The compact does not interfere with a licensee's  
 469 ability to hold a single state license in multiple states.  
 470 However, for the purposes of the compact, a licensee may have  
 471 only one home state license.

472 (9) The compact does not affect the requirements  
 473 established by a member state for the issuance of a single state  
 474 license.

#### ARTICLE VI

##### ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

477 Active duty military personnel, or their spouse, shall  
 478 designate a home state where the individual has a current  
 479 license in good standing. The individual may retain the home  
 480 state license designation during the period the service member  
 481 is on active duty. Subsequent to designating a home state, the  
 482 individual may change his or her home state only through  
 483 application for licensure in the new state or through the  
 484 process outlined in article V.

#### ARTICLE VII

##### COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

487 (1) Member states shall recognize the right of a licensed  
 488 professional counselor, licensed by a home state in accordance  
 489 with article III and under rules adopted by the commission, to  
 490 practice professional counseling in any member state through  
 491 telehealth under a privilege to practice as provided in the  
 492 compact and rules adopted by the commission.

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494 compact and rules adopted by the commission.

495 (2) A licensee providing professional counseling services  
 496 in a remote state through telehealth under the privilege to  
 497 practice must adhere to the laws and rules of the remote state.

#### ARTICLE VIII

##### ADVERSE ACTIONS

501 (1) In addition to the other powers conferred by state law,  
 502 a remote state has the authority, in accordance with existing  
 503 state due process law, to do any of the following:

504 (a) Take adverse action against a licensed professional  
 505 counselor's privilege to practice within that member state.

506 (b) Issue subpoenas for both hearings and investigations  
 507 that require the attendance and testimony of witnesses or the  
 508 production of evidence. Subpoenas issued by a licensing board in  
 509 a member state for the attendance and testimony of witnesses or  
 510 the production of evidence from another member state must be  
 511 enforced in the latter state by any court of competent  
 512 jurisdiction, according to the practice and procedure of that  
 513 court applicable to subpoenas issued in proceedings pending  
 514 before it. The issuing authority shall pay any witness fees,  
 515 travel expenses, mileage, and other fees required by the service  
 516 statutes of the state in which the witnesses or evidence is  
 517 located.

518 (2) Only the home state has the power to take adverse  
 519 action against a licensed professional counselor's license  
 520 issued by the home state.

521 (3) For purposes of taking adverse action, the home state  
 522 shall give the same priority and effect to reported conduct

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523 received from a member state as it would if the conduct had  
 524 occurred within the home state. The home state shall apply its  
 525 own state laws to determine appropriate action in such cases.

526 (4) The home state shall complete any pending  
 527 investigations of a licensed professional counselor who changes  
 528 primary state of residence during the course of the  
 529 investigations. The home state may also take appropriate action  
 530 and shall promptly report the conclusions of the investigations  
 531 to the administrator of the data system. The administrator of  
 532 the data system shall promptly notify the new home state of any  
 533 adverse actions.

534 (5) A member state, if authorized by state law, may recover  
 535 from the affected licensed professional counselor the costs of  
 536 investigations and dispositions of any cases resulting from  
 537 adverse action taken against that licensed professional  
 538 counselor.

539 (6) A member state may take adverse action against a  
 540 licensed professional counselor based on the factual findings of  
 541 a remote state, provided that the member state follows its own  
 542 statutory procedures for taking adverse action.

543 (7) (a) In addition to the authority granted to a member  
 544 state by its respective professional counseling practice act or  
 545 other applicable state law, any member state may participate  
 546 with other member states in joint investigations of licensees.

547 (b) Member states shall share any investigative,  
 548 litigation, or compliance materials in furtherance of any joint  
 549 or individual investigation initiated under the compact.

550 (8) If adverse action is taken by the home state against  
 551 the license of a professional counselor, the licensed

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552 professional counselor's privilege to practice in all other  
 553 member states must be deactivated until all encumbrances have  
 554 been removed from the home state license. All home state  
 555 disciplinary orders that impose adverse action against the  
 556 license of a professional counselor must include a statement  
 557 that the licensed professional counselor's privilege to practice  
 558 is deactivated in all member states while the order is in  
 559 effect.

560 (9) If a member state takes adverse action, it must  
 561 promptly notify the administrator of the data system. The  
 562 administrator shall promptly notify the licensee's home state of  
 563 any adverse actions by remote states.

564 (10) Nothing in the compact overrides a member state's  
 565 decision to allow a licensed professional counselor to  
 566 participate in an alternative program in lieu of adverse action.

## ARTICLE IX

## ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

570 (1) COMMISSION CREATED.—The compact member states hereby  
 571 create and establish a joint public agency known as the  
 572 Counseling Compact Commission.

573 (a) The commission is an instrumentality of the compact  
 574 states.

575 (b) Venue is proper, and judicial proceedings by or against  
 576 the commission shall be brought solely and exclusively in a  
 577 court of competent jurisdiction where the principal office of  
 578 the commission is located. The commission may waive venue and  
 579 jurisdictional defenses to the extent that it adopts or consents  
 580 to participate in alternative dispute resolution proceedings.

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581 (c) Nothing in the compact may be construed to be a waiver  
 582 of sovereign immunity.

583 (2) MEMBERSHIP.—

584 (a) The commission shall consist of one voting delegate,  
 585 appointed by each member state’s licensing board. The  
 586 commission, by rule, shall establish a term of office for  
 587 delegates and may establish term limits.

588 (b) The delegate must be either:

589 1. A current member of the licensing board at the time of  
 590 appointment, who is a licensed professional counselor or public  
 591 member; or

592 2. An administrator of the licensing board.

593 (c) A delegate may be removed or suspended from office as  
 594 provided by the law of the state from which the delegate is  
 595 appointed.

596 (d) The member state licensing board must fill any vacancy  
 597 occurring on the commission within 60 days.

598 (e) Each delegate is entitled to one vote with regard to  
 599 the adoption of rules and creation of bylaws and shall otherwise  
 600 participate in the business and affairs of the commission.

601 (f) A delegate shall vote in person or by such other means  
 602 as provided in the bylaws. The bylaws may provide for delegates’  
 603 participation in meetings by telephone or other means of  
 604 communication.

605 (3) MEETINGS OF THE COMMISSION.—

606 (a) The commission shall meet at least once during each  
 607 calendar year. Additional meetings must be held as set forth in  
 608 the bylaws.

609 (b) All meetings must be open to the public, and public

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610 notice of meetings must be given in the same manner as required  
 611 under the rulemaking provisions in article XI.

612 (c) The commission or the executive committee or other  
 613 committees of the commission may convene in a closed, nonpublic  
 614 meeting if the commission or executive committee or other  
 615 committees of the commission must discuss any of the following:

616 1. Noncompliance of a member state with its obligations  
 617 under the compact.

618 2. The employment, compensation, discipline, or other  
 619 matters, practices, or procedures related to specific employees,  
 620 or other matters related to the commission’s internal personnel  
 621 practices and procedures.

622 3. Current, threatened, or reasonably anticipated  
 623 litigation.

624 4. Negotiation of contracts for the purchase, lease, or  
 625 sale of goods, services, or real estate.

626 5. Accusing any person of a crime or formally censuring any  
 627 person.

628 6. Disclosure of trade secrets or commercial or financial  
 629 information that is privileged or confidential.

630 7. Disclosure of information of a personal nature if  
 631 disclosure would constitute a clearly unwarranted invasion of  
 632 personal privacy.

633 8. Disclosure of investigative records compiled for law  
 634 enforcement purposes.

635 9. Disclosure of information related to any investigative  
 636 reports prepared by or on behalf of or for use of the commission  
 637 or other committee charged with responsibility of investigation  
 638 or determination of compliance issues pursuant to the compact.

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639 10. Matters specifically exempted from disclosure by  
 640 federal or member state law.  
 641 (d) If a meeting, or portion of a meeting, is closed under  
 642 this subsection, the commission's legal counsel or designee must  
 643 certify that the meeting may be closed and must reference each  
 644 relevant exempting provision.  
 645 (e) The commission shall keep minutes that fully and  
 646 clearly describe all matters discussed in a meeting and shall  
 647 provide a full and accurate summary of actions taken, and the  
 648 reasons therefore, including a description of the views  
 649 expressed. All documents considered in connection with an action  
 650 must be identified in such minutes. All minutes and documents of  
 651 a closed meeting must remain under seal, subject to release by a  
 652 majority vote of the commission or order of a court of competent  
 653 jurisdiction.  
 654 (4) POWERS.—The commission may do any of the following:  
 655 (a) Establish the fiscal year of the commission.  
 656 (b) Establish bylaws.  
 657 (c) Maintain its financial records in accordance with the  
 658 bylaws.  
 659 (d) Meet and take actions that are consistent with the  
 660 compact and bylaws.  
 661 (e) Adopt rules that are binding to the extent and in the  
 662 manner provided for in the compact.  
 663 (f) Initiate and prosecute legal proceedings or actions in  
 664 the name of the commission, provided that the standing of any  
 665 state licensing board to sue or be sued under applicable law is  
 666 not affected.  
 667 (g) Purchase and maintain insurance and bonds.

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668 (h) Borrow, accept, or contract for services of personnel,  
 669 including, but not limited to, employees of a member state.  
 670 (i) Hire employees and elect or appoint officers; fix  
 671 compensation for, define duties of, and grant appropriate  
 672 authority to such employees and officers to carry out the  
 673 purposes of the compact; and establish the commission's  
 674 personnel policies and programs relating to conflicts of  
 675 interest, qualifications of personnel, and other related  
 676 personnel matters.  
 677 (j) Accept any and all appropriate donations and grants of  
 678 money, equipment, supplies, materials, and services, and  
 679 receive, utilize, and dispose of the same, provided that at all  
 680 times the commission avoids any appearance of impropriety or  
 681 conflict of interest.  
 682 (k) Lease, purchase, accept appropriate gifts or donations  
 683 of, or otherwise own, hold, improve, or use, any property, real,  
 684 personal, or mixed, provided that at all times the commission  
 685 avoids any appearance of impropriety or conflict of interest.  
 686 (l) Sell, convey, mortgage, pledge, lease, exchange,  
 687 abandon, or otherwise dispose of any property, real, personal,  
 688 or mixed.  
 689 (m) Establish a budget and make expenditures.  
 690 (n) Borrow money.  
 691 (o) Appoint committees, including standing committees  
 692 consisting of commission members, state regulators, state  
 693 legislators or their representatives, and consumer  
 694 representatives, and such other interested persons as may be  
 695 designated in the compact and bylaws.  
 696 (p) Provide information to, receive information from, and

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697 cooperate with law enforcement agencies.  
 698 (q) Establish and elect an executive committee.  
 699 (r) Perform any other function that may be necessary or  
 700 appropriate to achieve the purposes of the compact and is  
 701 consistent with the state regulation of professional counseling  
 702 licensure and practice.  
 703 (5) THE EXECUTIVE COMMITTEE.-  
 704 (a) The executive committee may act on behalf of the  
 705 commission according to the terms of the compact and shall  
 706 consist of up to 11 members, as follows:  
 707 1. Seven voting members who are elected by the commission  
 708 from the current membership of the commission.  
 709 2. Up to four ex officio, nonvoting members from four  
 710 recognized national professional counselor organizations. The ex  
 711 officio members shall be selected by their respective  
 712 organizations.  
 713 (b) The commission may remove any member of the executive  
 714 committee as provided in its bylaws.  
 715 (c) The executive committee shall meet at least annually.  
 716 (d) The executive committee shall do all of the following:  
 717 1. Make recommendations to the commission for any changes  
 718 to the rules, bylaws, or compact legislation; fees paid by  
 719 compact member states; and any fees charged to licensees for the  
 720 privilege to practice.  
 721 2. Ensure compact administration services are appropriately  
 722 provided, contractually or otherwise.  
 723 3. Prepare and recommend the budget.  
 724 4. Maintain financial records on behalf of the commission.  
 725 5. Monitor compact compliance of member states and provide

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726 compliance reports to the commission.  
 727 6. Establish additional committees as necessary.  
 728 7. Perform any other duties provided for in the rules or  
 729 bylaws.  
 730 (6) FINANCING OF THE COMMISSION.-  
 731 (a) The commission shall pay, or provide for the payment  
 732 of, the reasonable expenses of its establishment, organization,  
 733 and ongoing activities.  
 734 (b) The commission may accept any appropriate revenue  
 735 sources, donations, or grants of money, equipment, supplies,  
 736 materials, or services.  
 737 (c) The commission may levy and collect an annual  
 738 assessment from each member state or impose fees on other  
 739 parties to cover the cost of the operations and activities of  
 740 the commission and its staff. Such assessments and fees must be  
 741 in a total amount sufficient to cover its annual budget as  
 742 approved each year for which revenue is not provided by other  
 743 sources. The aggregate annual assessment amount must be  
 744 allocated based on a formula to be determined by the commission,  
 745 which shall adopt a rule binding on all member states.  
 746 (d) The commission may not incur obligations of any kind  
 747 before securing the funds adequate to meet the same; nor may the  
 748 commission pledge the credit of any of the member states, except  
 749 by and with the authority of the member state.  
 750 (e) The commission shall keep accurate accounts of all  
 751 receipts and disbursements. The receipts and disbursements of  
 752 the commission are subject to the audit and accounting  
 753 procedures established under its bylaws. However, all receipts  
 754 and disbursements of funds handled by the commission must be

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755 audited annually by a certified or licensed public accountant,  
 756 and the report of the audit must be included in and become part  
 757 of the annual report of the commission.

758 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

759 (a) The members, officers, executive director, employees,  
 760 and representatives of the commission are immune from suit and  
 761 liability, either personally or in their official capacity, for  
 762 any claim for damage to or loss of property or personal injury  
 763 or other civil liability caused by or arising out of any actual  
 764 or alleged act, error, or omission that occurred, or that the  
 765 person against whom the claim is made had a reasonable basis for  
 766 believing occurred, within the scope of commission employment,  
 767 duties, or responsibilities. This paragraph may not be construed  
 768 to protect any such person from suit or liability for any  
 769 damage, loss, injury, or liability caused by the intentional or  
 770 willful or wanton misconduct of that person.

771 (b) The commission shall defend any member, officer,  
 772 executive director, employee, or representative of the  
 773 commission in any civil action seeking to impose liability  
 774 arising out of any actual or alleged act, error, or omission  
 775 that occurred, or that the person against whom the claim is made  
 776 had a reasonable basis for believing occurred, within the scope  
 777 of commission employment, duties, or responsibilities, provided  
 778 that the actual or alleged act, error, or omission did not  
 779 result from that person's intentional or willful or wanton  
 780 misconduct. This paragraph may not be construed to prohibit that  
 781 person from retaining his or her own counsel.

782 (c) The commission shall indemnify and hold harmless any  
 783 member, officer, executive director, employee, or representative

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784 of the commission for the amount of any settlement or judgment  
 785 obtained against that person arising out of any actual or  
 786 alleged act, error, or omission that occurred, or that such  
 787 person had a reasonable basis for believing occurred, within the  
 788 scope of commission employment, duties, or responsibilities,  
 789 provided that the actual or alleged act, error, or omission did  
 790 not result from the intentional or willful or wanton misconduct  
 791 of that person.

## ARTICLE X

## DATA SYSTEM

795 (1) The commission shall provide for the development,  
 796 operation, and maintenance of a coordinated database and  
 797 reporting system containing licensure, adverse action, and  
 798 investigative information on all licensed professional  
 799 counselors in member states.

800 (2) Notwithstanding any other provision of state law to the  
 801 contrary, a member state shall submit a uniform data set to the  
 802 data system on all licensees to whom the compact is applicable,  
 803 as required by the rules of the commission, including all of the  
 804 following:

805 (a) Identifying information.

806 (b) Licensure data.

807 (c) Adverse actions against a license or privilege to  
 808 practice.

809 (d) Nonconfidential information related to alternative  
 810 program participation.

811 (e) Any denial of application for licensure and the reason  
 812 for such denial.

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813 (f) Current significant investigative information.  
 814 (g) Other information that may facilitate the  
 815 administration of the compact, as determined by the rules of the  
 816 commission.

817 (3) Investigative information pertaining to a licensee in  
 818 any member state may be made available only to other member  
 819 states.

820 (4) The commission shall promptly notify all member states  
 821 of any adverse action taken against a licensee or an individual  
 822 applying for a license. Adverse action information pertaining to  
 823 a licensee in any member state must be made available to any  
 824 other member state.

825 (5) Member states reporting information to the data system  
 826 may designate information that may not be shared with the public  
 827 without the express permission of the reporting state.

828 (6) Any information submitted to the data system which is  
 829 subsequently required to be expunged by the laws of the member  
 830 state reporting the information must be removed from the data  
 831 system.

832  
 833 ARTICLE XI

834 RULEMAKING

835 (1) The commission shall adopt reasonable rules to  
 836 effectively and efficiently achieve the purposes of the compact.  
 837 If, however, the commission exercises its rulemaking authority  
 838 in a manner that is beyond the scope of the purposes of the  
 839 compact, or the powers granted hereunder, then such an action by  
 840 the commission is invalid and has no force or effect.

841 (2) The commission shall exercise its rulemaking powers

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842 pursuant to the criteria set forth in this article and the rules  
 843 adopted thereunder. Rules and amendments become binding as of  
 844 the date specified in each rule or amendment.

845 (3) If a majority of the legislatures of the member states  
 846 rejects a rule by enactment of a statute or resolution in the  
 847 same manner used to adopt the compact within 4 years after the  
 848 date of adoption of the rule, such rule does not have further  
 849 force and effect in any member state.

850 (4) Rules or amendments to the rules must be adopted at a  
 851 regular or special meeting of the commission.

852 (5) Before adoption of a final rule by the commission, and  
 853 at least 30 days in advance of the meeting at which the rule  
 854 will be considered and voted upon, the commission shall file a  
 855 notice of proposed rulemaking:

856 (a) On the website of the commission or other publicly  
 857 accessible platform; and

858 (b) On the website of each member state's professional  
 859 counseling licensing board or other publicly accessible platform  
 860 or in the publication in which each state would otherwise  
 861 publish proposed rules.

862 (6) The notice of proposed rulemaking must include:

863 (a) The proposed time, date, and location of the meeting in  
 864 which the rule will be considered and voted upon;

865 (b) The text of the proposed rule or amendment and the  
 866 reason for the proposed rule;

867 (c) A request for comments on the proposed rule from any  
 868 interested person; and

869 (d) The manner in which interested persons may submit  
 870 notice to the commission of their intention to attend the public

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871 hearing and any written comments.

872 (7) Before adoption of a proposed rule, the commission must  
 873 allow persons to submit written data, facts, opinions, and  
 874 arguments, which must be made available to the public.

875 (8) The commission shall grant an opportunity for a public  
 876 hearing before it adopts a rule or an amendment if a hearing is  
 877 requested by:

878 (a) At least 25 persons who submit comments independently  
 879 of each other;

880 (b) A state or federal governmental subdivision or agency;  
 881 or

882 (c) An association that has at least 25 members.

883 (9) If a hearing is held on the proposed rule or amendment,  
 884 the commission must publish the place, time, and date of the  
 885 scheduled public hearing. If the hearing is held through  
 886 electronic means, the commission must publish the mechanism for  
 887 access to the electronic hearing.

888 (a) All persons wishing to be heard at the hearing must  
 889 notify the executive director of the commission or other  
 890 designated member in writing of their desire to appear and  
 891 testify at the hearing at least 5 business days before the  
 892 scheduled date of the hearing.

893 (b) Hearings must be conducted in a manner providing each  
 894 person who wishes to comment a fair and reasonable opportunity  
 895 to comment orally or in writing.

896 (c) All hearings must be recorded. A copy of the recording  
 897 must be made available on request.

898 (d) This section may not be construed to require a separate  
 899 hearing on each rule. Rules may be grouped at hearings required

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900 by this section for the convenience of the commission.

901 (10) If the commission does not receive a written notice of  
 902 intent to attend the public hearing by interested parties, the  
 903 commission may proceed with adoption of the proposed rule  
 904 without a public hearing.

905 (11) Following the scheduled hearing date, or by the close  
 906 of business on the scheduled hearing date if the hearing was not  
 907 held, the commission shall consider all written and oral  
 908 comments received.

909 (12) The commission, by majority vote of all members, shall  
 910 take final action on the proposed rule and shall determine the  
 911 effective date of the rule based on the rulemaking record and  
 912 the full text of the rule.

913 (13) Upon determination that an emergency exists, the  
 914 commission may consider and adopt an emergency rule without  
 915 prior notice, opportunity for comment, or hearing, provided that  
 916 the usual rulemaking procedures provided in the compact and in  
 917 this section are retroactively applied to the rule as soon as  
 918 reasonably possible, but no later than 90 days after the  
 919 effective date of the rule. For purposes of this subsection, an  
 920 emergency rule is one that must be adopted immediately in order  
 921 to:

922 (a) Meet an imminent threat to public health, safety, or  
 923 welfare;

924 (b) Prevent a loss of commission or member state funds;

925 (c) Meet a deadline for the adoption of an administrative  
 926 rule established by federal law or rule; or

927 (d) Protect public health and safety.

928 (14) The commission or an authorized committee of the

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929 commission may direct revisions to a previously adopted rule or  
 930 amendment for purposes of correcting typographical errors,  
 931 errors in format, errors in consistency, or grammatical errors.  
 932 Public notice of any revision must be posted on the website of  
 933 the commission. Revisions are subject to challenge by any person  
 934 for a period of 30 days after posting. A revision may be  
 935 challenged only on grounds that the revision results in a  
 936 material change to a rule. A challenge must be made in writing  
 937 and delivered to the chair of the commission before the end of  
 938 the notice period. If a challenge is not made, the revision  
 939 takes effect without further action. If a revision is  
 940 challenged, the revision may not take effect without the  
 941 approval of the commission.

942 ARTICLE XII

943 OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;  
 944 DISPUTE RESOLUTION; AND ENFORCEMENT

945 (1) OVERSIGHT.—

947 (a) The executive, legislative, and judicial branches of  
 948 state government in each member state shall enforce the compact  
 949 and take all actions necessary and appropriate to effectuate the  
 950 compact's purposes and intent. The compact and the rules adopted  
 951 thereunder have standing as statutory law.

952 (b) All courts shall take judicial notice of the compact  
 953 and the rules in any judicial or administrative proceeding in a  
 954 member state pertaining to the subject matter of the compact  
 955 which may affect the powers, responsibilities, or actions of the  
 956 commission.

957 (c) The commission is entitled to receive service of

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958 process in any judicial or administrative proceeding specified  
 959 in paragraph (b) and has standing to intervene in such a  
 960 proceeding for all purposes. Failure to provide service of  
 961 process to the commission renders a judgment or an order void as  
 962 to the commission, the compact, or adopted rules.  
 963 (2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—  
 964 (a) If the commission determines that a member state has  
 965 defaulted in the performance of its obligations or  
 966 responsibilities under the compact or adopted rules, the  
 967 commission must:  
 968 1. Provide written notice to the defaulting state and other  
 969 member states of the nature of the default, the proposed means  
 970 of curing the default, and any other action to be taken by the  
 971 commission; and  
 972 2. Provide remedial training and specific technical  
 973 assistance regarding the default.  
 974 (b) If a state in default fails to cure the default, the  
 975 defaulting state may be terminated from the compact upon an  
 976 affirmative vote of a majority of the member states, and all  
 977 rights, privileges, and benefits conferred by the compact are  
 978 terminated on the effective date of termination. A cure of the  
 979 default does not relieve the offending state of obligations or  
 980 liabilities incurred during the period of default.  
 981 (c) Termination of membership in the compact may be imposed  
 982 only after all other means of securing compliance have been  
 983 exhausted. The commission shall submit a notice of intent to  
 984 suspend or terminate a defaulting member state to that state's  
 985 governor, to the majority and minority leaders of that state's  
 986 legislature, and to each member state.

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987 (d) A member state that has been terminated is responsible  
 988 for all assessments, obligations, and liabilities incurred  
 989 through the effective date of termination, including obligations  
 990 that extend beyond the effective date of termination.

991 (e) The commission may not bear any costs related to a  
 992 member state that is found to be in default or that has been  
 993 terminated from the compact, unless agreed upon in writing  
 994 between the commission and the defaulting member state.

995 (f) The defaulting member state may appeal the action of  
 996 the commission by petitioning the United States District Court  
 997 for the District of Columbia or the federal district where the  
 998 commission has its principal offices. The prevailing party must  
 999 be awarded all costs of such litigation, including reasonable  
 1000 attorney fees.

1001 (3) DISPUTE RESOLUTION.-

1002 (a) Upon request by a member state, the commission shall  
 1003 attempt to resolve disputes related to the compact which arise  
 1004 among member states and between member and nonmember states.

1005 (b) The commission shall adopt rules providing for both  
 1006 mediation and binding dispute resolution for disputes as  
 1007 appropriate.

1008 (4) ENFORCEMENT.-

1009 (a) The commission, in the reasonable exercise of its  
 1010 discretion, shall enforce the provisions and rules of the  
 1011 compact.

1012 (b) By majority vote, the commission may initiate legal  
 1013 action in the United States District Court for the District of  
 1014 Columbia or the federal district where the commission has its  
 1015 principal offices against a member state in default to enforce

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1016 compliance with the compact and its adopted rules and bylaws.  
 1017 The relief sought may include both injunctive relief and  
 1018 damages. If judicial enforcement is necessary, the prevailing  
 1019 party must be awarded all costs of such litigation, including  
 1020 reasonable attorney fees.

1021 (c) The remedies under this article are not the exclusive  
 1022 remedies to the commission. The commission may pursue any other  
 1023 remedies available under federal or state law.

#### 1024 ARTICLE XIII

1025 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND  
 1026 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

1027 (1) The compact becomes effective on the date on which the  
 1028 compact is enacted into law in the 10th member state. The  
 1029 provisions that become effective at that time are limited to the  
 1030 powers granted to the commission relating to assembly and the  
 1031 adoption of rules. Thereafter, the commission shall meet and  
 1032 exercise rulemaking powers necessary for implementation and  
 1033 administration of the compact.

1034 (2) Any state that joins the compact subsequent to the  
 1035 commission's initial adoption of the rules is subject to the  
 1036 rules as they exist on the date on which the compact becomes law  
 1037 in that state. Any rule that has been previously adopted by the  
 1038 commission has the full force and effect of law on the day the  
 1039 compact becomes law in that state.

1040 (3) Any member state may withdraw from the compact by  
 1041 enacting a statute repealing the compact.

1042 (a) A member state's withdrawal does not take effect until  
 1043 6 months after enactment of the repealing statute.  
 1044

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1045 (b) Withdrawal does not affect the continuing requirement  
 1046 of the withdrawing state's professional counseling licensing  
 1047 board to comply with the investigative and adverse action  
 1048 reporting requirements of the compact before the effective date  
 1049 of withdrawal.

1050 (4) The compact may not be construed to invalidate or  
 1051 prevent any professional counseling licensure agreement or other  
 1052 cooperative arrangement between a member state and a nonmember  
 1053 state which does not conflict with the compact.

1054 (5) The compact may be amended by the member states. An  
 1055 amendment to the compact is not effective and binding upon any  
 1056 member state until it is enacted into the laws of all member  
 1057 states.

#### ARTICLE XIV

##### BINDING EFFECT OF COMPACT AND OTHER LAWS

1060 (1) A licensee providing professional counseling services  
 1061 in a remote state under the privilege to practice shall adhere  
 1062 to the laws and regulations, including scope of practice, of the  
 1063 remote state.

1064 (2) The compact does not prevent the enforcement of any  
 1065 other law of a member state which is not inconsistent with the  
 1066 compact.

1067 (3) Any laws in a member state which conflict with the  
 1068 compact are superseded to the extent of the conflict.

1069 (4) Any lawful actions of the commission, including all  
 1070 rules and bylaws properly adopted by the commission, are binding  
 1071 on the member states.

1072 (5) All permissible agreements between the commission and  
 1073 the member states are binding in accordance with their terms.

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1074 (6) If any provision of the compact exceeds the  
 1075 constitutional limits imposed on the legislature of any member  
 1076 state, the provision shall be ineffective to the extent of the  
 1077 conflict with the constitutional provision in question in that  
 1078 member state.

#### ARTICLE XV

##### CONSTRUCTION AND SEVERABILITY

1082 The compact must be liberally construed so as to effectuate  
 1083 the purposes thereof. The provisions of the compact are  
 1084 severable, and if any phrase, clause, sentence, or provision of  
 1085 the compact is declared to be contrary to the constitution of  
 1086 any member state or of the United States or the applicability  
 1087 thereof to any government, agency, person, or circumstance is  
 1088 held invalid, the validity of the remainder of the compact and  
 1089 the applicability thereof to any government, agency, person, or  
 1090 circumstance is not affected thereby. If the compact is held  
 1091 contrary to the constitution of any member state, the compact  
 1092 remains in full force and effect as to the remaining member  
 1093 states and in full force and effect as to the member state  
 1094 affected as to all severable matters.

1095 Section 2. Subsection (10) of section 456.073, Florida  
 1096 Statutes, is amended to read:

1097 456.073 Disciplinary proceedings.—Disciplinary proceedings  
 1098 for each board shall be within the jurisdiction of the  
 1099 department.

1100 (10) The complaint and all information obtained pursuant to  
 1101 the investigation by the department are confidential and exempt  
 1102 from s. 119.07(1) until 10 days after probable cause has been

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1103 found to exist by the probable cause panel or by the department,  
 1104 or until the regulated professional or subject of the  
 1105 investigation waives his or her privilege of confidentiality,  
 1106 whichever occurs first. The department shall report any  
 1107 significant investigation information relating to a nurse  
 1108 holding a multistate license to the coordinated licensure  
 1109 information system pursuant to s. 464.0095, and any significant  
 1110 investigatory information relating to a health care practitioner  
 1111 practicing under the Professional Counselors Licensure Compact  
 1112 to the data system pursuant to s. 491.017. Upon completion of  
 1113 the investigation and a recommendation by the department to find  
 1114 probable cause, and pursuant to a written request by the subject  
 1115 or the subject's attorney, the department shall provide the  
 1116 subject an opportunity to inspect the investigative file or, at  
 1117 the subject's expense, forward to the subject a copy of the  
 1118 investigative file. Notwithstanding s. 456.057, the subject may  
 1119 inspect or receive a copy of any expert witness report or  
 1120 patient record connected with the investigation if the subject  
 1121 agrees in writing to maintain the confidentiality of any  
 1122 information received under this subsection until 10 days after  
 1123 probable cause is found and to maintain the confidentiality of  
 1124 patient records pursuant to s. 456.057. The subject may file a  
 1125 written response to the information contained in the  
 1126 investigative file. Such response must be filed within 20 days  
 1127 of mailing by the department, unless an extension of time has  
 1128 been granted by the department. This subsection does not  
 1129 prohibit the department from providing such information to any  
 1130 law enforcement agency or to any other regulatory agency.

1131 Section 3. Subsection (5) of section 456.076, Florida

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1132 Statutes, is amended to read:

1133 456.076 Impaired practitioner programs.—

1134 (5) A consultant shall enter into a participant contract  
 1135 with an impaired practitioner and shall establish the terms of  
 1136 monitoring and shall include the terms in a participant  
 1137 contract. In establishing the terms of monitoring, the  
 1138 consultant may consider the recommendations of one or more  
 1139 approved evaluators, treatment programs, or treatment providers.  
 1140 A consultant may modify the terms of monitoring if the  
 1141 consultant concludes, through the course of monitoring, that  
 1142 extended, additional, or amended terms of monitoring are  
 1143 required for the protection of the health, safety, and welfare  
 1144 of the public. If the impaired practitioner is a health care  
 1145 practitioner practicing under the Professional Counselors  
 1146 Licensure Compact pursuant to s. 491.017, the terms of the  
 1147 monitoring contract must include the impaired practitioner's  
 1148 withdrawal from all practice under the compact.

1149 Section 4. Subsection (8) is added to section 491.004,  
 1150 Florida Statutes, to read:

1151 491.004 Board of Clinical Social Work, Marriage and Family  
 1152 Therapy, and Mental Health Counseling.—

1153 (8) The board shall appoint an individual to serve as the  
 1154 state's delegate on the Counseling Compact Commission, as  
 1155 required under s. 491.017.

1156 Section 5. Subsection (6) is added to section 491.005,  
 1157 Florida Statutes, to read:

1158 491.005 Licensure by examination.—

1159 (6) EXEMPTION.—A person licensed as a clinical social  
 1160 worker, marriage and family therapist, or mental health

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1161 counselor in another state who is practicing under the  
 1162 Professional Counselors Licensure Compact pursuant to s.  
 1163 491.017, and only within the scope provided therein, is exempt  
 1164 from the licensure requirements of this section, as applicable.

1165 Section 6. Subsection (3) is added to section 491.006,  
 1166 Florida Statutes, to read:

1167 491.006 Licensure or certification by endorsement.—

1168 (3) A person licensed as a clinical social worker, marriage  
 1169 and family therapist, or mental health counselor in another  
 1170 state who is practicing under the Professional Counselors  
 1171 Licensure Compact pursuant to s. 491.017, and only within the  
 1172 scope provided therein, is exempt from the licensure  
 1173 requirements of this section, as applicable.

1174 Section 7. Section 491.009, Florida Statutes, is amended to  
 1175 read:

1176 491.009 Discipline.—

1177 (1) The following acts constitute grounds for denial of a  
 1178 license or disciplinary action, as specified in s. 456.072(2) or  
 1179 s. 491.017:

1180 (a) Attempting to obtain, obtaining, or renewing a license,  
 1181 registration, or certificate under this chapter by bribery or  
 1182 fraudulent misrepresentation or through an error of the board or  
 1183 the department.

1184 (b) Having a license, registration, or certificate to  
 1185 practice a comparable profession revoked, suspended, or  
 1186 otherwise acted against, including the denial of certification  
 1187 or licensure by another state, territory, or country.

1188 (c) Being convicted or found guilty of, regardless of  
 1189 adjudication, or having entered a plea of nolo contendere to, a

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1190 crime in any jurisdiction which directly relates to the practice  
 1191 of his or her profession or the ability to practice his or her  
 1192 profession. However, in the case of a plea of nolo contendere,  
 1193 the board shall allow the person who is the subject of the  
 1194 disciplinary proceeding to present evidence in mitigation  
 1195 relevant to the underlying charges and circumstances surrounding  
 1196 the plea.

1197 (d) False, deceptive, or misleading advertising or  
 1198 obtaining a fee or other thing of value on the representation  
 1199 that beneficial results from any treatment will be guaranteed.

1200 (e) Advertising, practicing, or attempting to practice  
 1201 under a name other than one's own.

1202 (f) Maintaining a professional association with any person  
 1203 who the applicant, licensee, registered intern, or  
 1204 certificateholder knows, or has reason to believe, is in  
 1205 violation of this chapter or of a rule of the department or the  
 1206 board.

1207 (g) Knowingly aiding, assisting, procuring, or advising any  
 1208 nonlicensed, nonregistered, or noncertified person to hold  
 1209 himself or herself out as licensed, registered, or certified  
 1210 under this chapter.

1211 (h) Failing to perform any statutory or legal obligation  
 1212 placed upon a person licensed, registered, or certified under  
 1213 this chapter.

1214 (i) Willfully making or filing a false report or record;  
 1215 failing to file a report or record required by state or federal  
 1216 law; willfully impeding or obstructing the filing of a report or  
 1217 record; or inducing another person to make or file a false  
 1218 report or record or to impede or obstruct the filing of a report

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1219 or record. Such report or record includes only a report or  
 1220 record which requires the signature of a person licensed,  
 1221 registered, or certified under this chapter.

1222 (j) Paying a kickback, rebate, bonus, or other remuneration  
 1223 for receiving a patient or client, or receiving a kickback,  
 1224 rebate, bonus, or other remuneration for referring a patient or  
 1225 client to another provider of mental health care services or to  
 1226 a provider of health care services or goods; referring a patient  
 1227 or client to oneself for services on a fee-paid basis when those  
 1228 services are already being paid for by some other public or  
 1229 private entity; or entering into a reciprocal referral  
 1230 agreement.

1231 (k) Committing any act upon a patient or client which would  
 1232 constitute sexual battery or which would constitute sexual  
 1233 misconduct as defined pursuant to s. 491.0111.

1234 (l) Making misleading, deceptive, untrue, or fraudulent  
 1235 representations in the practice of any profession licensed,  
 1236 registered, or certified under this chapter.

1237 (m) Soliciting patients or clients personally, or through  
 1238 an agent, through the use of fraud, intimidation, undue  
 1239 influence, or a form of overreaching or vexatious conduct.

1240 (n) Failing to make available to a patient or client, upon  
 1241 written request, copies of tests, reports, or documents in the  
 1242 possession or under the control of the licensee, registered  
 1243 intern, or certificateholder which have been prepared for and  
 1244 paid for by the patient or client.

1245 (o) Failing to respond within 30 days to a written  
 1246 communication from the department or the board concerning any  
 1247 investigation by the department or the board, or failing to make

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1248 available any relevant records with respect to any investigation  
 1249 about the licensee's, registered intern's, or  
 1250 certificateholder's conduct or background.

1251 (p) Being unable to practice the profession for which he or  
 1252 she is licensed, registered, or certified under this chapter  
 1253 with reasonable skill or competence as a result of any mental or  
 1254 physical condition or by reason of illness; drunkenness; or  
 1255 excessive use of drugs, narcotics, chemicals, or any other  
 1256 substance. In enforcing this paragraph, upon a finding by the  
 1257 State Surgeon General, the State Surgeon General's designee, or  
 1258 the board that probable cause exists to believe that the  
 1259 licensee, registered intern, or certificateholder is unable to  
 1260 practice the profession because of the reasons stated in this  
 1261 paragraph, the department shall have the authority to compel a  
 1262 licensee, registered intern, or certificateholder to submit to a  
 1263 mental or physical examination by psychologists, physicians, or  
 1264 other licensees under this chapter, designated by the department  
 1265 or board. If the licensee, registered intern, or  
 1266 certificateholder refuses to comply with such order, the  
 1267 department's order directing the examination may be enforced by  
 1268 filing a petition for enforcement in the circuit court in the  
 1269 circuit in which the licensee, registered intern, or  
 1270 certificateholder resides or does business. The licensee,  
 1271 registered intern, or certificateholder against whom the  
 1272 petition is filed may ~~shall~~ not be named or identified by  
 1273 initials in any public court records or documents, and the  
 1274 proceedings shall be closed to the public. The department shall  
 1275 be entitled to the summary procedure provided in s. 51.011. A  
 1276 licensee, registered intern, or certificateholder affected under

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1277 this paragraph shall at reasonable intervals be afforded an  
 1278 opportunity to demonstrate that he or she can resume the  
 1279 competent practice for which he or she is licensed, registered,  
 1280 or certified with reasonable skill and safety to patients.

1281 (q) Performing any treatment or prescribing any therapy  
 1282 which, by the prevailing standards of the mental health  
 1283 professions in the community, would constitute experimentation  
 1284 on human subjects, without first obtaining full, informed, and  
 1285 written consent.

1286 (r) Failing to meet the minimum standards of performance in  
 1287 professional activities when measured against generally  
 1288 prevailing peer performance, including the undertaking of  
 1289 activities for which the licensee, registered intern, or  
 1290 certificateholder is not qualified by training or experience.

1291 (s) Delegating professional responsibilities to a person  
 1292 whom the licensee, registered intern, or certificateholder knows  
 1293 or has reason to know is not qualified by training or experience  
 1294 to perform such responsibilities.

1295 (t) Violating a rule relating to the regulation of the  
 1296 profession or a lawful order of the department or the board  
 1297 previously entered in a disciplinary hearing.

1298 (u) Failure of the licensee, registered intern, or  
 1299 certificateholder to maintain in confidence a communication made  
 1300 by a patient or client in the context of such services, except  
 1301 as provided in s. 491.0147.

1302 (v) Making public statements which are derived from test  
 1303 data, client contacts, or behavioral research and which identify  
 1304 or damage research subjects or clients.

1305 (w) Violating any provision of this chapter or chapter 456,

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1306 or any rules adopted pursuant thereto.

1307 (2) (a) The board or, in the case of certified master social  
 1308 workers, the department may enter an order denying licensure or  
 1309 imposing any of the penalties authorized in s. 456.072(2)  
 1310 against any applicant for licensure or any licensee who violates  
 1311 subsection (1) or s. 456.072(1).

1312 (b) The board may take adverse action against a clinical  
 1313 social worker's, a marriage and family therapist's, or a mental  
 1314 health counselor's privilege to practice under the Professional  
 1315 Counselors Licensure Compact pursuant to s. 491.017 and may  
 1316 impose any of the penalties in s. 456.072(2) if the clinical  
 1317 social worker, marriage and family therapist, or mental health  
 1318 counselor commits an act specified in subsection (1) or s.  
 1319 456.072(1).

1320 Section 8. Paragraph (h) is added to subsection (10) of  
 1321 section 768.28, Florida Statutes, to read:

1322 768.28 Waiver of sovereign immunity in tort actions;  
 1323 recovery limits; civil liability for damages caused during a  
 1324 riot; limitation on attorney fees; statute of limitations;  
 1325 exclusions; indemnification; risk management programs.-

1326 (10)

1327 (h) For purposes of this section, the individual appointed  
 1328 under s. 491.004(8) as the state's delegate on the Counseling  
 1329 Compact Commission, when serving in that capacity pursuant to s.  
 1330 491.017, and any administrator, officer, executive director,  
 1331 employee, or representative of the commission, when acting  
 1332 within the scope of his or her employment, duties, or  
 1333 responsibilities in this state, is considered an agent of the  
 1334 state. The commission shall pay any claims or judgments pursuant

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1335 to this section and may maintain insurance coverage to pay any  
1336 such claims or judgments.

1337 Section 9. The Department of Health shall notify the  
1338 Division of Law Revision upon enactment of the Professional  
1339 Counselors Licensure Compact into law by 10 states.

1340 Section 10. This act shall take effect upon enactment of  
1341 the Professional Counselors Licensure Compact into law by 10  
1342 states.



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** November 16, 2021

---

I respectfully request that **CS/Senate Bill #358**, relating to Professional Counselors Licensure Compact, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 39

9:00am

Meeting Date

# The Florida Senate APPEARANCE RECORD

358

Bill Number or Topic

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

~~141834~~ 141836

Amendment Barcode (if applicable)

Name **Jim Akin**

Phone **850-224-2400**

Address **1931 Dellwood Drive**

Email **jakin.naswfl@socialworkers.org**

Street

City

State

Zip

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

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

# APPEARANCE RECORD

358

2/22/22

Meeting Date

Health Appropriations

Committee

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

Bill Number or Topic

126144

Amendment Barcode (if applicable)

Name

Corinne Mixon

Phone

850-681-6788

Address

119 S Monroe Street Ste 202

Email

Corinne@MittHedge-elecia.com

Street

Tallahassee FL

32301

City

State

Zip

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

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Mental Health Counselors Association

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

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

The Florida Senate

APPEARANCE RECORD

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2/22/22

Meeting Date

SB 358

Bill Number or Topic

Health Appropriations

Committee

Amendment Barcode (if applicable)

Name

Corinne Mixon

Phone

850-681-6788

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114 S Monroe Street Ste. 202

Email

Corinne@putledge-ceniz.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)





126144

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Health and Human Services  
(Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 612 - 1340  
and insert:

(c) The commission or the executive committee of the  
commission may convene in a closed nonpublic meeting if the  
chair of the commission declares the specific reasons it is  
necessary to close the meeting or a portion thereof in a  
document that is a public record and held by the commission and  
announces at a public meeting that, in connection with the



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11 performance of the commission's duties, it is necessary that the  
12 commission discuss:

13 1. Pending litigation to which the commission is presently  
14 a party before a court or administrative agency in accordance  
15 with s. 286.011(8).

16 2. Negotiation of contracts under competitive solicitation  
17 as provided in s. 286.0113(2).

18 3. Disclosure of trade secrets or commercial or financial  
19 information that is privileged or confidential.

20 4. Records made exempt under this section.

21 5. Matters specifically exempted from disclosure by federal  
22 or member state law.

23 (d) If a meeting, or portion of a meeting, is closed under  
24 this subsection, the commission's legal counsel or designee must  
25 certify that the meeting may be closed and must reference each  
26 relevant exempting provision.

27 (e) The commission shall keep minutes that fully and  
28 clearly describe all matters discussed in a meeting and shall  
29 provide a full and accurate summary of actions taken, and the  
30 reasons therefore, including a description of the views  
31 expressed. All documents considered in connection with an action  
32 must be identified in such minutes. All minutes and documents of  
33 a closed meeting must remain under seal, subject to release by a  
34 majority vote of the commission or order of a court of competent  
35 jurisdiction.

36 (4) POWERS.—The commission may do any of the following:

37 (a) Establish the fiscal year of the commission.

38 (b) Establish bylaws.

39 (c) Maintain its financial records in accordance with the



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40 bylaws.

41 (d) Meet and take actions that are consistent with the  
42 compact and bylaws.

43 (e) Adopt rules that are binding to the extent and in the  
44 manner provided for in the compact.

45 (f) Initiate and prosecute legal proceedings or actions in  
46 the name of the commission, provided that the standing of any  
47 state licensing board to sue or be sued under applicable law is  
48 not affected.

49 (g) Purchase and maintain insurance and bonds.

50 (h) Borrow, accept, or contract for services of personnel,  
51 including, but not limited to, employees of a member state.

52 (i) Hire employees and elect or appoint officers; fix  
53 compensation for, define duties of, and grant appropriate  
54 authority to such employees and officers to carry out the  
55 purposes of the compact; and establish the commission's  
56 personnel policies and programs relating to conflicts of  
57 interest, qualifications of personnel, and other related  
58 personnel matters.

59 (j) Accept any and all appropriate donations and grants of  
60 money, equipment, supplies, materials, and services, and  
61 receive, utilize, and dispose of the same, provided that at all  
62 times the commission avoids any appearance of impropriety or  
63 conflict of interest.

64 (k) Lease, purchase, accept appropriate gifts or donations  
65 of, or otherwise own, hold, improve, or use, any property, real,  
66 personal, or mixed, provided that at all times the commission  
67 avoids any appearance of impropriety or conflict of interest.

68 (l) Sell, convey, mortgage, pledge, lease, exchange,



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69 abandon, or otherwise dispose of any property, real, personal,  
70 or mixed.

71 (m) Establish a budget and make expenditures.

72 (n) Borrow money.

73 (o) Appoint committees, including standing committees  
74 consisting of commission members, state regulators, state  
75 legislators or their representatives, and consumer  
76 representatives, and such other interested persons as may be  
77 designated in the compact and bylaws.

78 (p) Provide information to, receive information from, and  
79 cooperate with law enforcement agencies.

80 (q) Establish and elect an executive committee.

81 (r) Perform any other function that may be necessary or  
82 appropriate to achieve the purposes of the compact and is  
83 consistent with the state regulation of professional counseling  
84 licensure and practice.

85 (5) THE EXECUTIVE COMMITTEE.-

86 (a) The executive committee may act on behalf of the  
87 commission according to the terms of the compact and shall  
88 consist of up to 11 members, as follows:

89 1. Seven voting members who are elected by the commission  
90 from the current membership of the commission.

91 2. Up to four ex officio, nonvoting members from four  
92 recognized national professional counselor organizations. The ex  
93 officio members shall be selected by their respective  
94 organizations.

95 (b) The commission may remove any member of the executive  
96 committee as provided in its bylaws.

97 (c) The executive committee shall meet at least annually.



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98           (d) The executive committee shall do all of the following:

99           1. Make recommendations to the commission for any changes  
100 to the rules, bylaws, or compact legislation; fees paid by  
101 compact member states; and any fees charged to licensees for the  
102 privilege to practice.

103           2. Ensure compact administration services are appropriately  
104 provided, contractually or otherwise.

105           3. Prepare and recommend the budget.

106           4. Maintain financial records on behalf of the commission.

107           5. Monitor compact compliance of member states and provide  
108 compliance reports to the commission.

109           6. Establish additional committees as necessary.

110           7. Perform any other duties provided for in the rules or  
111 bylaws.

112           (6) FINANCING OF THE COMMISSION.—

113           (a) The commission shall pay, or provide for the payment  
114 of, the reasonable expenses of its establishment, organization,  
115 and ongoing activities.

116           (b) The commission may accept any appropriate revenue  
117 sources, donations, or grants of money, equipment, supplies,  
118 materials, or services.

119           (c) The commission may levy and collect an annual  
120 assessment from each member state or impose fees on other  
121 parties to cover the cost of the operations and activities of  
122 the commission and its staff. Such assessments and fees must be  
123 in a total amount sufficient to cover its annual budget as  
124 approved each year for which revenue is not provided by other  
125 sources. The aggregate annual assessment amount must be  
126 allocated based on a formula to be determined by the commission,



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127 which shall adopt a rule binding on all member states.

128 (d) The commission may not incur obligations of any kind  
129 before securing the funds adequate to meet the same; nor may the  
130 commission pledge the credit of any of the member states, except  
131 by and with the authority of the member state.

132 (e) The commission shall keep accurate accounts of all  
133 receipts and disbursements. The receipts and disbursements of  
134 the commission are subject to the audit and accounting  
135 procedures established under its bylaws. However, all receipts  
136 and disbursements of funds handled by the commission must be  
137 audited annually by a certified or licensed public accountant,  
138 and the report of the audit must be included in and become part  
139 of the annual report of the commission.

140 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

141 (a) The members, officers, executive director, employees,  
142 and representatives of the commission are immune from suit and  
143 liability, either personally or in their official capacity, for  
144 any claim for damage to or loss of property or personal injury  
145 or other civil liability caused by or arising out of any actual  
146 or alleged act, error, or omission that occurred, or that the  
147 person against whom the claim is made had a reasonable basis for  
148 believing occurred, within the scope of commission employment,  
149 duties, or responsibilities. This paragraph may not be construed  
150 to protect any such person from suit or liability for any  
151 damage, loss, injury, or liability caused by the intentional or  
152 willful or wanton misconduct of that person.

153 (b) The commission shall defend any member, officer,  
154 executive director, employee, or representative of the  
155 commission in any civil action seeking to impose liability



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156 arising out of any actual or alleged act, error, or omission  
157 that occurred, or that the person against whom the claim is made  
158 had a reasonable basis for believing occurred, within the scope  
159 of commission employment, duties, or responsibilities, provided  
160 that the actual or alleged act, error, or omission did not  
161 result from that person's intentional or willful or wanton  
162 misconduct. This paragraph may not be construed to prohibit that  
163 person from retaining his or her own counsel.

164 (c) The commission shall indemnify and hold harmless any  
165 member, officer, executive director, employee, or representative  
166 of the commission for the amount of any settlement or judgment  
167 obtained against that person arising out of any actual or  
168 alleged act, error, or omission that occurred, or that such  
169 person had a reasonable basis for believing occurred, within the  
170 scope of commission employment, duties, or responsibilities,  
171 provided that the actual or alleged act, error, or omission did  
172 not result from the intentional or willful or wanton misconduct  
173 of that person.

174  
175 ARTICLE X

176 DATA SYSTEM

177 (1) The commission shall provide for the development,  
178 operation, and maintenance of a coordinated database and  
179 reporting system containing licensure, adverse action, and  
180 investigative information on all licensed professional  
181 counselors in member states.

182 (2) Notwithstanding any other provision of state law to the  
183 contrary, a member state shall submit a uniform data set to the  
184 data system on all licensees to whom the compact is applicable,



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185 as required by the rules of the commission, including all of the  
186 following:

187 (a) Identifying information.

188 (b) Licensure data.

189 (c) Adverse actions against a license or privilege to  
190 practice.

191 (d) Nonconfidential information related to alternative  
192 program participation.

193 (e) Any denial of application for licensure and the reason  
194 for such denial.

195 (f) Current significant investigative information.

196 (g) Other information that may facilitate the  
197 administration of the compact, as determined by the rules of the  
198 commission.

199 (3) Investigative information pertaining to a licensee in  
200 any member state may be made available only to other member  
201 states.

202 (4) The commission shall promptly notify all member states  
203 of any adverse action taken against a licensee or an individual  
204 applying for a license. Adverse action information pertaining to  
205 a licensee in any member state must be made available to any  
206 other member state.

207 (5) Member states reporting information to the data system  
208 may designate information that may not be shared with the public  
209 without the express permission of the reporting state.

210 (6) Any information submitted to the data system which is  
211 subsequently required to be expunged by the laws of the member  
212 state reporting the information must be removed from the data  
213 system.





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214  
215 ARTICLE XI

216 RULEMAKING

217 (1) The commission shall adopt reasonable rules to  
218 effectively and efficiently achieve the purposes of the compact.  
219 If, however, the commission exercises its rulemaking authority  
220 in a manner that is beyond the scope of the purposes of the  
221 compact, or the powers granted hereunder, then such an action by  
222 the commission is invalid and has no force or effect.

223 (2) The commission shall exercise its rulemaking powers  
224 pursuant to the criteria set forth in this article and the rules  
225 adopted thereunder. Rules and amendments become binding as of  
226 the date specified in each rule or amendment.

227 (3) If a majority of the legislatures of the member states  
228 rejects a rule by enactment of a statute or resolution in the  
229 same manner used to adopt the compact within 4 years after the  
230 date of adoption of the rule, such rule does not have further  
231 force and effect in any member state.

232 (4) Rules or amendments to the rules must be adopted at a  
233 regular or special meeting of the commission.

234 (5) Before adoption of a final rule by the commission, and  
235 at least 30 days in advance of the meeting at which the rule  
236 will be considered and voted upon, the commission shall file a  
237 notice of proposed rulemaking:

238 (a) On the website of the commission or other publicly  
239 accessible platform; and

240 (b) On the website of each member state's professional  
241 counseling licensing board or other publicly accessible platform  
242 or in the publication in which each state would otherwise



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243 publish proposed rules.

244 (6) The notice of proposed rulemaking must include:

245 (a) The proposed time, date, and location of the meeting in  
246 which the rule will be considered and voted upon;

247 (b) The text of the proposed rule or amendment and the  
248 reason for the proposed rule;

249 (c) A request for comments on the proposed rule from any  
250 interested person; and

251 (d) The manner in which interested persons may submit  
252 notice to the commission of their intention to attend the public  
253 hearing and any written comments.

254 (7) Before adoption of a proposed rule, the commission must  
255 allow persons to submit written data, facts, opinions, and  
256 arguments, which must be made available to the public.

257 (8) The commission shall grant an opportunity for a public  
258 hearing before it adopts a rule or an amendment if a hearing is  
259 requested by:

260 (a) At least 25 persons who submit comments independently  
261 of each other;

262 (b) A state or federal governmental subdivision or agency;  
263 or

264 (c) An association that has at least 25 members.

265 (9) If a hearing is held on the proposed rule or amendment,  
266 the commission must publish the place, time, and date of the  
267 scheduled public hearing. If the hearing is held through  
268 electronic means, the commission must publish the mechanism for  
269 access to the electronic hearing.

270 (a) All persons wishing to be heard at the hearing must  
271 notify the executive director of the commission or other



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272 designated member in writing of their desire to appear and  
273 testify at the hearing at least 5 business days before the  
274 scheduled date of the hearing.

275 (b) Hearings must be conducted in a manner providing each  
276 person who wishes to comment a fair and reasonable opportunity  
277 to comment orally or in writing.

278 (c) All hearings must be recorded. A copy of the recording  
279 must be made available on request.

280 (d) This section may not be construed to require a separate  
281 hearing on each rule. Rules may be grouped at hearings required  
282 by this section for the convenience of the commission.

283 (10) If the commission does not receive a written notice of  
284 intent to attend the public hearing by interested parties, the  
285 commission may proceed with adoption of the proposed rule  
286 without a public hearing.

287 (11) Following the scheduled hearing date, or by the close  
288 of business on the scheduled hearing date if the hearing was not  
289 held, the commission shall consider all written and oral  
290 comments received.

291 (12) The commission, by majority vote of all members, shall  
292 take final action on the proposed rule and shall determine the  
293 effective date of the rule based on the rulemaking record and  
294 the full text of the rule.

295 (13) Upon determination that an emergency exists, the  
296 commission may consider and adopt an emergency rule without  
297 prior notice, opportunity for comment, or hearing, provided that  
298 the usual rulemaking procedures provided in the compact and in  
299 this section are retroactively applied to the rule as soon as  
300 reasonably possible, but no later than 90 days after the



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301 effective date of the rule. For purposes of this subsection, an  
302 emergency rule is one that must be adopted immediately in order  
303 to:

304 (a) Meet an imminent threat to public health, safety, or  
305 welfare;

306 (b) Prevent a loss of commission or member state funds;

307 (c) Meet a deadline for the adoption of an administrative  
308 rule established by federal law or rule; or

309 (d) Protect public health and safety.

310 (14) The commission or an authorized committee of the  
311 commission may direct revisions to a previously adopted rule or  
312 amendment for purposes of correcting typographical errors,  
313 errors in format, errors in consistency, or grammatical errors.  
314 Public notice of any revision must be posted on the website of  
315 the commission. Revisions are subject to challenge by any person  
316 for a period of 30 days after posting. A revision may be  
317 challenged only on grounds that the revision results in a  
318 material change to a rule. A challenge must be made in writing  
319 and delivered to the chair of the commission before the end of  
320 the notice period. If a challenge is not made, the revision  
321 takes effect without further action. If a revision is  
322 challenged, the revision may not take effect without the  
323 approval of the commission.

324  
325 ARTICLE XII

326 OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;

327 DISPUTE RESOLUTION; AND ENFORCEMENT

328 (1) OVERSIGHT.—

329 (a) The executive, legislative, and judicial branches of



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330 state government in each member state shall enforce the compact  
331 and take all actions necessary and appropriate to effectuate the  
332 compact's purposes and intent. The compact and the rules adopted  
333 thereunder have standing as statutory law.

334 (b) All courts shall take judicial notice of the compact  
335 and the rules in any judicial or administrative proceeding in a  
336 member state pertaining to the subject matter of the compact  
337 which may affect the powers, responsibilities, or actions of the  
338 commission.

339 (c) The commission is entitled to receive service of  
340 process in any judicial or administrative proceeding specified  
341 in paragraph (b) and has standing to intervene in such a  
342 proceeding for all purposes. Failure to provide service of  
343 process to the commission renders a judgment or an order void as  
344 to the commission, the compact, or adopted rules.

345 (2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—

346 (a) If the commission determines that a member state has  
347 defaulted in the performance of its obligations or  
348 responsibilities under the compact or adopted rules, the  
349 commission must:

350 1. Provide written notice to the defaulting state and other  
351 member states of the nature of the default, the proposed means  
352 of curing the default, and any other action to be taken by the  
353 commission; and

354 2. Provide remedial training and specific technical  
355 assistance regarding the default.

356 (b) If a state in default fails to cure the default, the  
357 defaulting state may be terminated from the compact upon an  
358 affirmative vote of a majority of the member states, and all



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359 rights, privileges, and benefits conferred by the compact are  
360 terminated on the effective date of termination. A cure of the  
361 default does not relieve the offending state of obligations or  
362 liabilities incurred during the period of default.

363 (c) Termination of membership in the compact may be imposed  
364 only after all other means of securing compliance have been  
365 exhausted. The commission shall submit a notice of intent to  
366 suspend or terminate a defaulting member state to that state's  
367 governor, to the majority and minority leaders of that state's  
368 legislature, and to each member state.

369 (d) A member state that has been terminated is responsible  
370 for all assessments, obligations, and liabilities incurred  
371 through the effective date of termination, including obligations  
372 that extend beyond the effective date of termination.

373 (e) The commission may not bear any costs related to a  
374 member state that is found to be in default or that has been  
375 terminated from the compact, unless agreed upon in writing  
376 between the commission and the defaulting member state.

377 (f) The defaulting member state may appeal the action of  
378 the commission by petitioning the United States District Court  
379 for the District of Columbia or the federal district where the  
380 commission has its principal offices. The prevailing party must  
381 be awarded all costs of such litigation, including reasonable  
382 attorney fees.

383 (3) DISPUTE RESOLUTION.—

384 (a) Upon request by a member state, the commission shall  
385 attempt to resolve disputes related to the compact which arise  
386 among member states and between member and nonmember states.

387 (b) The commission shall adopt rules providing for both



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388 mediation and binding dispute resolution for disputes as  
389 appropriate.

390 (4) ENFORCEMENT.—

391 (a) The commission, in the reasonable exercise of its  
392 discretion, shall enforce the provisions and rules of the  
393 compact.

394 (b) By majority vote, the commission may initiate legal  
395 action in the United States District Court for the District of  
396 Columbia or the federal district where the commission has its  
397 principal offices against a member state in default to enforce  
398 compliance with the compact and its adopted rules and bylaws.  
399 The relief sought may include both injunctive relief and  
400 damages. If judicial enforcement is necessary, the prevailing  
401 party must be awarded all costs of such litigation, including  
402 reasonable attorney fees.

403 (c) The remedies under this article are not the exclusive  
404 remedies to the commission. The commission may pursue any other  
405 remedies available under federal or state law.

407 ARTICLE XIII

408 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND  
409 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

410 (1) The compact becomes effective on the date on which the  
411 compact is enacted into law in the 10th member state. The  
412 provisions that become effective at that time are limited to the  
413 powers granted to the commission relating to assembly and the  
414 adoption of rules. Thereafter, the commission shall meet and  
415 exercise rulemaking powers necessary for implementation and  
416 administration of the compact.



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417           (2) Any state that joins the compact subsequent to the  
418 commission's initial adoption of the rules is subject to the  
419 rules as they exist on the date on which the compact becomes law  
420 in that state. Any rule that has been previously adopted by the  
421 commission has the full force and effect of law on the day the  
422 compact becomes law in that state.

423           (3) Any member state may withdraw from the compact by  
424 enacting a statute repealing the compact.

425           (a) A member state's withdrawal does not take effect until  
426 6 months after enactment of the repealing statute.

427           (b) Withdrawal does not affect the continuing requirement  
428 of the withdrawing state's professional counseling licensing  
429 board to comply with the investigative and adverse action  
430 reporting requirements of the compact before the effective date  
431 of withdrawal.

432           (4) The compact may not be construed to invalidate or  
433 prevent any professional counseling licensure agreement or other  
434 cooperative arrangement between a member state and a nonmember  
435 state which does not conflict with the compact.

436           (5) The compact may be amended by the member states. An  
437 amendment to the compact is not effective and binding upon any  
438 member state until it is enacted into the laws of all member  
439 states.

440                                   ARTICLE XIV

441                                   BINDING EFFECT OF COMPACT AND OTHER LAWS

442           (1) A licensee providing professional counseling services  
443 in a remote state under the privilege to practice shall adhere  
444 to the laws and regulations, including scope of practice, of the  
445 remote state.





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446       (2) The compact does not prevent the enforcement of any  
447 other law of a member state which is not inconsistent with the  
448 compact.

449       (3) Any laws in a member state which conflict with the  
450 compact are superseded to the extent of the conflict.

451       (4) Any lawful actions of the commission, including all  
452 rules and bylaws properly adopted by the commission, are binding  
453 on the member states.

454       (5) All permissible agreements between the commission and  
455 the member states are binding in accordance with their terms.

456       (6) If any provision of the compact exceeds the  
457 constitutional limits imposed on the legislature of any member  
458 state, the provision shall be ineffective to the extent of the  
459 conflict with the constitutional provision in question in that  
460 member state.

461  
462                                   ARTICLE XV

463                                   CONSTRUCTION AND SEVERABILITY

464       The compact must be liberally construed so as to effectuate  
465 the purposes thereof. The provisions of the compact are  
466 severable, and if any phrase, clause, sentence, or provision of  
467 the compact is declared to be contrary to the constitution of  
468 any member state or of the United States or the applicability  
469 thereof to any government, agency, person, or circumstance is  
470 held invalid, the validity of the remainder of the compact and  
471 the applicability thereof to any government, agency, person, or  
472 circumstance is not affected thereby. If the compact is held  
473 contrary to the constitution of any member state, the compact  
474 remains in full force and effect as to the remaining member



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475 states and in full force and effect as to the member state  
476 affected as to all severable matters.

477 Section 2. Subsection (10) of section 456.073, Florida  
478 Statutes, is amended to read:

479 456.073 Disciplinary proceedings.—Disciplinary proceedings  
480 for each board shall be within the jurisdiction of the  
481 department.

482 (10) The complaint and all information obtained pursuant to  
483 the investigation by the department are confidential and exempt  
484 from s. 119.07(1) until 10 days after probable cause has been  
485 found to exist by the probable cause panel or by the department,  
486 or until the regulated professional or subject of the  
487 investigation waives his or her privilege of confidentiality,  
488 whichever occurs first. The department shall report any  
489 significant investigation information relating to a nurse  
490 holding a multistate license to the coordinated licensure  
491 information system pursuant to s. 464.0095, and any significant  
492 investigatory information relating to a health care practitioner  
493 practicing under the Professional Counselors Licensure Compact  
494 to the data system pursuant to s. 491.017 instead of this  
495 subsection. Upon completion of the investigation and a  
496 recommendation by the department to find probable cause, and  
497 pursuant to a written request by the subject or the subject's  
498 attorney, the department shall provide the subject an  
499 opportunity to inspect the investigative file or, at the  
500 subject's expense, forward to the subject a copy of the  
501 investigative file. Notwithstanding s. 456.057, the subject may  
502 inspect or receive a copy of any expert witness report or  
503 patient record connected with the investigation if the subject



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504 agrees in writing to maintain the confidentiality of any  
505 information received under this subsection until 10 days after  
506 probable cause is found and to maintain the confidentiality of  
507 patient records pursuant to s. 456.057. The subject may file a  
508 written response to the information contained in the  
509 investigative file. Such response must be filed within 20 days  
510 of mailing by the department, unless an extension of time has  
511 been granted by the department. This subsection does not  
512 prohibit the department from providing such information to any  
513 law enforcement agency or to any other regulatory agency.

514 Section 3. Subsection (5) of section 456.076, Florida  
515 Statutes, is amended to read:

516 456.076 Impaired practitioner programs.—

517 (5) A consultant shall enter into a participant contract  
518 with an impaired practitioner and shall establish the terms of  
519 monitoring and shall include the terms in a participant  
520 contract. In establishing the terms of monitoring, the  
521 consultant may consider the recommendations of one or more  
522 approved evaluators, treatment programs, or treatment providers.  
523 A consultant may modify the terms of monitoring if the  
524 consultant concludes, through the course of monitoring, that  
525 extended, additional, or amended terms of monitoring are  
526 required for the protection of the health, safety, and welfare  
527 of the public. If the impaired practitioner is a health care  
528 practitioner practicing under the Professional Counselors  
529 Licensure Compact pursuant to s. 491.017, the terms of the  
530 monitoring contract must include the impaired practitioner's  
531 withdrawal from all practice under the compact in this state.

532 Section 4. Effective July 1, 2022, subsections (14), (15),



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533 and (16) of section 491.003, Florida Statutes, are amended to  
534 read:

535 491.003 Definitions.—As used in this chapter:

536 (14) “Registered associate clinical social worker ~~intern~~”  
537 means a person registered under this chapter who is completing  
538 the postgraduate clinical social work experience requirement  
539 specified in s. 491.005(1)(c).

540 (15) “Registered associate marriage and family therapist  
541 ~~intern~~” means a person registered under this chapter who is  
542 completing the post-master’s clinical experience requirement  
543 specified in s. 491.005(3)(c).

544 (16) “Registered associate mental health counselor ~~intern~~”  
545 means a person registered under this chapter who is completing  
546 the post-master’s clinical experience requirement specified in  
547 s. 491.005(4)(c).

548 Section 5. Subsection (8) is added to section 491.004,  
549 Florida Statutes, to read:

550 491.004 Board of Clinical Social Work, Marriage and Family  
551 Therapy, and Mental Health Counseling.—

552 (8) The board shall appoint an individual to serve as the  
553 state’s delegate on the Counseling Compact Commission, as  
554 required under s. 491.017.

555 Section 6. Effective July 1, 2022, section 491.0045,  
556 Florida Statutes, is amended to read:

557 491.0045 Associate Intern registration; requirements.—

558 (1) An individual who has not satisfied the postgraduate or  
559 post-master’s level experience requirements, as specified in s.  
560 491.005(1)(c), (3)(c), or (4)(c), must register as an associate  
561 ~~intern~~ in the profession for which he or she is seeking



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562 licensure before commencing the post-master's experience  
563 requirement or an individual who intends to satisfy part of the  
564 required graduate-level practicum, associateship ~~internship~~, or  
565 field experience, outside the academic arena for any profession,  
566 and must register as an associate ~~intern~~ in the profession for  
567 which he or she is seeking licensure before commencing the  
568 practicum, associateship ~~internship~~, or field experience.

569 (2) The department shall register as an associate a  
570 clinical social worker ~~intern~~, associate marriage and family  
571 therapist ~~intern~~, or associate mental health counselor ~~intern~~  
572 each applicant who the board certifies has:

573 (a) Completed the application form and remitted a  
574 nonrefundable application fee not to exceed \$200, as set by  
575 board rule;

576 (b)1. Completed the education requirements as specified in  
577 s. 491.005(1)(c), (3)(c), or (4)(c) for the profession for which  
578 he or she is applying for licensure, if needed; and

579 2. Submitted an acceptable supervision plan, as determined  
580 by the board, for meeting the practicum, associateship  
581 ~~internship~~, or field work required for licensure that was not  
582 satisfied in his or her graduate program.

583 (c) Identified a qualified supervisor.

584 (3) An individual registered under this section must remain  
585 under supervision while practicing under registered associate  
586 ~~intern~~ status.

587 (4) An individual who fails to comply with this section may  
588 not be granted a license under this chapter, and any time spent  
589 by the individual completing the experience requirement as  
590 specified in s. 491.005(1)(c), (3)(c), or (4)(c) before



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591 registering as an associate intern does not count toward  
592 completion of the requirement.

593 (5) An associate intern registration is valid for 5 years.

594 (6) A registration issued on or before March 31, 2017,  
595 expires March 31, 2022, and may not be renewed or reissued. Any  
596 registration issued after March 31, 2017, expires 60 months  
597 after the date it is issued. The board may make a one-time  
598 exception to the requirements of this subsection in emergency or  
599 hardship cases, as defined by board rule, ~~if the candidate has~~  
600 ~~passed the theory and practice examination described in s.~~  
601 ~~491.005(1)(d), (3)(d), and (4)(d).~~

602 (7) An individual who has held a provisional license issued  
603 by the board may not apply for an associate intern registration  
604 in the same profession.

605 Section 7. Subsection (6) is added to section 491.005,  
606 Florida Statutes, to read:

607 491.005 Licensure by examination.—

608 (6) EXEMPTION.—A person licensed as a mental health  
609 counselor in another state who is practicing under the  
610 Professional Counselors Licensure Compact pursuant to s.  
611 491.017, and only within the scope provided therein, is exempt  
612 from the licensure requirements of this section, as applicable.

613 Section 8. Subsection (3) is added to section 491.006,  
614 Florida Statutes, to read:

615 491.006 Licensure or certification by endorsement.—

616 (3) A person licensed as a mental health counselor in  
617 another state who is practicing under the Professional  
618 Counselors Licensure Compact pursuant to s. 491.017, and only  
619 within the scope provided therein, is exempt from the licensure



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620 requirements of this section, as applicable.

621 Section 9. Section 491.009, Florida Statutes, is amended to  
622 read:

623 491.009 Discipline.—

624 (1) The following acts constitute grounds for denial of a  
625 license or disciplinary action, as specified in s. 456.072(2) or  
626 s. 491.017:

627 (a) Attempting to obtain, obtaining, or renewing a license,  
628 registration, or certificate under this chapter by bribery or  
629 fraudulent misrepresentation or through an error of the board or  
630 the department.

631 (b) Having a license, registration, or certificate to  
632 practice a comparable profession revoked, suspended, or  
633 otherwise acted against, including the denial of certification  
634 or licensure by another state, territory, or country.

635 (c) Being convicted or found guilty of, regardless of  
636 adjudication, or having entered a plea of nolo contendere to, a  
637 crime in any jurisdiction which directly relates to the practice  
638 of his or her profession or the ability to practice his or her  
639 profession. However, in the case of a plea of nolo contendere,  
640 the board shall allow the person who is the subject of the  
641 disciplinary proceeding to present evidence in mitigation  
642 relevant to the underlying charges and circumstances surrounding  
643 the plea.

644 (d) False, deceptive, or misleading advertising or  
645 obtaining a fee or other thing of value on the representation  
646 that beneficial results from any treatment will be guaranteed.

647 (e) Advertising, practicing, or attempting to practice  
648 under a name other than one's own.



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649 (f) Maintaining a professional association with any person  
650 who the applicant, licensee, registered intern, or  
651 certificateholder knows, or has reason to believe, is in  
652 violation of this chapter or of a rule of the department or the  
653 board.

654 (g) Knowingly aiding, assisting, procuring, or advising any  
655 nonlicensed, nonregistered, or noncertified person to hold  
656 himself or herself out as licensed, registered, or certified  
657 under this chapter.

658 (h) Failing to perform any statutory or legal obligation  
659 placed upon a person licensed, registered, or certified under  
660 this chapter.

661 (i) Willfully making or filing a false report or record;  
662 failing to file a report or record required by state or federal  
663 law; willfully impeding or obstructing the filing of a report or  
664 record; or inducing another person to make or file a false  
665 report or record or to impede or obstruct the filing of a report  
666 or record. Such report or record includes only a report or  
667 record which requires the signature of a person licensed,  
668 registered, or certified under this chapter.

669 (j) Paying a kickback, rebate, bonus, or other remuneration  
670 for receiving a patient or client, or receiving a kickback,  
671 rebate, bonus, or other remuneration for referring a patient or  
672 client to another provider of mental health care services or to  
673 a provider of health care services or goods; referring a patient  
674 or client to oneself for services on a fee-paid basis when those  
675 services are already being paid for by some other public or  
676 private entity; or entering into a reciprocal referral  
677 agreement.





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678           (k) Committing any act upon a patient or client which would  
679 constitute sexual battery or which would constitute sexual  
680 misconduct as defined pursuant to s. 491.0111.

681           (l) Making misleading, deceptive, untrue, or fraudulent  
682 representations in the practice of any profession licensed,  
683 registered, or certified under this chapter.

684           (m) Soliciting patients or clients personally, or through  
685 an agent, through the use of fraud, intimidation, undue  
686 influence, or a form of overreaching or vexatious conduct.

687           (n) Failing to make available to a patient or client, upon  
688 written request, copies of tests, reports, or documents in the  
689 possession or under the control of the licensee, registered  
690 intern, or certificateholder which have been prepared for and  
691 paid for by the patient or client.

692           (o) Failing to respond within 30 days to a written  
693 communication from the department or the board concerning any  
694 investigation by the department or the board, or failing to make  
695 available any relevant records with respect to any investigation  
696 about the licensee's, registered intern's, or  
697 certificateholder's conduct or background.

698           (p) Being unable to practice the profession for which he or  
699 she is licensed, registered, or certified under this chapter  
700 with reasonable skill or competence as a result of any mental or  
701 physical condition or by reason of illness; drunkenness; or  
702 excessive use of drugs, narcotics, chemicals, or any other  
703 substance. In enforcing this paragraph, upon a finding by the  
704 State Surgeon General, the State Surgeon General's designee, or  
705 the board that probable cause exists to believe that the  
706 licensee, registered intern, or certificateholder is unable to



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707 practice the profession because of the reasons stated in this  
708 paragraph, the department shall have the authority to compel a  
709 licensee, registered intern, or certificateholder to submit to a  
710 mental or physical examination by psychologists, physicians, or  
711 other licensees under this chapter, designated by the department  
712 or board. If the licensee, registered intern, or  
713 certificateholder refuses to comply with such order, the  
714 department's order directing the examination may be enforced by  
715 filing a petition for enforcement in the circuit court in the  
716 circuit in which the licensee, registered intern, or  
717 certificateholder resides or does business. The licensee,  
718 registered intern, or certificateholder against whom the  
719 petition is filed may ~~shall~~ not be named or identified by  
720 initials in any public court records or documents, and the  
721 proceedings shall be closed to the public. The department shall  
722 be entitled to the summary procedure provided in s. 51.011. A  
723 licensee, registered intern, or certificateholder affected under  
724 this paragraph shall at reasonable intervals be afforded an  
725 opportunity to demonstrate that he or she can resume the  
726 competent practice for which he or she is licensed, registered,  
727 or certified with reasonable skill and safety to patients.

728 (q) Performing any treatment or prescribing any therapy  
729 which, by the prevailing standards of the mental health  
730 professions in the community, would constitute experimentation  
731 on human subjects, without first obtaining full, informed, and  
732 written consent.

733 (r) Failing to meet the minimum standards of performance in  
734 professional activities when measured against generally  
735 prevailing peer performance, including the undertaking of



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736 activities for which the licensee, registered intern, or  
737 certificateholder is not qualified by training or experience.

738 (s) Delegating professional responsibilities to a person  
739 whom the licensee, registered intern, or certificateholder knows  
740 or has reason to know is not qualified by training or experience  
741 to perform such responsibilities.

742 (t) Violating a rule relating to the regulation of the  
743 profession or a lawful order of the department or the board  
744 previously entered in a disciplinary hearing.

745 (u) Failure of the licensee, registered intern, or  
746 certificateholder to maintain in confidence a communication made  
747 by a patient or client in the context of such services, except  
748 as provided in s. 491.0147.

749 (v) Making public statements which are derived from test  
750 data, client contacts, or behavioral research and which identify  
751 or damage research subjects or clients.

752 (w) Violating any provision of this chapter or chapter 456,  
753 or any rules adopted pursuant thereto.

754 (2) (a) The board or, in the case of certified master social  
755 workers, the department may enter an order denying licensure or  
756 imposing any of the penalties authorized in s. 456.072(2)  
757 against any applicant for licensure or any licensee who violates  
758 subsection (1) or s. 456.072(1).

759 (b) The board may take adverse action against a mental  
760 health counselor's privilege to practice under the Professional  
761 Counselors Licensure Compact pursuant to s. 491.017 and may  
762 impose any of the penalties in s. 456.072(2) if the mental  
763 health counselor commits an act specified in subsection (1) or  
764 s. 456.072(1).



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765 Section 10. Paragraph (h) is added to subsection (10) of  
766 section 768.28, Florida Statutes, to read:

767 768.28 Waiver of sovereign immunity in tort actions;  
768 recovery limits; civil liability for damages caused during a  
769 riot; limitation on attorney fees; statute of limitations;  
770 exclusions; indemnification; risk management programs.—

771 (10)

772 (h) For purposes of this section, the individual appointed  
773 under s. 491.004(8) as the state's delegate on the Counseling  
774 Compact Commission, when serving in that capacity pursuant to s.  
775 491.017, and any administrator, officer, executive director,  
776 employee, or representative of the commission, when acting  
777 within the scope of his or her employment, duties, or  
778 responsibilities in this state, is considered an agent of the  
779 state. The commission shall pay any claims or judgments pursuant  
780 to this section and may maintain insurance coverage to pay any  
781 such claims or judgments.

782 Section 11. The Department of Health shall notify the  
783 Division of Law Revision upon enactment of the Professional  
784 Counselors Licensure Compact into law by 10 states.

785 Section 12. Effective July 1, 2022, paragraph (c) of  
786 subsection (1), paragraph (c) of subsection (3), and paragraphs  
787 (b) and (c) of subsection (4) of section 491.005, Florida  
788 Statutes, are amended to read:

789 491.005 Licensure by examination.—

790 (1) CLINICAL SOCIAL WORK.—Upon verification of  
791 documentation and payment of a fee not to exceed \$200, as set by  
792 board rule, plus the actual per applicant cost to the department  
793 for purchase of the examination from the American Association of



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794 State Social Worker's Boards or a similar national organization,  
795 the department shall issue a license as a clinical social worker  
796 to an applicant who the board certifies:

797 (c) Has had at least 2 years of clinical social work  
798 experience, which took place subsequent to completion of a  
799 graduate degree in social work at an institution meeting the  
800 accreditation requirements of this section, under the  
801 supervision of a licensed clinical social worker or the  
802 equivalent who is a qualified supervisor as determined by the  
803 board. An individual who intends to practice in Florida to  
804 satisfy clinical experience requirements must register pursuant  
805 to s. 491.0045 before commencing practice. If the applicant's  
806 graduate program was not a program which emphasized direct  
807 clinical patient or client health care services as described in  
808 subparagraph (b)2., the supervised experience requirement must  
809 take place after the applicant has completed a minimum of 15  
810 semester hours or 22 quarter hours of the coursework required. A  
811 doctoral associateship ~~internship~~ may be applied toward the  
812 clinical social work experience requirement. A licensed mental  
813 health professional must be on the premises when clinical  
814 services are provided by a registered associate ~~intern~~ in a  
815 private practice setting.

816 (3) MARRIAGE AND FAMILY THERAPY.—Upon verification of  
817 documentation and payment of a fee not to exceed \$200, as set by  
818 board rule, plus the actual cost of the purchase of the  
819 examination from the Association of Marital and Family Therapy  
820 Regulatory Board, or similar national organization, the  
821 department shall issue a license as a marriage and family  
822 therapist to an applicant who the board certifies:



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823 (c) Has had at least 2 years of clinical experience during  
824 which 50 percent of the applicant's clients were receiving  
825 marriage and family therapy services, which must be at the post-  
826 master's level under the supervision of a licensed marriage and  
827 family therapist with at least 5 years of experience, or the  
828 equivalent, who is a qualified supervisor as determined by the  
829 board. An individual who intends to practice in Florida to  
830 satisfy the clinical experience requirements must register  
831 pursuant to s. 491.0045 before commencing practice. If a  
832 graduate has a master's degree with a major emphasis in marriage  
833 and family therapy or a closely related field which did not  
834 include all of the coursework required by paragraph (b), credit  
835 for the post-master's level clinical experience may not commence  
836 until the applicant has completed a minimum of 10 of the courses  
837 required by paragraph (b), as determined by the board, and at  
838 least 6 semester hours or 9 quarter hours of the course credits  
839 must have been completed in the area of marriage and family  
840 systems, theories, or techniques. Within the 2 years of required  
841 experience, the applicant shall provide direct individual,  
842 group, or family therapy and counseling to cases including those  
843 involving unmarried dyads, married couples, separating and  
844 divorcing couples, and family groups that include children. A  
845 doctoral associateship ~~internship~~ may be applied toward the  
846 clinical experience requirement. A licensed mental health  
847 professional must be on the premises when clinical services are  
848 provided by a registered associate ~~intern~~ in a private practice  
849 setting.

850  
851 For the purposes of dual licensure, the department shall license



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852 as a marriage and family therapist any person who meets the  
853 requirements of s. 491.0057. Fees for dual licensure may not  
854 exceed those stated in this subsection.

855 (4) MENTAL HEALTH COUNSELING.—Upon verification of  
856 documentation and payment of a fee not to exceed \$200, as set by  
857 board rule, plus the actual per applicant cost of purchase of  
858 the examination from the National Board for Certified Counselors  
859 or its successor organization, the department shall issue a  
860 license as a mental health counselor to an applicant who the  
861 board certifies:

862 (b)1. Has a minimum of an earned master's degree from a  
863 mental health counseling program accredited by the Council for  
864 the Accreditation of Counseling and Related Educational Programs  
865 which consists of at least 60 semester hours or 80 quarter hours  
866 of clinical and didactic instruction, including a course in  
867 human sexuality and a course in substance abuse. If the master's  
868 degree is earned from a program related to the practice of  
869 mental health counseling which is not accredited by the Council  
870 for the Accreditation of Counseling and Related Educational  
871 Programs, then the coursework and practicum, associateship  
872 internship, or fieldwork must consist of at least 60 semester  
873 hours or 80 quarter hours and meet all of the following  
874 requirements:

875 a. Thirty-three semester hours or 44 quarter hours of  
876 graduate coursework, which must include a minimum of 3 semester  
877 hours or 4 quarter hours of graduate-level coursework in each of  
878 the following 11 content areas: counseling theories and  
879 practice; human growth and development; diagnosis and treatment  
880 of psychopathology; human sexuality; group theories and



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881 practice; individual evaluation and assessment; career and  
882 lifestyle assessment; research and program evaluation; social  
883 and cultural foundations; substance abuse; and legal, ethical,  
884 and professional standards issues in the practice of mental  
885 health counseling. Courses in research, thesis or dissertation  
886 work, practicums, associateships ~~internships~~, or fieldwork may  
887 not be applied toward this requirement.

888         b. A minimum of 3 semester hours or 4 quarter hours of  
889 graduate-level coursework addressing diagnostic processes,  
890 including differential diagnosis and the use of the current  
891 diagnostic tools, such as the current edition of the American  
892 Psychiatric Association's Diagnostic and Statistical Manual of  
893 Mental Disorders. The graduate program must have emphasized the  
894 common core curricular experience.

895         c. The equivalent, as determined by the board, of at least  
896 700 hours of university-sponsored supervised clinical practicum,  
897 associateship ~~internship~~, or field experience that includes at  
898 least 280 hours of direct client services, as required in the  
899 accrediting standards of the Council for Accreditation of  
900 Counseling and Related Educational Programs for mental health  
901 counseling programs. This experience may not be used to satisfy  
902 the post-master's clinical experience requirement.

903         2. Has provided additional documentation if a course title  
904 that appears on the applicant's transcript does not clearly  
905 identify the content of the coursework. The documentation must  
906 include, but is not limited to, a syllabus or catalog  
907 description published for the course.

908  
909 Education and training in mental health counseling must have





910 been received in an institution of higher education that, at the  
911 time the applicant graduated, was fully accredited by a regional  
912 accrediting body recognized by the Council for Higher Education  
913 Accreditation or its successor organization or publicly  
914 recognized as a member in good standing with the Association of  
915 Universities and Colleges of Canada, or an institution of higher  
916 education located outside the United States and Canada which, at  
917 the time the applicant was enrolled and at the time the  
918 applicant graduated, maintained a standard of training  
919 substantially equivalent to the standards of training of those  
920 institutions in the United States which are accredited by a  
921 regional accrediting body recognized by the Council for Higher  
922 Education Accreditation or its successor organization. Such  
923 foreign education and training must have been received in an  
924 institution or program of higher education officially recognized  
925 by the government of the country in which it is located as an  
926 institution or program to train students to practice as mental  
927 health counselors. The applicant has the burden of establishing  
928 that the requirements of this provision have been met, and the  
929 board shall require documentation, such as an evaluation by a  
930 foreign equivalency determination service, as evidence that the  
931 applicant's graduate degree program and education were  
932 equivalent to an accredited program in this country. Beginning  
933 July 1, 2025, an applicant must have a master's degree from a  
934 program that is accredited by the Council for Accreditation of  
935 Counseling and Related Educational Programs which consists of at  
936 least 60 semester hours or 80 quarter hours to apply for  
937 licensure under this paragraph.

938 (c) Has had at least 2 years of clinical experience in



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939 mental health counseling, which must be at the post-master's  
940 level under the supervision of a licensed mental health  
941 counselor or the equivalent who is a qualified supervisor as  
942 determined by the board. An individual who intends to practice  
943 in Florida to satisfy the clinical experience requirements must  
944 register pursuant to s. 491.0045 before commencing practice. If  
945 a graduate has a master's degree with a major related to the  
946 practice of mental health counseling which did not include all  
947 the coursework required under sub-subparagraphs (b)1.a. and b.,  
948 credit for the post-master's level clinical experience may not  
949 commence until the applicant has completed a minimum of seven of  
950 the courses required under sub-subparagraphs (b)1.a. and b., as  
951 determined by the board, one of which must be a course in  
952 psychopathology or abnormal psychology. A doctoral associateship  
953 ~~internship~~ may be applied toward the clinical experience  
954 requirement. A licensed mental health professional must be on  
955 the premises when clinical services are provided by a registered  
956 associate intern in a private practice setting.

957 Section 13. Effective July 1, 2022, paragraphs (f), (n),  
958 (o), (p), (r), (s), and (u) of subsection (1) of section  
959 491.009, Florida Statutes, are amended to read:

960 491.009 Discipline.—

961 (1) The following acts constitute grounds for denial of a  
962 license or disciplinary action, as specified in s. 456.072(2):

963 (f) Maintaining a professional association with any person  
964 who the applicant, licensee, registered associate intern, or  
965 certificateholder knows, or has reason to believe, is in  
966 violation of this chapter or of a rule of the department or the  
967 board.



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968 (n) Failing to make available to a patient or client, upon  
969 written request, copies of tests, reports, or documents in the  
970 possession or under the control of the licensee, registered  
971 associate intern, or certificateholder which have been prepared  
972 for and paid for by the patient or client.

973 (o) Failing to respond within 30 days to a written  
974 communication from the department or the board concerning any  
975 investigation by the department or the board, or failing to make  
976 available any relevant records with respect to any investigation  
977 about the licensee's, registered associate's intern's, or  
978 certificateholder's conduct or background.

979 (p) Being unable to practice the profession for which he or  
980 she is licensed, registered, or certified under this chapter  
981 with reasonable skill or competence as a result of any mental or  
982 physical condition or by reason of illness; drunkenness; or  
983 excessive use of drugs, narcotics, chemicals, or any other  
984 substance. In enforcing this paragraph, upon a finding by the  
985 State Surgeon General, the State Surgeon General's designee, or  
986 the board that probable cause exists to believe that the  
987 licensee, registered associate intern, or certificateholder is  
988 unable to practice the profession because of the reasons stated  
989 in this paragraph, the department shall have the authority to  
990 compel a licensee, registered associate intern, or  
991 certificateholder to submit to a mental or physical examination  
992 by psychologists, physicians, or other licensees under this  
993 chapter, designated by the department or board. If the licensee,  
994 registered associate intern, or certificateholder refuses to  
995 comply with such order, the department's order directing the  
996 examination may be enforced by filing a petition for enforcement



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997 in the circuit court in the circuit in which the licensee,  
998 registered associate intern, or certificateholder resides or  
999 does business. The licensee, registered associate intern, or  
1000 certificateholder against whom the petition is filed may ~~shall~~  
1001 not be named or identified by initials in any public court  
1002 records or documents, and the proceedings must ~~shall~~ be closed  
1003 to the public. The department is ~~shall be~~ entitled to the  
1004 summary procedure provided in s. 51.011. A licensee, registered  
1005 associate intern, or certificateholder affected under this  
1006 paragraph shall at reasonable intervals be afforded an  
1007 opportunity to demonstrate that he or she can resume the  
1008 competent practice for which he or she is licensed, registered,  
1009 or certified with reasonable skill and safety to patients.

1010 (r) Failing to meet the minimum standards of performance in  
1011 professional activities when measured against generally  
1012 prevailing peer performance, including the undertaking of  
1013 activities for which the licensee, registered associate intern,  
1014 or certificateholder is not qualified by training or experience.

1015 (s) Delegating professional responsibilities to a person  
1016 whom the licensee, registered associate intern, or  
1017 certificateholder knows or has reason to know is not qualified  
1018 by training or experience to perform such responsibilities.

1019 (u) Failure of the licensee, registered associate intern,  
1020 or certificateholder to maintain in confidence a communication  
1021 made by a patient or client in the context of such services,  
1022 except as provided in s. 491.0147.

1023 Section 14. Effective July 1, 2022, paragraphs (i), (j),  
1024 (k), and (l) of subsection (1) of section 491.012, Florida  
1025 Statutes, are amended to read:



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1026 491.012 Violations; penalty; injunction.—

1027 (1) It is unlawful and a violation of this chapter for any  
1028 person to:

1029 (i) Practice clinical social work in this state for  
1030 compensation, unless the person holds a valid, active license to  
1031 practice clinical social work issued pursuant to this chapter or  
1032 is an associate ~~intern~~ registered pursuant to s. 491.0045.

1033 (j) Practice marriage and family therapy in this state for  
1034 compensation, unless the person holds a valid, active license to  
1035 practice marriage and family therapy issued pursuant to this  
1036 chapter or is an associate ~~intern~~ registered pursuant to s.  
1037 491.0045.

1038 (k) Practice mental health counseling in this state for  
1039 compensation, unless the person holds a valid, active license to  
1040 practice mental health counseling issued pursuant to this  
1041 chapter or is an associate ~~intern~~ registered pursuant to s.  
1042 491.0045.

1043 (l) Use the following titles or any combination thereof,  
1044 unless he or she holds a valid registration as an associate  
1045 ~~intern~~ issued pursuant to this chapter:

1046 1. "Registered associate clinical social worker ~~intern~~."

1047 2. "Registered associate marriage and family therapist  
1048 ~~intern~~."

1049 3. "Registered associate mental health counselor ~~intern~~."

1050 Section 15. Effective July 1, 2022, paragraph (c) of  
1051 subsection (4) of section 491.014, Florida Statutes, is amended  
1052 to read:

1053 491.014 Exemptions.—

1054 (4) No person shall be required to be licensed,



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1055 provisionally licensed, registered, or certified under this  
1056 chapter who:

1057 (c) Is a student providing services regulated under this  
1058 chapter who is pursuing a course of study which leads to a  
1059 degree in a profession regulated by this chapter, is providing  
1060 services in a training setting, provided such services and  
1061 associated activities constitute part of a supervised course of  
1062 study, and is designated by the title "student associate  
1063 intern."

1064 Section 16. Effective July 1, 2022, subsection (3) of  
1065 section 491.0145, Florida Statutes, is amended to read:

1066 491.0145 Certified master social worker.—The department may  
1067 certify an applicant for a designation as a certified master  
1068 social worker upon the following conditions:

1069 (3) The applicant has had at least 3 years' experience, as  
1070 defined by rule, including, but not limited to, clinical  
1071 services or administrative activities as defined in subsection  
1072 (2), 2 years of which must be at the post-master's level under  
1073 the supervision of a person who meets the education and  
1074 experience requirements for certification as a certified master  
1075 social worker, as defined by rule, or licensure as a clinical  
1076 social worker under this chapter. A doctoral associateship  
1077 internship may be applied toward the supervision requirement.

1078 Section 17. Effective July 1, 2022, subsection (2) of  
1079 section 491.0149, Florida Statutes, is amended to read:

1080 491.0149 Display of license; use of professional title on  
1081 promotional materials.—

1082 (2) (a) A person registered under this chapter as an  
1083 associate a clinical social worker ~~intern~~, associate marriage



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1084 and family therapist ~~intern~~, or associate mental health  
1085 counselor ~~intern~~ shall conspicuously display the valid  
1086 registration issued by the department or a true copy thereof at  
1087 each location at which the registered associate ~~intern~~ is  
1088 completing the experience requirements.

1089 (b) A registered associate clinical social worker ~~intern~~  
1090 shall include the words "registered associate clinical social  
1091 worker ~~intern~~," a registered associate marriage and family  
1092 therapist ~~intern~~ shall include the words "registered associate  
1093 marriage and family therapist ~~intern~~," and a registered  
1094 associate mental health counselor ~~intern~~ shall include the words  
1095 "registered associate mental health counselor ~~intern~~" on all  
1096 promotional materials, including cards, brochures, stationery,  
1097 advertisements, and signs, naming the registered associate  
1098 ~~intern~~.

1099 Section 18. Except as otherwise expressly provided in this  
1100 act and except for this section, which shall take effect upon  
1101 this act becoming a law, this act shall take effect upon  
1102 enactment of

1104 ===== T I T L E A M E N D M E N T =====

1105 And the title is amended as follows:

1106 Delete lines 2 - 123

1107 and insert:

1108 An act relating to mental health professionals;  
1109 creating s. 491.017, F.S.; creating the Professional  
1110 Counselors Licensure Compact; providing purposes and  
1111 objectives; defining terms; specifying requirements  
1112 for state participation in the compact; specifying



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1113 duties of member states; authorizing member states to  
1114 charge a fee for granting a privilege to practice  
1115 under the compact; specifying that that compact does  
1116 not affect an individual's ability to apply for, and a  
1117 member state's ability to grant, a single state  
1118 license pursuant to the laws of that state; providing  
1119 construction; providing for recognition of the  
1120 privilege to practice licensed professional counseling  
1121 in member states; specifying criteria a licensed  
1122 professional counselor must meet for the privilege to  
1123 practice under the compact; providing for the  
1124 expiration and renewal of the privilege to practice;  
1125 providing construction; specifying that a licensee  
1126 with a privilege to practice in a remote state must  
1127 adhere to the laws and rules of that state;  
1128 authorizing member states to act on a licensee's  
1129 privilege to practice under certain circumstances;  
1130 specifying the consequences and parameters of practice  
1131 for a licensee whose privilege to practice has been  
1132 acted on or whose home state license is encumbered;  
1133 specifying that a licensed professional counselor may  
1134 hold a home state license in only one member state at  
1135 a time; specifying requirements and procedures for  
1136 changing a home state license designation; providing  
1137 construction; authorizing active duty military  
1138 personnel or their spouses to keep their home state  
1139 designation during active duty; specifying how such  
1140 individuals may subsequently change their home state  
1141 license designation; providing for the recognition of





1142 the practice of professional counseling through  
1143 telehealth in member states; specifying that licensees  
1144 must adhere to the laws and rules of the remote state  
1145 in which they provide professional counseling through  
1146 telehealth; authorizing member states to take adverse  
1147 actions against licensees and issue subpoenas for  
1148 hearings and investigations under certain  
1149 circumstances; providing requirements and procedures  
1150 for adverse action; authorizing member states to  
1151 engage in joint investigations under certain  
1152 circumstances; providing that a licensee's privilege  
1153 to practice must be deactivated in all member states  
1154 for the duration of an encumbrance imposed by the  
1155 licensee's home state; providing for notice to the  
1156 data system and the licensee's home state of any  
1157 adverse action taken against a licensee; providing  
1158 construction; establishing the Counseling Compact  
1159 Commission; providing for the jurisdiction and venue  
1160 for court proceedings; providing construction;  
1161 providing for membership, meetings, and powers of the  
1162 commission; specifying powers and duties of the  
1163 commission's executive committee; providing for the  
1164 financing of the commission; providing commission  
1165 members, officers, executive directors, employees, and  
1166 representatives immunity from civil liability under  
1167 certain circumstances; providing exceptions; requiring  
1168 the commission to defend the commission's members,  
1169 officers, executive directors, employees, and  
1170 representatives in civil actions under certain



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1171 circumstances; providing construction; requiring the  
1172 commission to indemnify and hold harmless such  
1173 individuals for any settlement or judgment obtained in  
1174 such actions under certain circumstances; providing  
1175 for the development of the data system, reporting  
1176 procedures, and the exchange of specified information  
1177 between member states; requiring the commission to  
1178 notify member states of any adverse action taken  
1179 against a licensee or applicant for licensure;  
1180 authorizing member states to designate as confidential  
1181 information provided to the data system; requiring the  
1182 commission to remove information from the data system  
1183 under certain circumstances; providing rulemaking  
1184 procedures for the commission; providing for member  
1185 state enforcement of the compact; specifying that the  
1186 compact and commission rules have standing as  
1187 statutory law in member states; specifying that the  
1188 commission is entitled to receive notice of process,  
1189 and has standing to intervene, in certain judicial and  
1190 administrative proceedings; rendering certain  
1191 judgments and orders void as to the commission, the  
1192 compact, or commission rules under certain  
1193 circumstances; providing for defaults and termination  
1194 of compact membership; providing procedures for the  
1195 resolution of certain disputes; providing for  
1196 commission enforcement of the compact; providing for  
1197 remedies; providing construction; providing for  
1198 implementation of, withdrawal from, and amendment to  
1199 the compact; providing construction; specifying that



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1200 licensees practicing in a remote state under the  
1201 compact must adhere to the laws and rules of the  
1202 remote state; providing construction; specifying that  
1203 the compact, commission rules, and commission actions  
1204 are binding on member states; providing construction  
1205 and severability; amending s. 456.073, F.S.; requiring  
1206 the Department of Health to report certain  
1207 investigative information to the data system; amending  
1208 s. 456.076, F.S.; requiring monitoring contracts for  
1209 impaired practitioners participating in treatment  
1210 programs to contain certain terms; amending s.  
1211 491.003, F.S.; revising definitions; amending s.  
1212 491.004, F.S.; requiring the Board of Clinical Social  
1213 Work, Marriage and Family Therapy, and Mental Health  
1214 Counseling to appoint an individual to serve as the  
1215 state's delegate on the commission; amending s.  
1216 491.0045, F.S.; conforming provisions to changes made  
1217 by the act; revising circumstances under which the  
1218 board may grant a certain one-time exemption from  
1219 associate registration requirements; amending ss.  
1220 491.005 and 491.006, F.S.; exempting certain persons  
1221 from mental health counselor licensure requirements;  
1222 amending s. 491.009, F.S.; authorizing certain  
1223 disciplinary action under the compact for specified  
1224 prohibited acts; amending s. 768.28, F.S.; designating  
1225 the state delegate and other members or employees of  
1226 the commission as state agents for the purpose of  
1227 applying waivers of sovereign immunity; requiring the  
1228 commission to pay certain claims or judgments;



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1229       authorizing the commission to maintain insurance  
1230       coverage to pay such claims or judgments; requiring  
1231       the department to notify the Division of Law Revision  
1232       upon enactment of the compact into law by 10 states;  
1233       amending ss. 491.005, 491.009, 491.012, 491.014,  
1234       491.0145, and 491.0149, F.S.; conforming provisions to  
1235       changes made by the act; providing effective dates.



141836

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
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Appropriations Subcommittee on Health and Human Services  
(Rodriguez) recommended the following:

1           **Senate Amendment to Amendment (126144) (with title**  
2 **amendment)**

3  
4           Delete lines 555 - 601  
5 and insert:

6           Section 6. Effective upon this act becoming a law,  
7 subsection (6) of section 491.0045, Florida Statutes, is amended  
8 to read:

9           491.0045 Intern registration; requirements.—

10           (6) A registration issued on or before March 31, 2017,



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11 expires March 31, 2022, and may not be renewed or reissued. Any  
12 registration issued after March 31, 2017, expires 60 months  
13 after the date it is issued. The board may make a one-time  
14 exception to the requirements of this subsection in emergency or  
15 hardship cases, as defined by board rule, ~~if the candidate has~~  
16 ~~passed the theory and practice examination described in s.~~  
17 ~~491.005(1)(d), (3)(d), and (4)(d).~~

18 Section 7. Effective July 1, 2022, section 491.0045,  
19 Florida Statutes, as amended by this act, is amended to read:

20 491.0045 Associate Intern registration; requirements.-

21 (1) An individual who has not satisfied the postgraduate or  
22 post-master's level experience requirements, as specified in s.  
23 491.005(1)(c), (3)(c), or (4)(c), must register as an associate  
24 ~~intern~~ in the profession for which he or she is seeking  
25 licensure before commencing the post-master's experience  
26 requirement or an individual who intends to satisfy part of the  
27 required graduate-level practicum, associateship internship, or  
28 field experience, outside the academic arena for any profession,  
29 and must register as an associate intern in the profession for  
30 which he or she is seeking licensure before commencing the  
31 practicum, associateship internship, or field experience.

32 (2) The department shall register as an associate a  
33 clinical social worker ~~intern~~, associate marriage and family  
34 therapist ~~intern~~, or associate mental health counselor ~~intern~~  
35 each applicant who the board certifies has:

36 (a) Completed the application form and remitted a  
37 nonrefundable application fee not to exceed \$200, as set by  
38 board rule;

39 (b)1. Completed the education requirements as specified in



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40 s. 491.005(1)(c), (3)(c), or (4)(c) for the profession for which  
41 he or she is applying for licensure, if needed; and

42 2. Submitted an acceptable supervision plan, as determined  
43 by the board, for meeting the practicum, associateship  
44 ~~internship~~, or field work required for licensure that was not  
45 satisfied in his or her graduate program.

46 (c) Identified a qualified supervisor.

47 (3) An individual registered under this section must remain  
48 under supervision while practicing under registered associate  
49 ~~intern~~ status.

50 (4) An individual who fails to comply with this section may  
51 not be granted a license under this chapter, and any time spent  
52 by the individual completing the experience requirement as  
53 specified in s. 491.005(1)(c), (3)(c), or (4)(c) before  
54 registering as an associate intern does not count toward  
55 completion of the requirement.

56 (5) An associate intern registration is valid for 5 years.

57 (6) A registration issued on or before March 31, 2017,  
58 expires March 31, 2022, and may not be renewed or reissued. Any  
59 registration issued after March 31, 2017, expires 60 months  
60 after the date it is issued. The board may make a one-time  
61 exception to the requirements of this subsection in emergency or  
62 hardship cases, as defined by board rule.

63  
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete lines 1216 - 1219

67 and insert:

68 491.0045, F.S.; revising circumstances under which the



69  
70  
71

board may grant a certain one-time exemption from  
associate registration requirements; conforming  
provisions to changes made by the act; amending ss.



**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: PCS/CS/SB 358 (712708)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Health Policy Committee;  
and Senator Rodriguez

SUBJECT: Mental Health Professionals

DATE: February 24, 2022      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>Money</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 358 authorizes Florida to participate in the Professional Counselors Licensure Compact (counseling compact or compact) for the licensure of mental health counselors and makes changes to the practice acts for mental health counselors, a clinical social workers, and marriage and family therapists. The compact takes effect upon its enactment by 10 states, and to date, only two states have enacted the compact. The bill grants a licensed professional counselor who is licensed in his or her primary state of residence (the licensee’s “home state”) the ability to apply and be granted a privilege to practice professional counseling in another member state, both in-person and through telehealth.

The bill also:

- Requires the Department of Health (department) to report any significant investigatory information relating to a health care practitioner practicing under the compact to the compact’s licensure data system.
- Provides for the participation of impaired practitioners who are practicing under the compact in impaired practitioner programs.
- Requires the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (Board) to appoint an individual to serve as Florida’s delegate on the Counseling Compact Commission (commission).
- Authorizes the Board to take adverse action against a mental health counselor’s privilege to practice under the compact and authorizes the Board to impose grounds for discipline.

- Designates the state delegate and other members or employees of the commission as state agents for the purpose of applying waivers of sovereign immunity.

According to the department, the provisions of the bill relating to the compact will have a significant fiscal impact on the department requiring one additional full-time equivalent (FTE) position to support the workload associated with processing applications and issuing initial and renewal licenses and privileges to practice. The bill authorizes member states to charge a fee for granting a privilege to practice under the compact. The number of applicants for compact licensure is indeterminate and the department indicates that the fiscal impact cannot be calculated.<sup>1</sup>

The commission may collect an annual assessment from each member state or impose fees on other parties to cover the cost of operations and activities. The annual membership cost with the Professional Counselors Licensure Compact is unknown at this time.

The bill amends a provision authorizing the Board to make a one-time exception for mental health counselor, clinical social worker, and marriage and family therapist intern registration requirements for emergency or hardship cases by removing the requirement that the candidate pass a theory and practice examination, effective upon the act becoming a law.

The bill amends the practice acts for mental health counselors, a clinical social workers, and marriage and family therapists to replace the words “intern” and “internship” with “associate” and “associateship,” effective July 1, 2022.

The bill provides an effective date contingent on the enactment of the compact into law by 10 states, except as otherwise expressly provided in the bill, and requires the department to notify the Division of Law Revision in that event.

## **II. Present Situation:**

### **Occupational Licensure Compacts**

Interstate compacts are authorized under the U.S. Constitution, Article I, Section 10, cl. 3.<sup>2</sup> Compacts that affect a power delegated to the federal government or that affect or alter the political balance within the federal system require the consent of Congress.<sup>3</sup> The licensing of professions is predominantly a state responsibility as each state has developed its own regulations, oversight boards, and requirements for dozens of professions and occupations.

In September 2018, the Federal Trade Commission (FTC) looked at the issue of state-by-state occupational licensure and its unintended consequences. In particular, the FTC noted that state-by-state licensing can have a particularly hard effect on those in the military and their spouses who are required to move frequently, those who provide services across state lines, or deliver

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<sup>1</sup> Department of Health, 2022 Senate Bill 358 Legislative Bill Analysis (Oct. 25, 2021) (on file with the Senate Committee on Health Policy).

<sup>2</sup> “No state shall, without the Consent of Congress...enter into any Agreement or Compact with another State, or with a foreign Power[.]” *see* U.S. CONST. art. I, s. 10, cl. 3. While the language of the provision says congressional approval is required, not all compacts require congressional approval.

<sup>3</sup> *Virginia v. Tennessee*, 148 U.S. 503 (1893).

services through telehealth.<sup>4</sup> The FTC also suggested that improved licensed portability would enhance competition, choice, and access for consumers, especially where services may be in short supply.<sup>5</sup>

According to the Council of State Governments (CSG), since January 2016, 170 separate pieces of licensure compact legislation have been passed in the United States.<sup>6</sup> To date, 42 states and territories have enacted occupational licensure compacts for nurses, physicians, physical therapists, emergency medical technicians, psychologists, speech therapists, audiologists, occupational therapists, and counselors.<sup>7</sup>

### ***Nurse Licensure Compact***

On January 19, 2018, licensed Florida nurses became eligible to apply for a multi-state license under the enhanced Nurse Licensure Compact (eNLC).<sup>8</sup> The eNLC allows registered nurses and licensed practical nurses who hold licensure in one Compact state to practice in any of the 27 Compact states without obtaining additional state licenses. The Department of Health (department) reports that the eNLC has effectively reduced regulatory requirements by eliminating the need for nurses to obtain a separate license to practice in different states.<sup>9</sup> Florida joined the Nurse Licensure Compact upon the passage of HB 1061 during the 2016 regular Legislative Session.<sup>10</sup> The eNLC was officially enacted when North Carolina Governor Roy Cooper, signed legislation to become the 26th state to join the compact on July 20, 2017.<sup>11</sup> That date became the effective date for the start of the compact commission, an agency governing the compact.<sup>12</sup>

### ***Interstate Compact for Licensed Professional Counselors***

The Interstate Compact for Licensed Professional Counselors (counseling compact or compact) will become effective after 10 states enact the legislation for the compact. The counseling compact has passed and been signed into law in two states. On May 10, 2021, Georgia Governor Brian Kemp signed HB 395 and subsequently on May 18, 2021, Maryland Gov. Larry Hogan signed SB 571/HB 736.<sup>13</sup> The compact has also been introduced this year in Tennessee (SB 1027 HB 0959), Nebraska (LB 554), Ohio (SB 204), and North Carolina (HB 791).<sup>14</sup>

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<sup>4</sup> Federal Trade Commission, *Policy Perspectives, Options to Enhance Occupational License Portability* (September 2018), available at [https://www.ftc.gov/system/files/documents/reports/options-enhance-occupational-license-portability/license\\_portability\\_policy\\_paper.pdf](https://www.ftc.gov/system/files/documents/reports/options-enhance-occupational-license-portability/license_portability_policy_paper.pdf) (last visited Oct. 31, 2021).

<sup>5</sup> *Id.*

<sup>6</sup> *Supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Chapter 2016-139, Laws of Fla.

<sup>11</sup> Debra Wood, RN., *The Enhanced Nurse Licensure* (July 28, 2017) available at <https://www.nursechoice.com/blog/profiles-and-features/the-enhanced-nurse-licensure-compact-explained/> (last visited Oct. 31, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> Counseling Compact, *News*, available at <https://counselingcompact.org/news/> (last visited Oct. 31, 2021).

<sup>14</sup> Counseling Compact, *Maps*, available at <https://counselingcompact.org/map/> (last visited Oct. 31, 2021).

### ***Interstate Licensure Compact for Social Work***<sup>15</sup>

The National Association of Social Workers is beginning to pursue its own Interstate Licensure Compact for Social Work. That draft compact has not yet been finalized.

### ***Model of Marriage and Family Therapy License Portability***<sup>16</sup>

Rather than pursue a compact, the American Association for Marriage and Family Therapy has created a Model of Marriage and Family Therapy (MFT) License Portability. This portability model is a full endorsement model, meaning that a state will license an applicant as a licensed marriage and family therapist if the applicant has a valid and unrestricted license to practice marriage and family therapy in another state.

### **Mental Health Counseling in Florida**

The licensed Mental Health Counseling profession continues to expand in Florida and has reported an average growth in recent years of more than 1,000 new licensees per year, increasing the total licensed population to 15,518 practitioners.<sup>17</sup>

Florida law delineates between an application by examination for initial licensure and application by endorsement for mental health counselors who have previously held an active, unencumbered, license in another state. The application for licensure as a mental health counselor includes a mandatory disclosure of criminal history, but applicants are not required to submit fingerprints to complete a criminal background check.<sup>18</sup> Section 456.0135, F.S., provides the department with authority to mandate criminal background checks for specified professions and mental health professions regulated by ch. 491, F.S., are not included in the list of specified professions.

#### ***Licensure of Mental Health Counselors by Examination***

Pursuant to s. 491.005(4), F.S., the department shall license an applicant as a mental health counselor, if he or she:

- Pays the appropriate fee;
- Possesses a minimum of a master's degree from a regionally accredited program in Mental Health Counseling or a closely related field that consists of at least 60 semester hours or 80 quarter hours and specific graduate coursework, including: Counseling Theories and Practice, Human Growth and Development, Diagnosis and Treatment of Psychopathology, Human Sexuality, Group Theories and Practice, Individual Evaluation and Assessment, Career and Lifestyle Assessment, Research and Program Evaluation, Social and Cultural Foundations, Substance Abuse, and Legal, Ethical, and Professional Standards Issues. Beginning July 1, 2025, an applicant must have a master's degree from a program that is accredited by the

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<sup>15</sup> National Association of Social Workers, *Interstate Licensure Compact*, <https://www.socialworkers.org/Advocacy/Social-Justice/Interstate-Licensure-Compact-for-Social-Work> (last visited Oct. 31, 2021).

<sup>16</sup> American Association for Marriage and Family Therapy, *MFT License Portability*, [https://www.aamft.org/AAMFT/ADVANCE\\_the\\_Profession/License\\_Portability/Advocacy/MFT%20License%20Portability.aspx](https://www.aamft.org/AAMFT/ADVANCE_the_Profession/License_Portability/Advocacy/MFT%20License%20Portability.aspx) (last visited Nov. 4, 2021).

<sup>17</sup> *Supra* note 1.

<sup>18</sup> *Id.*

Council for Accreditation of Counseling and Related Educational Programs (CACREP) which consists of at least 60 semester hours or 80 quarter hours to be licensed;<sup>19</sup>

- Has had at least two years of clinical experience in mental health counseling. Initial applicants must provide documentation to demonstrate completion of a 700-hour university-sponsored clinical practicum or internship with at least 280 hours of direct client services. After graduation, registered mental health counselor interns are required to complete post-graduate supervised experience conducted under the supervision of a board-approved qualified supervisor with at least 100 hours of supervision in no less than 100 weeks. Supervision experience hours are accrued on an hour-for-hour basis by providing face-to-face psychotherapy with clients. Registered interns are required to meet with their qualified supervisor every two weeks to review cases and to receive guidance;
- Has passed the National Clinical Mental Health Counseling Examination (NCMHCE) developed by the National Board for Certified Counselors (NBCC);<sup>20</sup>
- Completes a three-hour course on HIV/Aids pursuant to s. 491.0065, F.S.; and
- Agrees to complete a two-hour domestic violence course within six months of licensure.<sup>21</sup>

### ***Licensure of Mental Health Counselors by Endorsement***

Applicants by endorsement who have practiced mental health counseling in another state for at least three out of the last five years are considered to have completed all minimum education, practicum, and supervision requirements and are required to provide limited documentation to become licensed.<sup>22</sup> As a method to streamline licensure for experienced mental health counselors, Florida law does not require endorsement candidates to provide proof of education nor demonstrate completion of supervised experience.<sup>23</sup> Pursuant to s. 491.006, F.S., the department shall license an applicant as a mental health counselor if he or she:

- Pays the appropriate fee;
- Holds a valid license to practice in another state and have practiced for at least three out of the last five years preceding licensure;
- Demonstrates, in a manner designated by rule of the Board, knowledge of the laws and rules governing the practice of mental health counseling in Florida. Rule 64B4-3.0035 requires these applicants to complete an eight hour course and obtain a passing score on a corresponding examination;
- Has passed the NCMHCE or a licensing examination substantially equivalent to the NCMHCE in another state or in this state;
- Completes a three-hour course on HIV/Aids pursuant to s. 491.0065, F.S.;
- Agrees to complete a two-hour domestic violence course within six months of licensure;<sup>24</sup> and

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Florida Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling, *Licensed Mental Health Counselor: Requirements available at <https://floridamentalhealthprofessions.gov/licensing/licensed-mental-health-counselor/#tab-requirements>* (last accessed Oct. 31, 2021).

<sup>22</sup> *Supra* note 1.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 20.

- Holds a license in good standing and is not under investigation in Florida or another jurisdiction for an act which would constitute a violation of ch. 491, F.S.

### ***Mental Health Counseling in Florida Through Telehealth***

In 2019, the Legislature passed and the Governor approved CS/CS/HB 23, which created s. 456.47, F.S. The bill became effective on July 1, 2019.<sup>25</sup> It authorized Florida-licensed health care providers, including mental health counselors who are either Florida-licensed or licensed under a multi-state health care licensure compact of which Florida is a member state,<sup>26</sup> to use telehealth to deliver health care services within their respective scopes of practice.

The bill also authorized out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the department or the applicable board<sup>27</sup> and meet certain eligibility requirements.<sup>28</sup> A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida.

The Legislature also passed HB 7067 in 2019 that would have required an out-of-state telehealth provider to pay an initial registration fee of \$150 and a biennial registration renewal fee of \$150, but the bill was vetoed by the Governor and did not become law.<sup>29</sup>

On March 21, 2020, Surgeon General Scott Rivkees executed the department's Emergency Order 20-003<sup>30</sup> to authorize certain out-of-state clinical social workers, marriage and family therapists, mental health counselors, and psychologists to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. These emergency orders were extended and expired on June 26, 2021.<sup>31</sup> Out-of-state health care practitioners are no longer authorized to perform telehealth services for patients in Florida unless they become licensed or registered in Florida.

Florida-licensed providers may not provide health care services to clients located in other states without express authorization from each state.

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<sup>25</sup> Chapter 2019-137, s. 6, Laws of Fla.

<sup>26</sup> Section 456.47(1)(b), F.S.

<sup>27</sup> Under s. 456.001(1), F.S., the term "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the department or, in some cases, within the department's Division of Medical Quality Assurance. The

<sup>28</sup> Section 456.47(4), F.S.

<sup>29</sup> Transmittal Letter from Governor Ron DeSantis to Secretary of State Laurel Lee (June 27, 2019) available at <https://www.flgov.com/wp-content/uploads/2019/06/06.27.2019-Transmittal-Letter-3.pdf> (last visited Feb. 14, 2021).

<sup>30</sup> Department of Health, State of Florida, *Emergency Order department No. 20-003* (Mar. 21, 2020) available at <https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf> (last visited Oct. 21, 2021).

<sup>31</sup> Florida Board of Medicine, *Important Updates for Health Care Providers Regarding Expiration of Emergency Orders* (July 1, 2021) available at [https://r.bulkmail.flhealthsource.gov/mk/mr/JV-U0AMitwBXIP7zcFxFx3Djqu1KfE1B57JaGN-mnNySmOjEY5xGSsIyII28XjOGeZ4yKv9rWQUryqAibmdrixNZdgE9Q61dmUoHRF1Rnyijg-ewyAl\\_rZBT8c](https://r.bulkmail.flhealthsource.gov/mk/mr/JV-U0AMitwBXIP7zcFxFx3Djqu1KfE1B57JaGN-mnNySmOjEY5xGSsIyII28XjOGeZ4yKv9rWQUryqAibmdrixNZdgE9Q61dmUoHRF1Rnyijg-ewyAl_rZBT8c) (last visited Oct. 18, 2021).

**Sovereign Immunity**

Sovereign immunity generally bars lawsuits against the state or its political subdivisions for torts committed by an officer, employee, or agent of such governments unless the immunity is expressly waived. The Florida Constitution recognizes that the concept of sovereign immunity applies to the state, although the state may waive its immunity through an enactment of general law.<sup>32</sup>

In 1973, the Legislature enacted s. 768.28, F.S., a partial waiver of sovereign immunity, allowing individuals to sue state government and its subdivisions.<sup>33</sup> According to subsection (1), individuals may sue the government under circumstances where a private person “would be liable to the claimant, in accordance with the general laws of [the] state . . .” Section 768.28(5), F.S., imposes a \$200,000 limit on the government’s liability to a single person, and a \$300,000 total limit on liability for claims arising out of a single incident.

**III. Effect of Proposed Changes:**

**Section 1** creates the Professional Counselors Licensure Compact as s. 491.017, F.S., which enters Florida into the compact. The compact has 15 articles that establish the compact’s administration and components and prescribe how the commission will oversee the compact and conduct its business. The table below summarizes the new statutory language, by article, which creates the components of the compact.

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
I	Purpose	The primary purpose of the compact is to facilitate the interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services.
II	Definitions	Definitions are provided for the following terms: <ul style="list-style-type: none"> <li>• “Active duty military” means full-time duty status in the active uniformed service of the United States, including, but not limited to, members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.</li> <li>• “Adverse action” means any administrative, civil, or criminal action authorized by a state’s laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual’s license or privilege to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, issuance of a cease and desist action, or any other encumbrance on licensure affecting a licensed professional counselor’s authorization to practice.</li> </ul>

<sup>32</sup> FLA. CONST. art. X, s. 13.

<sup>33</sup> Chapter 73-313, L.O.F., codified at s. 768.28, F.S.



Provisions of the Professional Counselors Licensure Compact		
Article	Title	Description
		<ul style="list-style-type: none"> <li>• “Alternative program” means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.</li> <li>• “Continuing education” means a requirement, as a condition of license renewal, to participate in or complete educational and professional activities relevant to the licensee’s practice or area of work.</li> <li>• “Counseling Compact Commission” or “commission” means the national administrative body whose membership consists of all states that have enacted the compact.</li> <li>• “Current significant investigative information” means:             <ul style="list-style-type: none"> <li>○ Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or</li> <li>○ Investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety, regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.</li> </ul> </li> <li>• “Data system” means a repository of information about licensees, including, but not limited to, information relating to continuing education, examinations, licensure statuses, investigations, the privilege to practice, and adverse actions.</li> <li>• “Encumbered license” means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and said adverse action has been reported to the National Practitioner Data Bank.</li> <li>• “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.</li> <li>• “Executive committee” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.</li> <li>• “Home state” means the member state that is the licensee’s primary state of residence.</li> <li>• “Impaired practitioner” means an individual who has a condition that may impair his or her ability to safely practice as a licensed professional counselor without intervention. Such impairment may include, but is not limited to, alcohol or drug dependence, mental health conditions, and neurological or physical conditions.</li> </ul>



Provisions of the Professional Counselors Licensure Compact		
Article	Title	Description
		<ul style="list-style-type: none"> <li>• “Investigative information” means information, records, or documents received or generated by a professional counseling licensing board pursuant to an investigation.</li> <li>• “Jurisprudence requirement,” if required by a member state, means the assessment of an individual’s knowledge of the laws and rules governing the practice of professional counseling in a state.</li> <li>• “Licensed professional counselor” means a mental health counselor licensed under ch. 491, F.S., or a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.</li> <li>• “Licensee” means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.</li> <li>• “Licensing board” means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.</li> <li>• “Member state” means a state that has enacted the compact.</li> <li>• “Privilege to practice” means a legal authorization, which is equivalent to a license, authorizing the practice of professional counseling in a remote state.</li> <li>• “Professional counseling” means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.</li> <li>• “Remote state” means a member state, other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.</li> <li>• “Rule” means a regulation adopted by the commission which has the force of law.</li> <li>• “Single state license” means a licensed professional counselor license issued by a member state which authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.</li> <li>• “State” means any state, commonwealth, district, or territory of the United States of America which regulates the practice of professional counseling.</li> <li>• “Telehealth” means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.</li> <li>• “Unencumbered license” means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.</li> </ul>

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
III	State Participation	<p>To participate in the compact, a state must currently do all of the following:</p> <ul style="list-style-type: none"> <li>• License and regulate licensed professional counselors.</li> <li>• Require licensees to pass a nationally recognized exam.</li> <li>• Require licensees to have a 60 semester hour, or 90 quarter hour, master’s degree in counseling or 60 semester hours, or 90 quarter hours, of graduate coursework in relevant areas.</li> <li>• Require licensees to complete a supervised postgraduate professional experience, <i>as defined by the commission</i>.</li> <li>• Have a mechanism in place for receiving and investigating complaints about licensees.</li> </ul> <p>(Initial Florida applicants must possess a master’s degree from a regionally accredited program in mental health counseling or a closely related field that consists of at least 60 semester hours or 80 quarter hours and required graduate coursework. Initial Florida applicants must also complete two years of clinical experience in mental health counseling as a registered mental health counselor intern.)</p> <p>A member state must:</p> <ul style="list-style-type: none"> <li>• Participate fully in the compact commission’s licensure data system.</li> <li>• Notify the commission of any adverse action against or of current significant investigative information regarding a licensee.</li> <li>• Conduct criminal background checks of candidates for an initial privilege to practice.</li> <li>• Comply with rules of the commission, established in article IX.</li> <li>• Grant the privilege to practice professional counseling to a licensee holding a valid, unencumbered license in another member state.</li> <li>• Provide for the state’s commissioner to attend the meetings of the commission.</li> </ul> <p>A member state may charge a fee for granting a privilege to practice.</p> <p>A licensed professional counselor may only utilize the compact if their home state joins the compact.</p>
IV	Privilege to Practice	<p>A licensee may seek a privilege to practice within a remote state. To exercise the privilege to practice professional counseling within a remote state, a licensee must:</p>

Provisions of the Professional Counselors Licensure Compact		
Article	Title	Description
		<ul style="list-style-type: none"> <li>• Hold a license in his or her home state which must be a member of the compact.</li> <li>• Have had no encumbrance or restriction against any license or privilege to practice within the previous two years.</li> <li>• <i>Meet any continuing education and jurisprudence requirements of the remote state and pay all applicable fees.</i></li> <li>• Report to the commission any adverse action, encumbrance, or restriction imposed on the licensee by a non-member state within 30 days from the date of the action.</li> </ul> <p>A privilege to practice is valid until the expiration date of the practitioner’s home state license.</p> <p>A licensee providing professional counseling in a remote state under the privilege to practice must adhere to the laws and regulations of the remote state.</p> <p>If a licensee’s home state license is encumbered, the licensee loses the privilege to practice in any remote state for the next two years.</p> <p>If a licensee’s privilege to practice is removed by a member state, the licensee may lose their privilege to practice in member states for the next two years.</p>
V	Obtaining a New Home State License based on a Privilege to Practice	<p>A licensee may hold a home state license in only one member state at a time. A licensee who moves from one member state to another member state may obtain a new, expedited home state license in the new state of residence if he or she holds a privilege to practice in the new state.</p> <p>The licensee will be required to complete a new FBI fingerprint-based criminal background check if not previously performed, complete any required state-level background check, <i>meet any jurisprudence requirements of the new home state</i>, and pay all applicable fees.</p> <p>(Florida-licensed mental health counselors are not currently required to be fingerprinted and background-screened as a condition of licensure. See s. 456.0135, F.S. If the compact is enacted in Florida, single-state applicants and registered interns would not be required to submit to a criminal history check, but applicants under the compact would be.)</p> <p>If a new home state license is granted, the former home state must convert the former home state license into a privilege to practice.</p>

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
VI	Active Duty Military Personnel and their Spouses	Active duty military personnel, or their spouse, may designate a home state where the individual has a current license in good standing. This state serves as the individual’s home state for the duration of the service member’s active duty.
VII	Compact Privilege to Practice Telehealth	Member states must recognize the right of a licensed professional counselor to practice professional counseling in any member state through telehealth under a privilege to practice.  A licensee providing telehealth services in a remote state must adhere to the laws and regulations of that state.
VIII	Adverse Actions	Only a practitioner’s home state has the power to take adverse action against a home state license. Home states must give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. The home state must apply its own state laws to determine appropriate action in such cases.  Remote states may take adverse action against a counselor’s privilege to practice within that member state and may issue enforceable subpoenas for witnesses and evidence from other member states.  A member state, if authorized by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of any cases resulting from adverse action taken against that licensed professional counselor.  Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.  If a member state takes adverse action, it must promptly notify the administrator of the data system. The administrator shall promptly notify the licensee’s home state of any adverse actions by remote states.  The bill maintains the right for state boards to require licensees to participate in impaired practitioner programs.
IX	Establishment of Counseling Compact Commission	The Counseling Compact Commission (commission) is established by the member states as a joint public agency.  Judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent that it adopts

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
		<p>or consents to participate in alternative dispute resolution proceedings. <i>Nothing in the compact may be construed as a waiver of sovereign immunity.</i></p> <p>Each member state is entitled to one delegate appointed by each member state’s licensing board who must be either a licensed professional counselor, a public member, or an administrator of the board. Each delegate has one vote on commission affairs. The commission is directed to establish a term of office for delegates and may establish term limits.</p> <p>The commission must meet at least once during each calendar year and all meetings must be open to the public. The commission, or the executive committee of the commission may convene in a closed, nonpublic meeting under certain circumstances. (See “Public Records/Open Meetings Issues” in Section IV of this analysis.) The commission must keep detailed minutes.</p> <p>The commission may establish and maintain a code of ethics, bylaws, rules, a budget, financial records, and may initiate or prosecute legal proceedings or actions in the name of the commission, in order to carry out the compact.</p> <p>The commission must select an executive committee composed of up to eleven members: seven members of the commission and up to four ex-officio, nonvoting members from four recognized national professional counselor organizations. The executive committee must meet at least annually and must, at a minimum, do all of the following:</p> <ul style="list-style-type: none"> <li>• Make recommendations to the commission for any changes to the rules, bylaws, compact legislation, fees paid by member states, and fees charged to licensees for the privilege to practice.</li> <li>• Prepare and recommend the budget.</li> <li>• Maintain financial records.</li> <li>• Monitor compliance of member states and provide compliance reports to the commission.</li> <li>• Establish additional committees as necessary.</li> </ul> <p>The commission must pay or provide for the payment of certain reasonable expenses and may accept appropriate revenue. The commission may not incur obligations of any kind before securing funds adequate to meet the same. Receipts and disbursements of</p>

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
		<p>funds handled by the commission must be audited annually by a certified or licensed public accountant.</p> <p>The commission may levy and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff. Such assessments and fees must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based on a formula to be determined by the commission, which must adopt a rule binding on all member states.</p> <p>Commission members and employees are immune from liability related to their positions except in cases of wanton misconduct.</p>
X	Data System	<p>The Commission must provide for the development, operation, and maintenance of a coordinated database and reporting system (the data system) containing licensure, adverse action, and investigative information on all licensed professional counselors in member states. A member state must submit a uniform data set to the data system on all licensees to whom the compact is applicable, as required by the rules of the commission.</p> <p>Investigative information pertaining to a licensee in any member state may be made available only to other member states. The commission must promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license.</p> <p>Member states reporting information to the data system may designate information that may not be shared with the public without the express permission of the reporting state. (See “Public Records/Open Meetings Issues” in Section IV of this analysis.)</p>
XI	Rulemaking	<p>The Commission shall adopt reasonable rules to effectively and efficiently achieve the purposes of the compact. If the commission issues a rule that exceeds its authority under the compact, such a rule is void and has no force or effect.</p> <p>Rules carry the force of law in all member states. If a majority of the legislatures of member states reject a rule by enactment of a statute or a resolution in the same manner used to adopt the compact within 4 years after the date of the adoption of a rule, such rule does not have further force or effect in any member state.</p> <p>Before adoption of a final rule by the commission, and at least 30 days in advance of the meeting at which the rule will be considered</p>

<b>Provisions of the Professional Counselors Licensure Compact</b>		
<b>Article</b>	<b>Title</b>	<b>Description</b>
		<p>and voted upon, the commission must file a notice of proposed rulemaking, which must include the text of the proposed rule, on the commission’s website and on the website of each member state’s professional licensing board. Interested persons may submit notice to the commission of their intention to attend a public hearing and may submit written comments before the commission may adopt a proposed rule. The commission must grant an opportunity for a public hearing if it is requested by at least 25 independent persons, a state or federal governmental subdivision or agency, or an association that has at least 25 members. Rules may be grouped at public hearings for the convenience of the commission.</p> <p>The commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing under certain circumstances.</p>
XII	Oversight; Default, Technical Assistance, and Termination Dispute Resolution; and Enforcement	<p>If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact or adopted rules, the commission must provide written notice, remedial training, and technical assistance to the state. If a state fails to cure a default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states and only after all other means of securing compliance have been exhausted.</p> <p>The commission shall attempt to resolve any compact-related disputes that may arise between states.</p> <p>The commission is responsible for enforcing the provisions and rules of the compact.</p>
XIII	Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment	<p>The compact becomes effective on the date on which the compact is enacted into law in the 10th member state. Thereafter, the commission must meet and exercise rulemaking powers necessary for the implementation and administration of the compact.</p> <p>States that join the compact after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.</p> <p>Member states withdraw from the compact by enacting a statute repealing the compact. <i>A state’s withdrawal takes effect 6 months after enactment of the repealing statute.</i></p> <p>The member states may amend the compact, but changes do not take effect until enacted into the laws of all member states.</p>



Provisions of the Professional Counselors Licensure Compact		
Article	Title	Description
XIV	Binding Effect of Compact and Other Laws	<p>A licensee providing professional counseling services in a remote state under the privilege to practice must adhere to the laws and regulations, including scope of practice, of the remote state.</p> <p>All rules and bylaws properly adopted by the commission are binding on the member states.</p> <p><i>In the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.</i></p>
IV	Construction and Severability	<p>The compact is to be liberally construed so as to effectuate its purposes.</p> <p>The compact’s provisions are severable. If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states. If a provision is held contrary to a member state’s constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.</p>

Section 491.004(5), F.S., requires the Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling to adopt rules to implement and enforce the provisions of ch. 491, F.S. Section 1 of the bill creates s. 491.017, F.S., thereby requiring the Board to adopt rules to implement and enforce the compact.

**Section 2** amends s. 456.073, F.S., to require the department to report any significant investigatory information relating to a health care practitioner practicing under the compact to the data system. Investigatory information is typically gathered as the department investigates complaints and assesses the need to discipline a licensee.

**Section 3** amends s. 456.076, F.S., to require a consultant (who operates an approved impaired practitioner program) entering into a participant contract with an impaired practitioner who is practicing under the compact, to establish terms in the monitoring contract that include the impaired practitioner’s withdrawal from all practice under the compact.

**Section 4** amends s. 491.003, F.S., to amend the definitions section within the practice acts for mental health counselors, a clinical social workers, and marriage and family therapists to replace the words “intern” and “internship” with “associate” and “associateship,” effective July 1, 2022.

**Section 5** amends s. 491.004, F.S., to require the Board to appoint an individual to serve as the state’s delegate on the commission.

**Section 6** amends 491.0045, F.S., to amend a provision authorizing the Board to make a one-time exception for mental health counselor, clinical social worker, and marriage and family therapist intern registration requirements for emergency or hardship cases by removing the



requirement that the candidate pass the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d), F.S., effective upon the date the act becomes a law.

**Section 7** amends s. 491.005, F.S., to exempt a person licensed as a mental health counselor in another state who is practicing under the compact pursuant to s. 491.017, F.S., and only within the scope provided therein, from licensure by examination requirements, as applicable.

**Section 8** amends s. 491.006, F.S., to exempt a person licensed as a mental health counselor in another state who is practicing under the compact pursuant to s. 491.017, F.S., and only within the scope provided therein, from licensure by endorsement requirements, as applicable.

**Section 9** amends s. 491.009, F.S., to authorize the Board to take adverse action against a mental health counselor's privilege to practice under the compact and authorizes the Board impose grounds for discipline if the mental health counselor commits an act specified in subsection (1) of this section or in s. 456.072(1), F.S.

**Section 10** amends s. 768.28, F.S., to designate as agents of the state, the individual appointed as the state's delegate on the commission when serving in that capacity, and any administrator, officer, executive director, employee, or representative of the commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, for the purpose of applying waivers of sovereign immunity. This section also requires the commission to pay certain claims or judgments and authorizes the commission to maintain insurance coverage to pay such claims or judgments.

**Section 11** requires the department to notify the Division of Law Revision upon the enactment of the compact into law by 10 states.

**Sections 12 through 18** amend the practice acts for mental health counselors, a clinical social workers, and marriage and family therapists to replace the words "intern" and "internship" with "associate" and "associateship," effective July 1, 2022.

**Section 19** provides an effective date contingent on the enactment of the compact into law by 10 states, except as otherwise expressly provided in the bill.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

A counselor's personal identifying information, other than the counselor's name, licensure status, or licensure number, may be entered into the system by the Department of Health (department) or the Board or may be obtained by the department or the Board from the data system as reported by another state.

A meeting or a portion of a meeting of the commission, or the executive committee of the commission may be closed if the commission's legal counsel or designee has certified that the meeting may be closed because the commission or executive committee of the commission must discuss any of the following:

- Pending litigation to which the commission is presently a party before a court or administrative agency in accordance with s. 286.011(8).
- Negotiation of contracts under competitive solicitation as provided in s. 286.0113(2).
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- Records made exempt under this section.
- Matters specifically exempted from disclosure by federal or member state law.

All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

These issues are addressed in linked bill, SB 590.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, Section 19, of the State Constitution requires that the imposition of, or the authorization of, a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, Section 19(d)(1) of the State Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service." The bill authorizes the counseling compact commission and the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to impose a new state tax or fee.

The bill authorizes member states to charge a fee for granting a privilege to practice in their state. The bill requires a licensee seeking to practice under the compact to pay any applicable fees, including any state fee, for the privilege to practice. The bill requires a compact counselor who changes his or her primary state of residence by moving between two member states to pay all applicable fees to his or her new home state.

The bill authorizes the commission to levy and collect an annual assessment from each member state or impose fees *on other parties* to cover the cost of the operations and activities of the commission and its staff. Such assessments and fees must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based on a formula to be determined by the commission, which must adopt a rule binding on all member states.

Section 491.004(5), F.S., requires the Board to adopt rules to implement and enforce the provisions of ch. 491, F.S. Section 1 of the bill creates the Professional Counseling Licensure Compact as s. 491.017, F.S., thereby requiring the Board to adopt rules to implement and enforce the compact, which may include the imposition of a fee for granting a privilege to practice in this state granting and a fee to cover the cost of the operations and activities of the commission, pursuant to the compact.

**E. Other Constitutional Issues:**

The compact authorizes the commission to “adopt reasonable rules to effectively and efficiently achieve the purposes of the compact,” and these rules carry the force of law in member states, which is potentially an unlawful delegation of legislative authority. If enacted into law, the state will bind itself to rules not yet promulgated and adopted by the commission.

The Legislature delegated similar rulemaking powers to the Nurse Licensure Compact when it adopted the compact language into statute. The rules adopted by the Nurse Licensure Compact are now applicable to Florida without the Legislature’s subsequent approval, similar to what the state would encounter with the counseling compact adoption and included rulemaking provision. In the case of the counseling compact, should Florida find that rules adopted by the commission are not acceptable, the compact provides a mechanism for a majority of state legislatures to override commission rules. Furthermore, the state maintains the ability to withdraw from the compact.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

PCS/CS/SB 358 authorizes the commission to levy and collect an annual assessment *from each member state* or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff. Such assessments and fees must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based on a formula to be determined by the commission, which must adopt a rule binding on all member states.

**B. Private Sector Impact:**

The bill could lead to more licensed mental health counselors practicing in Florida. It could also lead to more Florida-licensed mental health counselors practicing through telehealth and providing care to patients in other member states. The fiscal result to the private sector is indeterminate.

**C. Government Sector Impact:**<sup>34</sup>

The Department of Health (department) reports that its Division of Medical Quality Assurance (MQA) may experience an increase in revenues if the compact is enacted in Florida, as the bill authorizes member states to charge a fee for granting a privilege to practice under the compact. The number of applicants for compact licensure is indeterminate and a fiscal impact cannot be calculated.

MQA may experience a recurring increase in workload associated with processing applications and issuing initial and renewal licenses to participate in the compact. The department projects needing a minimum of one full-time equivalent (FTE), a Regulatory Specialist III (PG 19), with a projected cost of \$71,147 (\$48,963/Salary \$21,878/Expense \$306/HR).

MQA may experience a recurring increase in workload associated with the additional complaints and investigations due to the new compact license. At this time, the impact is indeterminate.

The bill authorizes the commission to levy and collect an annual assessment from each member state. The annual membership cost with the Licensed Professional Counselors Compact is unknown at this time, yet the department anticipates that existing budget authority is adequate to absorb this recurring cost.

If the bill is enacted and if the compact becomes effective, MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Cognitive Virtual Agent, Continuing Education Tracking System, License Verification Search Site, and board website to support multistate licensing. Additionally, MQA will be required to establish a process for sharing information with the data system and update existing data exchange services with the Agency for Health Care Administration.

The total estimated cost for the first year is \$71,147 in the following categories:

- Salary- \$48,963/Recurring
- Expense- \$17,229/Recurring \$4,649/Non-Recurring
- Human Resources - \$306/Recurring

Section 491.004(5), F.S., requires the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to adopt rules to implement and enforce the provisions of ch. 491, F.S. Section 1 of the bill creates the Professional Counseling Licensure Compact as s. 491.017, F.S., thereby requiring the Board to adopt rules to implement and enforce the compact, once it becomes effective.

**VI. Technical Deficiencies:**

None.

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<sup>34</sup> *Supra* note 1.

**VII. Related Issues:**

The counseling compact model compact legislation<sup>35</sup> defines a “licensed professional counselor” as a counselor licensed by a member state, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.” Under Florida law, a mental health counselor, clinical social worker, and a marriage and family therapist may be interpreted to fit the definition of a licensed professional counselor. For this reason, the bill defines a “licensed professional counselor” as “a mental health counselor licensed under chapter 491 or a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.”

This means that in Florida, only a licensed mental health counselor may apply for and be granted a privilege to practice in another member state. In other member states, a professional who meets that member state’s definition of a licensed professional counselor, regardless of what title the professional holds, may apply for and be granted a privilege to practice in another member state. To be granted a privilege to practice under the compact, a licensed professional counselor applicant must pass a nationally recognized exam approved by the compact commission, have 60 hours of graduate coursework in specified topic areas or have a master’s degree in counseling; and have completed supervised postgraduate professional experience as defined by the commission.

The bill acknowledges that a person from another member state who is granted a privilege to practice in Florida may be licensed as a practitioner other than a mental health counselor. If it is the intent that a licensed professional counselor be granted a privilege to practice in this state only if he or she holds a license that is substantially similar to that of a Florida mental health counselor, then this bill should be amended.

**Statutes Affected:**

This bill creates section 491.017 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 456.073, 456.076, 491.003, 491.004, 491.0045, 491.005, 491.006, 491.009, 491.012, 491.014, 491.0145, 491.0149 and 768.28.

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<sup>35</sup> Counseling Compact, *Model Legislation* (Dec. 4, 2020) available at [https://counselingcompact.org/wp-content/uploads/2021/06/Final\\_Counseling\\_Compact\\_With\\_Cover.pdf](https://counselingcompact.org/wp-content/uploads/2021/06/Final_Counseling_Compact_With_Cover.pdf) (last accessed Oct. 31, 2021).

**VIII. 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 February 22, 2022:**

The committee substitute:

- Revises the circumstances under which the compact commission or the executive committee of the commission may convene in a closed nonpublic meeting to align the provisions with the bill's public records companion, CS/CS/SB 590.
- Amends a provision authorizing the Board to make a one-time exception for mental health counselor, clinical social worker, and marriage and family therapist intern registration requirements for emergency or hardship cases by removing the requirement that the candidate pass a theory and practice examination, effective upon the act becoming a law.
- Amends the practice acts for mental health counselors, a clinical social workers, and marriage and family therapists to replace the words "intern" and "internship" with "associate" and "associateship," effective July 1, 2022.

**CS by Health Policy on November 3, 2021:**

The CS changes the effective date of the underlying bill from July 1, 2022, to reflect that the bill's provisions become effective only after the compact is enacted into law by 10 states. The CS also requires the Department of Health to notify the Division of Law Revision when the compact has been enacted into law by 10 states.

**B. Amendments:**

None.

By Senator Albritton

26-00653B-22

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1 A bill to be entitled  
 2 An act relating to the Step Into Success internship  
 3 program; creating s. 409.1455, F.S.; providing a short  
 4 title; establishing the Step Into Success internship  
 5 program within the Department of Children and Families  
 6 for eligible foster youth; requiring the program to  
 7 include qualified designated personnel who are  
 8 responsible for specified services; requiring that  
 9 eligible foster youth receive priority consideration  
 10 for certain internship positions; defining terms;  
 11 requiring the department to establish an internship  
 12 program by a specified date; requiring the department  
 13 to designate and ensure sufficient qualified staff to  
 14 implement and maintain the program; requiring the  
 15 department to prepare written educational and training  
 16 materials by a specified date and update the materials  
 17 at least annually; requiring the department to provide  
 18 training and written materials to designated  
 19 personnel; requiring the department to provide certain  
 20 written materials to foster youth; requiring lead  
 21 agencies to ensure such materials are provided to  
 22 subcontracted providers; requiring the department to  
 23 advertise and promote the program; requiring the  
 24 department to provide specified training to foster  
 25 youth; requiring such training to be provided in  
 26 addition to other specified training; authorizing the  
 27 development of such training by or in collaboration  
 28 with specified entities; providing construction;  
 29 requiring the department to develop and provide

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30 trauma-informed training to mentors; requiring the  
 31 department to provide assistance with the program's  
 32 administrative and procedural requirements to  
 33 interested foster youth; requiring the department to  
 34 publicize internship opportunities and inform foster  
 35 youth of where to locate the information; requiring  
 36 the department to assess the career interests of  
 37 foster youth; requiring the department to ensure  
 38 internships comply with the Fair Labor Standards Act;  
 39 requiring the department to collaborate with specified  
 40 entities to establish a system by a specified date for  
 41 secondary institutions to award college credits;  
 42 requiring the department to conduct follow-up  
 43 interviews with participating foster youth within a  
 44 specified timeframe and for a specified purpose;  
 45 requiring the department to submit data from such  
 46 interviews by a specified date annually for inclusion  
 47 in a specified report; requiring the department to  
 48 gather and compile feedback from mentors assigned to  
 49 participating foster youth or personnel from  
 50 participating agencies for a specified purpose;  
 51 requiring the department to submit compiled mentor  
 52 feedback by a specified date annually for inclusion in  
 53 a specified report; requiring the department to  
 54 collaborate with the Florida Institute of Child  
 55 Welfare in preparation of an annual report; requiring  
 56 approved agencies to provide and monthly update a list  
 57 of open employment opportunities for which eligible  
 58 foster youth may apply; requiring approved agencies to

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59 offer foster youth priority consideration under  
 60 certain circumstances; requiring approved agencies to  
 61 recruit mentors to work with participating foster  
 62 youth employed through the program; providing  
 63 requirements for such mentors; specifying payment  
 64 procedures and requirements for mentors; requiring  
 65 approved agencies to implement certain procedures  
 66 before discharging foster youth; requiring approved  
 67 agencies to provide feedback and collaborate in  
 68 preparation of a specified report; limiting the  
 69 timeframe for foster youth participation in the  
 70 internship program; authorizing the continued  
 71 employment of foster youth under certain conditions;  
 72 specifying conditions of employment for foster youth  
 73 as interns; requiring a foster youth to meet  
 74 eligibility requirements at the time of applying for  
 75 an internship position; requiring foster youth to  
 76 complete specified training within certain timeframes;  
 77 authorizing the department or designated lead agencies  
 78 or subcontracted providers to determine if an  
 79 interested foster youth needs to complete training  
 80 before applying; requiring that foster youth be  
 81 classified as other-personal-services employees;  
 82 specifying prerequisite conditions for discharging a  
 83 foster youth intern; limiting the number of hours per  
 84 week a foster youth may work; requiring foster youth  
 85 to spend certain stipend funds for specific purposes  
 86 and comply with certain dress code requirements;  
 87 applying employment protections to foster youth

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88 employed through the internship program; excluding  
 89 compensation earned under the internship program from  
 90 the definition of earned income for calculating  
 91 economic self-sufficiency benefits; specifying  
 92 requirements and conditions for foster youth to earn  
 93 college credit for work performed in the internship  
 94 program; granting postsecondary educational  
 95 institutions with discretion to determine  
 96 administrative compliance requirements; requiring  
 97 approved agencies to cooperate with postsecondary  
 98 educational institutions to provide specified  
 99 information; requiring the Florida Institute for Child  
 100 Welfare to submit an annual report to the Governor and  
 101 the Legislature within a certain timeframe; providing  
 102 requirements for the report; requiring the department  
 103 and approved agencies to adopt rules; amending s.  
 104 414.56, F.S.; revising the duties of the Office of  
 105 Continuing Care to include establishing and operating  
 106 an internship program; providing appropriations;  
 107 providing an effective date.

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

110  
 111 Section 1. Section 409.1455, Florida Statutes, is created  
 112 to read:

113 409.1455 Internship program for foster youth.—

114 (1) SHORT TITLE.—This section may be cited as the "Step  
 115 Into Success Act."

116 (2) CREATION.—There is established the Step Into Success

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117 internship program to be administered by the department for  
 118 eligible foster youth to develop essential workforce and  
 119 professional skills in furtherance of their careers, to  
 120 transition from the custody of the department to independent  
 121 living, and to become best prepared for an independent and  
 122 successful future. The establishment of this program must  
 123 include qualified designated personnel whose responsibilities  
 124 are to provide the required services to approved agency liaison  
 125 personnel and eligible foster youth in accordance with this  
 126 section. An eligible foster youth must receive priority  
 127 consideration for any internship positions as provided under  
 128 this section.

129 (3) DEFINITIONS.—For purposes of this section, the term:

130 (a) “Approved agency” means one of the following agencies  
 131 that may participate in the internship program by employing  
 132 eligible foster youth:

- 133 1. The Department of Children and Families;
- 134 2. The Department of Health;
- 135 3. The Agency for Health Care Administration;
- 136 4. The Department of Education;
- 137 5. The Department of Environmental Protection;
- 138 6. The Fish and Wildlife Conservation Commission; and
- 139 7. The Office of the State Fire Marshal within the  
 140 Department of Financial Services.

141 (b) “Community-based care lead agency” has the same meaning  
 142 as in s. 409.986(3)(d).

143 (c) “Foster youth” means an individual older than 16 years  
 144 of age but younger than 26 years of age who is currently or was  
 145 previously placed in foster care within this state.

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146 (d) “Priority consideration” means the approved agency must  
 147 invite a foster youth who is eligible to participate in the  
 148 internship program to be interviewed for any position for which  
 149 he or she meets the minimum qualifications.

150 (4) PROGRAM REQUIREMENTS OF THE DEPARTMENT.—The department  
 151 shall establish an internship program for foster youth which  
 152 begins operations on or before January 1, 2023, and complies  
 153 with all of the following requirements:

154 (a) Designate and ensure that there is sufficient qualified  
 155 staff to implement and maintain operation of the internship  
 156 program.

157 (b) By November 1, 2022, prepare written educational and  
 158 training materials for foster youth, including a toolkit to  
 159 explain the internship program process, resources to assist in  
 160 participating in the internship and entering the professional  
 161 workforce, and guidance on securing an internship position and  
 162 update the material thereafter at least once annually. Resources  
 163 may include, but are not limited to, workshops and materials to  
 164 assist with preparing resumes and staff assistance with securing  
 165 internship positions.

166 (c) Provide all relevant training and written materials on  
 167 the internship program to designated personnel within the  
 168 approved agencies and any other relevant tools to such agencies  
 169 to ensure successful participation in the program.

170 (d) Provide written materials to foster youth to ensure  
 171 that all such youth are informed of the requirements for  
 172 participating in the program and the contact information for the  
 173 program office. All community-based care lead agencies shall  
 174 ensure that any subcontracted providers that directly serve

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175 youth are also provided with the training and written materials.

176 (e) Advertise and promote the availability of the  
 177 internship program to engage as many eligible foster youths as  
 178 possible.

179 (f) Provide to eligible foster youth a minimum of 2 hours  
 180 of training relating to interview skills and a minimum of 4  
 181 hours of training relating to professional and leadership  
 182 development skills that are relevant to performing the functions  
 183 required of the positions offered by participating approved  
 184 agencies. The training required in this paragraph must be  
 185 provided in addition to any other life skills or employment  
 186 training required by law and may be developed or administered by  
 187 the department, community-based care lead agencies, or the lead  
 188 agencies' subcontracted providers or through collaboration with  
 189 the approved agencies, colleges or universities, or non-profit  
 190 organizations in the community that have workforce training  
 191 resources. This paragraph may not be construed to limit the  
 192 number of hours of training offered in which a foster youth may  
 193 participate.

194 (g) Develop and provide a minimum of 1 hour of trauma-  
 195 informed training to mentors who serve under this section to  
 196 ensure that they have the skills necessary to engage with  
 197 participating foster youth.

198 (h) Provide assistance with the program's administrative  
 199 and procedural requirements to foster youth interested in  
 200 participating in the internship program, including, but not  
 201 limited to, identifying and monitoring internship opportunities  
 202 offered by approved agencies, being knowledgeable of the  
 203 training and skills needed to match eligible foster youth to

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204 appropriate roles offered by approved agencies, and assisting  
 205 eligible foster youth with applying for employment positions in  
 206 which they meet the minimum required qualifications.

207 (i) Publicize specific opportunities for internship  
 208 positions offered by approved agencies in an easily accessible  
 209 manner and inform foster youth who may be eligible for the  
 210 program of where to locate such information.

211 (j) Assess each foster youth's career interests and  
 212 determine the most appropriate internship opportunities based on  
 213 his or her expressed interests.

214 (k) Ensure that internships under this section comply with  
 215 the Fair Labor Standards Act.

216 (l) By November 1, 2022, facilitate and work with the  
 217 Department of Education, the Board of Governors of the State  
 218 University System, the Independent Colleges and Universities of  
 219 Florida, the Commission for Independent Education, and approved  
 220 agencies to establish a system for secondary institutions to  
 221 award college credit toward a degree for internship positions  
 222 held by foster youth through the internship program.

223 (m) Conduct follow-up interviews with participating foster  
 224 youth within 3 months after their employment start date to  
 225 ensure participants transition successfully into the work  
 226 environment and to gather feedback on how to improve the  
 227 experience for future participants. Such data must be submitted  
 228 to the Institute for Child Welfare by August 1, 2023, and by  
 229 August 1 annually thereafter for inclusion in the report  
 230 required under subsection (8).

231 (n) Gather and compile feedback from mentors assigned to  
 232 participating foster youth or from other personnel who are

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233 employed by participating agencies on how to improve the  
 234 experience for both foster youth participants and the approved  
 235 agencies that participate in the program. Such data must be  
 236 submitted to the Institute for Child Welfare by August 1, 2023,  
 237 and by August 1 annually thereafter for inclusion in the report  
 238 required under subsection (8).

239 (o) Collaborate with the Florida Institute of Child Welfare  
 240 to provide any requested information necessary to prepare each  
 241 annual report required under subsection (8).

242 (5) PROGRAM REQUIREMENTS OF APPROVED AGENCIES.—Each  
 243 approved agency shall:

244 (a) Provide the department, or the community-based care  
 245 lead agencies or the lead agencies' subcontracted providers,  
 246 with a list, updated at least monthly, of open employment  
 247 opportunities for which an eligible foster youth may apply to  
 248 seek employment through the internship program.

249 (b) Offer priority consideration, including an interview,  
 250 to any eligible foster youth who applies for an open other-  
 251 personal-services position pursuant to this section, provided he  
 252 or she meets all the minimum qualifications for employment in  
 253 such position.

254 (c) Recruit employees within approved agencies to serve as  
 255 mentors for foster youth employed with such agencies through the  
 256 internship program.

257 1. To serve as a mentor, employees must:

258 a. Have worked for the approved agency for a minimum of 1  
 259 year;

260 b. Have experience relevant to the employment  
 261 responsibilities of the intern;

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262 c. Complete a minimum of 1 hour of trauma-informed training  
 263 to gain skills critical for successfully engaging youth who have  
 264 been involved in the foster care system; and

265 d. Pass a level 2 background screening as provided in s.  
 266 435.04 if the employee will be assigned to a foster youth who is  
 267 younger than 18 years old and if the employee has not passed  
 268 such a screening within the previous 3 years or is not exempt  
 269 from such requirement pursuant to s. 435.07. An employee  
 270 required to pass a level 2 background screening pursuant to this  
 271 sub-subparagraph must submit a full set of his or her  
 272 fingerprints to his or her employing approved agency. The  
 273 approved agency shall forward the fingerprints to the Department  
 274 of Law Enforcement for state processing, and the Department of  
 275 Law Enforcement shall forward the fingerprints to the Federal  
 276 Bureau of Investigation for national processing. The department  
 277 shall pay the fees for state and federal fingerprint processing.  
 278 The fee per each name submitted for processing shall be set at  
 279 the same amount as prescribed in s. 943.053(3)(e); however, if  
 280 any exceptions in that paragraph for a reduced fee are  
 281 applicable, the department may pay the reduced fee under such  
 282 circumstances.

283 2. Employees who serve as mentors for a minimum of 6  
 284 consecutive months are eligible for a maximum payment of \$1,000  
 285 per intern per fiscal year, to be issued as follows:

286 a. At the conclusion of the first 6 consecutive months of  
 287 service, \$500.

288 b. At the conclusion of an additional 6 consecutive months  
 289 of service, \$500.

290 3. An employee may serve as a mentor for a maximum of three

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291 interns at one time, but may not receive more than \$3,000 in  
 292 compensation per fiscal year for serving as a mentor. Any time  
 293 spent serving as a mentor to an intern under this section counts  
 294 toward the required minimum service to be eligible for payments  
 295 pursuant to subparagraph 2.

296 (d) Engage an intern's assigned mentor and the approved  
 297 agency's internship program liaison and, if applicable, document  
 298 the intern's failure to comply with a corrective action plan  
 299 after being given a reasonable opportunity to do so before  
 300 discharging a foster youth employed pursuant to this section.

301 (e) Provide relevant feedback to the department at least  
 302 annually for the department to comply with paragraphs (4) (m) and  
 303 (n).

304 (f) Collaborate with the Florida Institute of Child Welfare  
 305 to provide any requested information necessary to prepare each  
 306 annual report required under subsection (8).

307 (6) TIME LIMITATIONS FOR PARTICIPATION.—A foster youth who  
 308 obtains employment with an approved agency may participate in  
 309 the internship program for no more than 1 year from his or her  
 310 start date of employment as an other-personal-services employee  
 311 with an approved agency pursuant to this section. A foster youth  
 312 may be employed as an intern under the internship program by  
 313 more than one approved agency, but may not be employed by more  
 314 than one approved agency at the same time. However, an approved  
 315 agency may extend the employment of a foster youth beyond the 1-  
 316 year internship program in his or her capacity as an other-  
 317 personal-services employee or may hire the foster youth as a  
 318 full-time employee, but the extension of employment or hiring of  
 319 a foster youth may not be as an intern pursuant to this section.

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320 (7) CONDITIONS OF EMPLOYMENT.—As conditions of employment  
 321 as an intern under the internship program, a foster youth shall  
 322 be subject to all of the following:

323 (a) A participant must meet the definition of foster youth  
 324 as defined in paragraph (3) (c) at the time such youth applies  
 325 for an internship position with an approved agency.

326 (b) A foster youth must complete the minimum training  
 327 requirements provided in paragraph (4) (f) related to  
 328 interviewing before an interview with an approved agency and  
 329 must complete all other training before commencement of work  
 330 within the approved agency. The department, or, if designated,  
 331 the community-based care lead agencies or the lead agencies'  
 332 subcontracted providers, may determine on a case-by-case basis  
 333 if an eligible foster youth needs to complete training before he  
 334 or she applies for an internship position.

335 (c) If offered employment as an intern, a foster youth must  
 336 be classified as an other-personal-services employee. Foster  
 337 youth who have accepted employment with an approved agency  
 338 pursuant to this section may be discharged after the approved  
 339 agency has engaged the intern's assigned mentor and the approved  
 340 agency's internship program staff to assist the intern and has  
 341 documented the intern's failure to comply with a corrective  
 342 action plan after being given a reasonable opportunity to do so.

343 (d) A foster youth may work a maximum of 20 hours per week.

344 (e) A foster youth shall spend all stipend funds received  
 345 for the specific purpose of purchasing business attire or  
 346 clothing that is in compliance with the dress code requirements  
 347 of the approved agency with which the foster youth is employed.  
 348 Notwithstanding any limitation on funds provided to purchase

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349 clothing, foster youth shall comply with any dress code  
 350 requirements of the approved agency with which he or she is  
 351 employed.

352 (f) A foster youth shall be afforded the employee  
 353 protections of all relevant and applicable federal and state  
 354 laws, including compensation at minimum wage for any work  
 355 performed. Compensation earned pursuant to employment gained  
 356 through the internship program may not be considered earned  
 357 income for purposes of computing eligibility for federal or  
 358 state benefits, including, but not limited to, the Supplemental  
 359 Nutrition Assistance Program, a housing choice assistance  
 360 voucher program, the Temporary Cash Assistance Program, the  
 361 Medicaid program, or the school readiness program.

362 (g) A foster youth may, at the discretion of a  
 363 postsecondary institution within this state in which such youth  
 364 is enrolled, earn college credits toward a degree for work  
 365 performed as an intern under the internship program. College  
 366 credits earned for work performed under the internship program  
 367 may be in addition to any compensation earned for the same work  
 368 performed under the internship program and may be awarded for  
 369 completion of the whole or any part of the internship program.  
 370 An institution has the discretion to determine whether the  
 371 foster youth must comply with administrative requirements to be  
 372 eligible for college credit, but must treat such positions the  
 373 same as if a student obtained employment through a means other  
 374 than the internship program. Approved agencies shall cooperate  
 375 with postsecondary educational institutions to provide any  
 376 information about internship positions which is necessary to  
 377 enable the institutions to determine whether to grant the

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378 participating foster youth credit toward his or her degree.  
 379 (8) REPORTS.—By October 1, 2023, and annually thereafter,  
 380 the Florida Institute for Child Welfare shall submit a report to  
 381 the Governor, the President of the Senate, and the Speaker of  
 382 the House of Representatives which evaluates the internship  
 383 program, including, but not limited to, whether the program is  
 384 in compliance with this section; the outcomes of foster youth  
 385 who obtain employment through the internship program; a summary  
 386 of the feedback received pursuant to paragraphs (4) (m) and (n)  
 387 from participating foster youth and mentors from approved  
 388 agencies who have participated in the program; and  
 389 recommendations, if any, for actions necessary to improve the  
 390 effectiveness and outcomes of the program.

391 (9) RULEMAKING.—The department and approved agencies shall  
 392 adopt rules to implement this section.

393 Section 2. Subsection (5) is added to section 414.56,  
 394 Florida Statutes, to read:  
 395 414.56 Office of Continuing Care.—The department shall  
 396 establish an Office of Continuing Care to ensure young adults  
 397 who age out of the foster care system between 18 and 21 years of  
 398 age, or 22 years of age with a documented disability, have a  
 399 point of contact until the young adult reaches the age of 26 in  
 400 order to receive ongoing support and care coordination needed to  
 401 achieve self-sufficiency. Duties of the office include, but are  
 402 not limited to:  
 403 (5) Establishing and operating an internship program for  
 404 foster youth and complying with the requirements of s.  
 405 409.1455(4).

406 Section 3. For the 2022-2023 fiscal year, the sums of

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407 \$1,292,378 in recurring funds and \$350,376 in nonrecurring funds  
408 are appropriated from the General Revenue Fund to the Department  
409 of Children and Families to implement this act.

410 Section 4. This act shall take effect July 1, 2022.



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** December 30, 2021

---

I respectfully request that **Senate Bill #764**, relating to Step into Success Internship Program, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

---

Senator Ben Albritton  
Florida Senate, District 26

**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 764

INTRODUCER: Senator Albritton

SUBJECT: Step Into Success Internship Program

DATE: February 21, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

**I. Summary:**

SB 764 creates section 409.1455, Florida Statutes, establishing the Step Into Success internship program (program) to connect eligible foster youth with internship opportunities at participating state agencies and requires that foster youth be given priority consideration for such internship positions. The program is established to assist foster youth to develop workforce and professional skills to be better prepared for their transition to independent living. The bill requires the Department of Children and Families (DCF) to establish and administer the program and work with the participating state agencies.

In addition to the DCF, the following state agencies will participate in the program:

- The Department of Health;
- The Agency for Health Care Administration;
- The Department of Education;
- The Department of Environmental Protection;
- The Fish and Wildlife Conservation Commission; and
- The Office of the State Fire Marshal within the Department of Financial Services.

Under the program, a state agency must invite a foster youth who is eligible to participate in the internship program to be interviewed for any position for which he or she meets the minimum qualifications. The program is available to foster youth between the ages of 17 and 25 who are currently or was previously placed in foster care within the state.

The bill limits the length of time that a foster youth may be employed under the program to one year, but allows a state agency to continue the foster youth's employment outside of participation in the program. The foster youth may be employed as an intern under the program by more than one participating agency over the duration of his or her participation in the program, but may not



be employed by more than one agency at the same time. The foster youth must be compensated at the minimum wage and may work up to 20 hours per week through the program.

As part of the program requirements, the state agency must recruit employees to serve as mentors. A mentor is required to complete one hour of trauma-informed training and may be required to pass a level 2 background screening if mentoring a foster youth who is under the age of 18. Employees who serve as mentors for a minimum of six consecutive months are eligible to receive compensation of \$1,000 per intern per fiscal year (annual cap of \$3,000 per mentor).

The bill requires the DCF to begin the program by January 1, 2023.

The bill requires the Florida Institute for Child Welfare (FICW) to report annually on the program and grants the DCF and participating state agencies rulemaking authority as necessary to implement the program.

For the 2022-2023 fiscal year, the bill appropriates \$1,292,378 in recurring funds and \$350,376 in nonrecurring funds from General Revenue Fund to the DCF to implement the program. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

## II. Present Situation:

The DCF is required to establish and maintain a state central abuse hotline to receive reports of child abuse, abandonment, and neglect or reports that a child is in need of supervision.<sup>1</sup> In Fiscal Year 2019-2020, the DCF served 22,553 children in out-of-home care,<sup>2</sup> and 578 children aged out of licensed foster care.<sup>3</sup>

### Transition to Independent Living

The DCF is required to assist children who are transitioning out of foster care to independent living and self-sufficiency, including to:

- Identify important life skills that children in out-of-home care should acquire;
- Develop a list of age-appropriate activities and responsibilities for children and caregivers;
- Design and disseminate training for caregivers related to building needed life skills;
- Regularly assess the degree of life skills acquired by each child beginning after the child's 13<sup>th</sup> birthday, and support the caregiver in implementing an updated transition plan as necessary;
- Provide opportunities for children to interact with qualified, trained mentors; and

---

<sup>1</sup> Section 39.101(1)(a), F.S.

<sup>2</sup> Office of Program Policy Analysis and Government Accountability, *Department of Children and Families: Child Welfare*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited November 22, 2021) (hereinafter cited as "OPPAGA DCF Child Welfare").

<sup>3</sup> The DCF, Electronic mail from John Paul Fiore, Deputy Director of Legislative Affairs, RE: Children Aging Out of Foster Care, November 24, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (noting that 578 children aged out of licensed care in Fiscal Year 2019-2020).

- Develop and implement procedures for children of sufficient age and understanding to directly access and manage the personal allowance they receive from the DCF.<sup>4</sup>

During the year after a child reaches 16 years of age, the DCF and community-based care lead agency as well as other specified individuals are required to assist the child in developing a transition plan. The plan must include specific resources that the child may use to obtain services, such as housing, health insurance and education, and tasks to establish and maintain naturally occurring mentoring relationships.<sup>5</sup>

### **Road-to-Independence Program**

A young adult is eligible for postsecondary education services and support if certain criteria are met, including:

- Specified criteria with respect to when the child was living in foster care;
- Earned a standard high school diploma;<sup>6</sup>
- Has been admitted for enrollment as a full-time<sup>7</sup> student or its equivalent in an eligible postsecondary institution as provided in s. 1009.533, F.S.;<sup>8</sup>
- Has reached 18 years of age, but is not yet 23 years of age;
- Has applied for any other grants and scholarships for which he or she may qualify;
- Submitted a complete and error-free Free Application for Federal Student Aid; and
- Signed an agreement to allow the DCF and the community-based care lead agency to access his or her school records.<sup>9</sup>

Current law sets out the amount of financial assistance for which the young adult is eligible based upon certain circumstances including, in part, whether the child remains in foster care.<sup>10</sup>

### **Aftercare Services**

Aftercare services are available for a young adult who has reached 18 years of age but is not yet 23 years of age and is:

- Not in foster care.
- Temporarily not receiving financial assistance to pursue postsecondary education.<sup>11</sup>

<sup>4</sup> Section 409.14515, F.S.

<sup>5</sup> Section 39.6035(1), F.S.

<sup>6</sup> Pursuant to s. 1002.3105(5), F.S., s. 1003.4281, F.S., or s. 1003.4282, F.S., or its equivalent pursuant to s. 1003.435, F.S.

<sup>7</sup> Section 409.1451(2)(a)4., F.S., defines “full-time” as 9 credit hours or the vocational school equivalent.

<sup>8</sup> Section 1009.533, F.S., provides for eligible postsecondary education institutions, including: (1) a Florida public university, Florida College System institution, or career center; (2) An independent Florida college or university that is accredited by an accrediting association whose standards are comparable to the minimum standards required to operate an institution at that level in Florida and which has operated in the state for at least 3 years; (3) an independent Florida postsecondary education institution that is licensed by the Commission for Independent Education and meets other specified criteria; (4) a Florida independent postsecondary education institution that offers a nursing diploma approved by the Board of Nursing; and (5) A Florida independent postsecondary education institution that is licensed by the Commission for Independent Education.

<sup>9</sup> Section 409.1451(2)(a), F.S.

<sup>10</sup> Section 409.1451(2)(b), F.S.

<sup>11</sup> Section 409.1451(3)(a), F.S. Additionally, subject to available funding, aftercare services are also available to a young adult who is between the ages of 18 and 22, is receiving financial assistance for postsecondary education, who is experiencing an emergency situation, and whose resources are insufficient to meet the emergency situation.

The specific aftercare services to be provided is determined by an assessment of an eligible young adult, and may include, in part:

- Mentoring and tutoring;
- Mental health services and substance abuse counseling;
- Life skills classes;
- Parenting classes;
- Job and career skills training;
- Counselor consultations;
- Temporary assistance for necessities and emergency situations; and
- Financial literacy skills training.<sup>12</sup>

### **Extended Foster Care**

A child<sup>13</sup> who is living in foster care on his or her 18<sup>th</sup> birthday and who has not achieved permanency in accordance with s. 39.621, F.S.,<sup>14</sup> is eligible to remain in licensed care under the care of the DCF and the jurisdiction of the court if he or she is:

- Completing secondary education or equivalent program;
- Enrolled in a postsecondary or vocational education institution;
- Participating in a program to eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in any of the above-listed programs or activities.<sup>15</sup>

A young adult<sup>16</sup> who participates in extended foster care must reside in a supervised living environment that is approved by the DCF or the community-based care lead agency. The young adult must be provided supervision, case management, and supportive services by the DCF or lead agency, but must live independently.<sup>17</sup>

### **Office of Continuing Care**

In 2021, the Legislature established the Office of Continuing Care (OCC) within the DCF. The OCC was created to provide ongoing support and care coordination to youth adults who age out of the foster care system between 18 and 21 years of age, or 22 years of age with a documented disability.<sup>18</sup> The OCC has specified duties, including, but not limited to:

- Providing young adults who age out of the foster care system with certain information about the office, including its purpose, services offered and contact information;

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<sup>12</sup> Section 409.1451(3)(b), F.S.

<sup>13</sup> Section 39.6251(1), F.S., defines “child” as an individual who has not attained 21 years of age.

<sup>14</sup> Section 39.621(3), F.S., provides that the permanency goals available under ch. 39, F.S., listed in order of preference, are reunification; adoption, if a petition for termination of parental rights has been or will be filed; permanent guardianship of a dependent child under s. 39.6221, F.S.; permanent placement with a fit and willing relative under s. 39.6231, F.S.; or placement in another planned permanent living arrangement under s. 39.6241, F.S.

<sup>15</sup> Section 39.6251(2), F.S.

<sup>16</sup> Section 39.6251(1), F.S., defines “young adult” as an individual who has attained 18 years of age but who has not attained 21 years of age.

<sup>17</sup> Section 39.6251(4)(a), F.S.

<sup>18</sup> Chapter 2021-169, s. 20, L.O.F., codified as s. 414.56, F.S.

- Providing assistance in accessing services and supports; and
- Collaborating with community-based care lead agencies to identify local resources and assist young adults in accessing such support services.<sup>19</sup>

The OCC is part of Hope Florida – A Pathway to Prosperity that assists the office with providing services to eligible foster youth who age out of care.<sup>20</sup> Care Navigators guide, amongst others, foster youth on an individualized path to prosperity, economic self-sufficiency and hope.<sup>21</sup>

### **Fostering Success Program**

In 2014, a pilot program was developed for young adults who aged out of foster care to obtain an internship position with certain state agencies, such as the Florida Department of Agriculture Technology Services.<sup>22</sup> In 2016, the pilot program was expanded with \$100,000 appropriated in recurring general revenue funds to a program known as “Fostering Success Youth Readiness Training and Placement Services” (Fostering Success).<sup>23</sup> The program was designed for young adults ages 18 to 24 to gain employment skills that would enable them to achieve economic self-sufficiency and professional success. Fostering Success operated at the following agencies:

- The Department of Agriculture and Consumer Services;
- The Department of Children and Families;
- The Department of Economic Opportunity;
- The Department of Health;
- The Department of Juvenile Justice; and
- The Florida Fish & Wildlife Conservation.<sup>24</sup>

The Fostering Success program provided year-long, part-time, Other Personal Services positions with one of the participating state agencies listed above.<sup>25</sup> Funding for Fostering Success ceased in Fiscal Year 2020-2021.

### **III. Effect of Proposed Changes:**

The bill creates s. 409.1455, F.S., cited as the “Step Into Success Act,” establishing an internship program administered by the Department of Children and Families (DCF). The purpose of the program is to assist eligible foster youth to:

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<sup>19</sup> *Id.*

<sup>20</sup> The DCF, *Office of Continuing Care*, available at [Office of Continuing Care - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited November 22, 2021).

<sup>21</sup> The DCF, *Hope Florida – A Pathway to Prosperity*, available at [A Pathway to Prosperity - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited November 22, 2021).

<sup>22</sup> WFSU Public Media, *Pilot Program Aimed at Helping Foster Kids Gain Employment Could Expand Soon*, October 17, 2014, available at [Pilot Program Aimed At Helping Foster Kids Gain Employment Could Soon Expand | WFSU News](https://www.wfsu.com/news/pilot-program-aimed-at-helping-foster-kids-gain-employment-could-soon-expand) (last visited November 22, 2021).

<sup>23</sup> Guardian ad Litem, *Representative Ben Albritton Champion for Children in Foster Care*, March 1, 2016, available at [Representative Ben Albritton Champion for Children in Foster Care | Florida child abuse attorney | Non-profit lawyers | Pro bono attorney Florida | Florida Guardian ad Litem](https://www.galileo.usf.edu/galileo/handle/document/12345) (last visited November 22, 2021).

<sup>24</sup> Florida Center for Child Welfare, *Independent Living Services Array: Extended Foster Care, Postsecondary Education Services and Support (PESS), Aftercare Services & Fostering Success*, available at [Florida's Center for Child Welfare | Independent Living Services Array \(usf.edu\)](https://www.usf.edu/child-welfare/independent-living-services-array) (last visited November 22, 2021).

<sup>25</sup> OPPAGA DCF Child Welfare.

- Develop essential workforce and professional skills;
- Transition from the custody of the DCF to independent living; and
- Become best prepared for an independent and successful future.

In addition to the DCF, the bill allows the following state agencies to participate in the internship program:

- The Department of Health;
- The Agency for Health Care Administration;
- The Department of Education;
- The Department of Environmental Protection;
- The Fish and Wildlife Conservation Commission; and
- The Office of the State Fire Marshal within the Department of Financial Services.

For the purposes of the bill, the term “foster youth” is defined as an individual older than 16 but younger than 26 years of age who is currently or was previously placed in foster care within the state.

Foster youth who are eligible for the program must receive priority consideration for any position that is offered under the program. Specifically, the approved agency must invite the foster youth to be interviewed for any position for which he or she meets the minimum qualifications.

The DCF must establish the Step Into Success internship program and begin operations on or before January 1, 2023. The Office of Continuing Care within the DCF is responsible for establishing and operating the program. Additionally, the DCF must:

- Designate and ensure that there is sufficient qualified staff to implement and maintain operation of the program, and provide required services to agency liaison personnel and eligible foster youth.
- By November 1, 2022 and at least annually thereafter, prepare written educational and training materials for foster youth, including a toolkit to explain the internship process, resources<sup>26</sup> to assist with participating in the program, and guidance on securing an internship position;
- Provide all relevant training and written materials as well as any other relevant tools to the participating state agencies;
- Provide written materials to foster youth to ensure that they are aware of the requirements for participating in the program and contact information for the program office. Community-based care lead agencies must ensure any of their subcontracted providers that directly serve youth are also provided with such material;
- Advertise and promote the availability of the internship program;
- Provide to eligible foster youth a minimum of 2 hours of training relating to interview skills and a minimum of 4 hours of training relating to professional and leadership development

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<sup>26</sup> Resources that may be provided to foster youth who are participating in the program include, but are not limited to, workshops and materials to assist with preparing resumes and staff assistance with securing internship positions.

skills that are relevant to performing the functions of the positions that are offered by participating agencies under the internship program;<sup>27</sup>

- Develop and provide a minimum of 1 hour of trauma-informed training to mentors;
- Provide assistance to eligible foster youth who wish to participate in the internship program with the administrative and procedural requirements;
- Publicize specific opportunities for internship positions offered by participating agencies and inform foster youth where to find such information;
- Assess each eligible foster youth's career interests and determine the most appropriate internship opportunities;
- Ensure that internships under the program comply with the Fair Labor Standards Act;
- By November 1, 2022, facilitate and work with designated state agencies to establish a system for secondary institutions to award college credit toward a degree for internship positions that are held by foster youth through the internship program;
- Conduct follow-up interviews with participating foster youth within 3 months after their employment start date to ensure that the participants transitioned into the work environment successfully and to gather feedback, and submit this information to the FICW by August 1, 2023, and by August 1 annually thereafter;
- Gather and compile feedback from mentors assigned to participating foster youth or from other agency personnel, and submit such data to the FICW by August 1, 2023, and by August 1 annually thereafter; and
- Collaborate with the FICW to provide any requested information necessary to prepare the required annual report.

Each state agency authorized to participate in the internship program is required to:

- Provide the DCF, or the community-based care lead agencies or subcontracted providers, with a list, updated at least monthly, of open employment opportunities;
- Offer priority consideration to any eligible foster youth who applies for an open internship position under the internship program if he or she meets all of the minimum qualifications for such position;
- Recruit employees within the state agency to serve as mentors for foster youth who are employed through the internship program;
- Engage an intern's assigned mentor and the state agency's internship program liaison and, if applicable, document an intern's failure to comply with a corrective action plan;
- Provide relevant feedback to the DCF at least annually; and
- Collaborate with the FICW to provide any requested information necessary to prepare the annual report.

The bill provides that employees of participating state agencies who serve as mentors to the interns participating in the program must:

- Have worked for the participating agency for a minimum of one year;
- Have experience relevant to the employment responsibilities of the intern;

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<sup>27</sup> This training must be provided in addition to any other life skills or employment training required by law and may be developed or administered by the DCF, community-based care lead agencies, or the lead agencies' subcontracted providers or through collaboration with the approved agencies, colleges or universities, or non-profit organizations in the community that have workforce training resources. Foster youth are not restricted to participating in the minimum number of hours of training.

- Complete a minimum of 1 hour of trauma-informed training; and
- Pass a level 2 background screening as provided in s. 435.04, F.S., if the employee will be assigned to mentor a foster youth who is younger than 18 years old and if the employee has not passed such a screening within the previous three years or is not exempt from such requirement pursuant to s. 435.07, F.S.<sup>28</sup>

Employees who serve as mentors for a minimum of six consecutive months are eligible for a maximum payment of \$1,000 per intern per fiscal year, to be issued as follows:

- At the conclusion of the first six consecutive months of service, \$500; and
- At the conclusion of an additional six consecutive months of service, \$500.

An employee may serve as a mentor for a maximum of three interns at one time, but may not receive more than \$3,000 in compensation per fiscal year for serving as a mentor. Any time spent serving as a mentor to an intern through the program counts toward the required minimum service to be eligible for the compensation set out above.

Foster youth who obtain employment through the internship program may hold the position for no more than one year. The participating agency may extend the employment beyond the one year or hire the foster youth as a full-time employee, but it may not be as an intern under the program. A foster youth may be employed as an intern under the internship program by more than one participating agency but such employment must not be at the same time.

Foster youth who obtain employment under the internship program are able to work a maximum of 20 hours per week and will be compensated for the work in an hourly manner through the specific appropriation provided for in the bill. Additionally, foster youth participating as an intern through the program must:

- Meet the definition of foster youth at the time that such youth applies for an internship position with a participating agency;
- Complete the minimum training requirements relating to interviewing before an interview with a participating agency and must complete all other training before commencement of work;<sup>29</sup>
- If offered employment as an intern, be classified as an Other Personal Services employee, and may be discharged after the participating agency has engaged the intern's assigned mentor and the agency's internship program staff, and has documented the intern's failure to comply with a corrective action plan after being given a reasonable opportunity to do so;

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<sup>28</sup> An employee who must pass a level 2 background screening is required to submit a full set of his or her fingerprints to his or her employing approved agency, and such agency must forward them to the Department of Law Enforcement (FDLE) for state processing. The FDLE must forward the fingerprints to the Federal Bureau of Investigation for national processing. The DCF must pay the fees for state and federal fingerprint processing which shall be set at the same amount prescribed in s. 943.053(3)(e), F.S.

<sup>29</sup> The DCF, or, if designated, the community-based care lead agencies or the lead agencies' subcontracted providers, may determine on a case-by-case basis if an eligible foster youth needs to complete training before he or she applies for an internship position.

- Spend all stipend funds received, up to the maximum \$500 stipend amount, for the purpose of purchasing business attire or clothing that is in compliance with the dress code of the agency for which he or she is employed;<sup>30</sup> and
- Be afforded employee protections of all relevant and applicable federal and state laws, including compensation at minimum wage for any hours worked.<sup>31</sup>

Additionally, a foster youth may, at the discretion of the postsecondary institution within Florida in which such youth is enrolled, earn college credits toward a degree for work performed as an intern under the program. College credits earned may be in addition to any compensation earned for the same work performed under the program and may be awarded for completion of the whole or any part of the program. An institution has the discretion to determine whether the foster youth must comply with administrative requirements to be eligible for college credit. Institutions must treat such requirements the same for all students regardless of whether they obtained the employment through a means other than the internship program. Participating agencies must cooperate with postsecondary educational institutions to provide any information that is necessary for the institution to determine whether to grant the foster youth credit toward his or her degree.

By October 1, 2023, and annually thereafter, the Florida Institute for Child Welfare (FICW) must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which must contain an evaluation of the internship program, including, but not limited to:

- Whether the program is in compliance with the requirements of the internship program;
- The outcomes of foster youth who obtain employment through the programs;
- A summary of the feedback received from the foster youth, mentors and agencies who participate in the program; and
- Any recommendations for actions that may improve the effectiveness and outcomes of the program.

For the 2022-2023 fiscal year, \$1,292,378 in recurring funds and \$350,376 in nonrecurring funds are appropriated in the General Revenue Fund to the DCF to implement the act.

The bill authorizes the DCF and the participating state agencies rulemaking authority to implement the program.

The bill takes effect July 1, 2022.

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<sup>30</sup> The bill requires foster youth to comply with such dress code regardless of any limitation on funds provided to purchase clothing.

<sup>31</sup> The bill further provides that compensation earned under the program may not be considered earned income for purposes of computing the foster youth's eligibility for federal or state benefits, such as the Supplemental Nutrition Assistance Program, a housing choice assistance voucher program, the Temporary Cash Assistance Program, the Medicaid program, or the school readiness program.



**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

For the 2022-2023 fiscal year, SB 764 appropriates \$1,642,754 in the General Revenue Fund (\$1,292,378 in recurring funds and \$350,376 in nonrecurring funds) to the DCF to implement the act.

These funds include:

- \$921,555 in recurring funds for Other Personal Services (OPS) salaries and benefits and related expenses for an estimated 75 interns hired in the participating state agencies (estimated \$13 hourly rate at 20 hours per week);
- \$37,500 in recurring funds for intern stipends (\$500 each);
- \$80,738 in recurring funds for the \$1,000 compensation plus federal taxes for mentors in participating agencies;
- \$252,585 in recurring funds for Salaries and Benefits and related expenses for DCF to hire 3 FTE positions (department may reclassify positions from elsewhere within the department) to administer the program and provide recruitment and training services to participating agencies; and

- 336,900 in nonrecurring funds for OPS position expense costs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 414.56 of the Florida Statutes.

This bill creates section 409.1455 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 Health Policy; and Senator Gibson

588-02666-22

20221010c1

A bill to be entitled

An act relating to uterine fibroid research and education; creating s. 381.9312, F.S.; providing definitions; requiring the Department of Health to develop and maintain an electronic database of information related to uterine fibroids; providing a specified purpose for such database; requiring that the database include specified information; requiring health care providers to submit certain information to the department for inclusion in the database; prohibiting the database from including any personal identifying information; providing that such information is confidential; authorizing certain persons to use such information for a specified purpose; requiring the department to develop and include information related to fibroids in certain literature currently made available to the public for a specified purpose; providing an effective date.

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

Section 1. Section 381.9312, Florida Statutes, is created to read:

381.9312 Uterine fibroid research database; education and public awareness.—

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

(a) "Department" means the Department of Health.

(b) "Health care provider" means a physician licensed under chapter 458 or chapter 459 or an autonomous advanced practice

Page 1 of 3

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

588-02666-22

20221010c1

registered nurse registered under s. 464.0123.

(c) "Uterine fibroid" means a noncancerous growth of the uterus that often appears during a woman's childbearing years.

(2) UTERINE FIBROID RESEARCH DATABASE.—

(a) The department shall develop and maintain an electronic database consisting of information related to uterine fibroids. The purpose of the database is to encourage research relating to the diagnosis and treatment of uterine fibroids and to ensure that women are provided with the relevant information and health care necessary to prevent and treat uterine fibroids. The database must include, but need not be limited to, all of the following information:

1. Incidence and prevalence of women diagnosed with uterine fibroids in this state.

2. Demographic attributes of women diagnosed with uterine fibroids in this state.

3. Treatments and procedures for uterine fibroids used by health care providers in this state.

(b) A health care provider who diagnoses or treats a woman with uterine fibroids shall submit information relating to such diagnosis or treatment to the department in a form and manner prescribed by department rule for inclusion in the database. Such information may be submitted along with any reports or other information that the health care provider is required to submit to the department pursuant to state law.

(c) The database may not include any personal identifying information of women diagnosed with or treated for uterine fibroids. Such information is confidential and may be used only by employees or agents of the department for the purpose of

Page 2 of 3

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

588-02666-22

20221010c1

59 conducting uterine fibroid research.

60 (3) UTERINE FIBROID EDUCATION OUTREACH AND PUBLIC  
61 AWARENESS.—The department shall develop and include information  
62 related to fibroids in literature on women’s health care and  
63 other related health care which is currently made available to  
64 the public to increase public awareness of uterine fibroids. The  
65 information must include, but need not be limited to, the  
66 following:

67 (a) Possible risk factors for developing uterine fibroids.

68 (b) Range of available treatment options that are  
69 considered alternatives to hysterectomy.

70 Section 2. This act shall take effect July 1, 2022.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR AUDREY GIBSON**

6th District

**COMMITTEES:**  
Judiciary, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development  
Military and Veterans Affairs, Space,  
and Domestic Security  
Reapportionment  
Rules

**SELECT SUBCOMMITTEE:**  
Select Subcommittee on Legislative  
Reapportionment

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

February 2, 2022

Senator Aaron Bean., Chair  
Appropriations Subcommittee on  
Health and Human Services  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100


Chair Bean:

I respectfully request that SB 1010, relating uterine fibroid research and education, be placed on the next committee agenda.

SB 1010, allows the Department of Health to develop and maintain an electronic database of information relating to uterine fibroids. The purpose of the database is to encourage research and public awareness on the diagnosis and treatment of fibroids and ensure women are provided with relevant information and necessary health care to prevent and treat uterine fibroids. **This bill passed unanimously in the first committee.**

Thank you for your time and consideration.

Sincerely,

  
Audrey Gibson  
State Senator  
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553  
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

SB 1016

2/27/20

Meeting Date

Bill Number or Topic

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

App

Committee

Amendment Barcode (if applicable)

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JuAnne DEVRIES

Phone

941-370-8825

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Email

jd.devries8@gmail.com

Street

Sarasota FL 34230

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Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

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2/22/22

Meeting Date

SR 1010

Bill Number or Topic

AHS

Committee

Amendment Barcode (if applicable)

Name Mary Dailey

Phone 847.989.6700

Address 431 S Cypress Ave

Email marydaileydem@gmail.com

Sarasota

FL

34236

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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APPEARANCE RECORD

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2/22/22

Meeting Date

SB 1010

Bill Number or Topic

APPROX SUBCTE HHS

Committee

Amendment Barcode (if applicable)

Name JEAN SIEBENALER

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MILTON

City

FL

State

32583

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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SB 1010

Bill Number or Topic

Amendment Barcode (if applicable)

2/22/22

Meeting Date

Appropriations HHS

Committee

609-206-6937

Phone

Nancy McCauley

Name

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Address

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Email

Sarasota FL 34231

City

State

Zip

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PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-22-22

Meeting Date

SB1010

Bill Number or Topic

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HHS

Committee

Amendment Barcode (if applicable)

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City

FL

State

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Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 1010

Bill Number or Topic

2/22/2022

Meeting Date

HHS

Committee

Amendment Barcode (if applicable)

Name

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Bradenton

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34209

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:



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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

---

BILL: CS/SB 1010

INTRODUCER: Health Policy Committee and Senator Gibson

SUBJECT: Uterine Fibroid Research and Education

DATE: February 21, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	Howard	Money	AHS	<b>Recommend: Favorable</b>
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1010 requires the Department of Health (department) to develop and maintain an electronic database of information related to uterine fibroids. The bill requires specified health care providers to submit to the department information on the diagnosis or treatment of women with uterine fibroids for inclusion in the database. The bill defines health care providers as physicians licensed under chapters 458 or 459, Florida Statutes, and autonomous advanced practice registered nurses (AAPRNs) licensed under section 464.0123, Florida Statutes.

The bill prohibits the database from including personal identifying information. The information collected is confidential and may be used only by the department employees or agents for the purpose of conducting research on uterine fibroids. The bill requires the department to develop and include information related to uterine fibroids in literature on women's health care which is currently made available to the public, to increase public awareness of uterine fibroids. The information must include possible risk factors for developing uterine fibroids and the range of available treatment options that are considered alternatives to a hysterectomy.

The department estimates a fiscal impact of \$1.4 million to procure, develop, and implement the required database, as well as training health care providers on the bill's new reporting requirement. See section V of this analysis.

The bill provides an effective date of July 1, 2022.

## II. Present Situation:

### The Department of Health

The Legislature created the department to protect and promote the health of all residents and visitors in the state.<sup>1</sup> The department is charged with the regulation of health care practitioners for the preservation of the health, safety, and welfare of the public. The Public Health Research Unit is located within the Division of Community Health Promotion within the department.<sup>2</sup>

### Public Health Research

In 1999, the Legislature established the Lawton Chiles Endowment Fund and the Florida Biomedical Research Program to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease.<sup>3</sup> The Biomedical Research Program, within the division of Public Health Research in the department, administers annual funding opportunities for research grant applications, monitors research grants, evaluates progress of research grant project aims, and provides research consultations and technical assistance. Annual reports are submitted to the Florida Legislature on research progress. The goals of the research grants are to find new discoveries leading to the prevention, treatment, and cures for cancer, tobacco-related diseases, and Alzheimer's disease.

This program is also responsible for the department Institutional Review Board (IRB) and the Human Research Protection Program, which provides research consultations and technical assistance concerning applications for research reviewed by the IRB. The IRB reviews research projects that involve clients, data, facilities, and staff.

The Biomedical Research Program also provides two educational programs to enrich the department's internal research capacity: the Research Excellence Initiative and Florida Health Grand Rounds.

The Research Excellence Initiative is a year-long education program for the department professionals conducting research, epidemiology, and program evaluation. The initiative builds skills and ability for quality and innovative research with emphasis on research integrity, research ethics, and regulatory requirements. The Research Excellence Initiative is now in its fourth year.<sup>4</sup>

The Florida Health Grand Rounds is a webinar series held in the Fall and Spring semesters in partnership with Florida university-based researchers and hosted by the department. The topics have a broad focus, touching on emerging, innovative, and cross-cutting areas of public health.

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<sup>1</sup> Section 20.43, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 99-167, s. 2, Laws of Fla.

<sup>4</sup> Department of Health, Provider and Partner Resources, Research, *Research Excellence Initiative*, available at <http://www.floridahealth.gov/provider-and-partner-resources/research/academy-of-research-excellence.html> (last visited Jan. 25, 2022).

Florida Health Grand Rounds provides an opportunity for Florida researchers to highlight and share their work with the department staff.<sup>5</sup>

### **Biomedical Research Program**

The Florida Legislature has long recognized the need to support vital research conducted in both academic and private institutions throughout the state through the William G. “Bill” Bankhead Jr. and David Coley Cancer Research Program (Bankhead-Coley Program); the James and Esther King Biomedical Research Program (King Program); and the Live Like Bella Pediatric Cancer Research Initiative (Bella Initiative), the latter of which is funded through the Bankhead-Coley Program, is now in its fifth year, and is the only state-funded pediatric cancer research program in the U.S.<sup>6</sup>

Total funding, in the amount of \$18,505,007, was awarded to Bankhead-Coley and King program and Bella Initiative grantees. This funding, during Fiscal Year 2020-2021, resulted in 13 Bankhead-Coley, 12 King, and 11 Bella Initiative new research grants. These awards are made to universities and cancer research centers across the state to support researchers for improving prevention, diagnosis, and treatment.<sup>7</sup>

Research grants are awarded through a competitive peer review process. Awards are based on scientific merit as determined via independent peer review by experts located outside Florida who are free from conflicts of interest. Full-time researchers at any Florida-based university or established research institution are eligible to apply. All researchers provide a legislative report that is used to produce an annual report.<sup>8</sup>

### **Uterine Fibroids**

Uterine fibroid lesions were initially known as the “uterine stone.” The term “fibroid” was first introduced in the 1860s. Uterine fibroids are the most common pelvic tumors among women of reproductive age, affecting more than 70 percent of women worldwide, particularly women of color.

Although benign, uterine fibroids are associated with significant morbidity; they are the primary indication for hysterectomy and a major source of gynecologic and reproductive dysfunction, ranging from menorrhagia<sup>9</sup> and pelvic pain to infertility, recurrent miscarriage, and preterm

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<sup>5</sup> Department of Health, Provider and Partner Resources, Research, *Florida Health Grand Rounds*, available at <http://www.floridahealth.gov/provider-and-partner-resources/research/florida-health-grand-rounds/index.html> (last visited Jan. 25, 2022).

<sup>6</sup> Department of Health, Biomedical Research Advisory Council Report, *William G. “Bill” Bankhead Jr., and David Coley Cancer Research Program, James and Esther King Biomedical Research Program, and Live Like Bella Pediatric Cancer Research Initiative, 2020-2021*, p. 2., available at <http://www.floridahealth.gov/provider-and-partner-resources/research/research-programs1/2021BiomedicalResearchAdvisoryCouncilAnnualReport.pdf> (last visited Jan. 25, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> *Supra* note 6.

<sup>9</sup> Menorrhagia is heavy or prolonged menstrual bleeding. John Hopkins Medicine, Health, Menorrhagia, *What is menorrhagia?* available at <https://www.hopkinsmedicine.org/health/conditions-and-diseases/menorrhagia> (last visited Jan. 27, 2022).

labor. The annual U.S. health care costs associated with uterine fibroids have been estimated at approximately \$34 billion. Uterine fibroids thus represent significant societal health and financial burdens on the U.S. health care system and economy.<sup>10</sup>

### ***Diagnosis and Treatment***

The growth of fibroids that originate from the uterine's smooth muscle tissue (myometrium) is dependent on estrogen and progesterone. Fibroids are rare before puberty, increase in prevalence during the reproductive years, and decrease in size after menopause. Uterine fibroids are classified based on location: subserosal (projecting outside the uterus), intramural (within the myometrium), and submucosal (projecting into the uterine cavity).

The symptoms and treatment options for fibroids are affected by size, number, and location. The most common symptom is abnormal uterine bleeding, usually manifesting as excessive menstrual bleeding. Other symptoms include pelvic pressure, bowel dysfunction, urinary frequency and urgency, urinary retention, low back pain, constipation, and painful intercourse.

Treatment of uterine fibroids should be tailored to the size and location of the tumors; the patient's age, symptoms, desire to maintain fertility, and access to treatment; and the physician's experience. The ideal treatment satisfies four goals: relief of signs and symptoms, sustained reduction of the size of fibroids, maintenance of fertility (if desired), and avoidance of harm.<sup>11</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 381.9312, F.S., which requires the department to develop and maintain an electronic database of information related to uterine fibroids. The purpose of the database is to encourage research relating to the diagnosis and treatment of uterine fibroids and ensure that women are provided with the relevant information and health care necessary to prevent and treat uterine fibroids.

The bill defines "health care provider" to include physicians licensed under chs. 458 or 459, F.S., or an A APRN registered under s. 464.0123, F.S.; and a "uterine fibroid" as a noncancerous growth of the uterus that often appears during a woman's childbearing years.

The database must include, but need not be limited to, all of the following information:

- Incidence and prevalence of women diagnosed with uterine fibroids in Florida;
- Demographic attributes of women diagnosed with uterine fibroids in Florida; and
- Treatments and procedures for uterine fibroids used by health care providers in Florida.

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<sup>10</sup> Yang Q, Ciebiera M, Bariani M, Ali M, Elkafas H, Boyer T, and Al-Hendy A, Endocrine Society Oxford, Endocrine Reviews, 2022, Vol. XX, No. XX, 1–43 *Comprehensive Review of Uterine Fibroids: Developmental Origin, Pathogenesis, and Treatment*, (Nov. 2021) available at <https://academic.oup.com/edrv/advance-article/doi/10.1210/edrv/bnab039/6422392> (last visited Jan. 27, 2022).

<sup>11</sup> Maria Syl D. De La Cruz, MD, & Edward M. Buchanan, MD, Sidney Kimmel Medical College, Thomas Jefferson University, Philadelphia, Pa., published by American Family Physician, Vol. 95, No.2, (Jan. 15, 2017) *Uterine Fibroids: Diagnosis and Treatment*, available at <https://www.aafp.org/afp/2017/0115/afp20170115p100.pdf> (last visited Jan. 27, 2022).

A health care provider who diagnoses or treats a woman with uterine fibroids must submit information relating to such diagnosis or treatment to the department in a form and manner prescribed by the department rule for inclusion in the database. Such information may be submitted along with any reports or other information that the health care provider is required to submit to the department pursuant to state law.

The database may not include any personal identifying information of women diagnosed with or treated for uterine fibroids. Such information is confidential and may be used only by employees or agents of the department for the purpose of conducting uterine fibroid research.

The department must develop and include information related to uterine fibroids in literature on women's health care which is currently made available to the public, to increase public awareness of uterine fibroids. The information must include, but need not be limited to:

- The possible risk factors of developing uterine fibroids; and
- The range of available treatment options that are considered alternatives to a hysterectomy.

The bill provides an effective date of July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.



**B. Private Sector Impact:**

CS/SB 1010 may have an impact on private health care practitioners due to the potential need for additional staff time, record keeping, and reporting of required information on patients with uterine fibroids they diagnose and treat.

**C. Government Sector Impact:**

The Department of Health (department) estimates a fiscal impact of \$1,426,688, including \$1,210,149 in nonrecurring funds and \$216,539 in recurring funding, to procure, develop, and implement the required database, as well as training health care providers on the bill's new reporting requirement. This funding includes three data-entry staff and one epidemiologist in the "other personal services" category.<sup>12</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 381.9312 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Health Policy on February 2, 2022:**

The CS:

- Revises the bill's definition of "health care provider" to include allopathic and osteopathic physicians, as opposed to only allopathic physicians as in the underlying bill;
- Clarifies that AAPRNs referenced in the definition are autonomous AAPRNs;
- Deletes the FMA's participation in the department's development and dissemination of information to health care providers and in the bill's public awareness campaign; and
- Revises the risk factors for which the department must develop information related to fibroids in women's health care.

**B. Amendments:**

None.

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<sup>12</sup> E-mail from the Department of Health to the Senate Health Policy Committee (Jan. 24, 2022) (on file with Senate Health Policy Committee).

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

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By the Committee on Children, Families, and Elder Affairs; and  
Senator Brodeur

586-02803-22

20221040c1

A bill to be entitled

An act relating to the Special Persons Registry;  
providing a short title; creating s. 402.88, F.S.;  
requiring the Department of Health to develop and  
maintain a database, to be known as the "Special  
Persons Registry," for a specified purpose; providing  
for enrollment in the registry; specifying information  
the registry may include; requiring the Department of  
Law Enforcement to provide relevant information from  
the registry to law enforcement officers upon request  
through a specified system; providing an effective  
date.

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

Section 1. This act may be cited as the "Protect Our Loved  
Ones Act."

Section 2. Section 402.88, Florida Statutes, is created to  
read:

402.88 Special Persons Registry for interactions with law  
enforcement.—

(1) The Department of Health shall develop and maintain a  
database, to be known as the "Special Persons Registry," of  
persons who may have developmental, psychological, or other  
disabilities or conditions that may be relevant to their  
interactions with law enforcement officers. Parents, guardians,  
and caregivers may enroll in the registry a person of any age  
with any type of developmental, psychological, or other  
disability or condition, including, but not limited to, autism

Page 1 of 2

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

586-02803-22

20221040c1

spectrum disorder, Alzheimer's disease, dementia, bipolar  
disorder, and Down syndrome. Persons may also enroll themselves  
if they are 18 years of age or older. The registry may include,  
but need not be limited to, any of the following information:

(a) An enrollee's name, contact information, personal  
identifying information, and disability or condition that may be  
relevant to interactions with law enforcement officers.

(b) If a person did not enroll themselves, the name,  
contact information, and personal identifying information of the  
parent, guardian, or caregiver who enrolled the person in the  
registry.

(c) Any additional information provided by an enrollee or  
an enrollee's parent, guardian, or caregiver.

(d) Any information requested by the Department of Health  
or the Department of Law Enforcement or otherwise held by a law  
enforcement agency, a county emergency management agency, or a  
local fire department for the purpose of assisting law  
enforcement officers, emergency medical personnel, or fire  
personnel in responding to a call for service.

(2) The Department of Law Enforcement shall provide  
information from the registry to law enforcement officers to  
assist officers in the performance of their official duties. The  
registry shall provide such relevant information to a law  
enforcement officer engaged in his or her official duties upon  
an officer's request made through the Florida Crime Information  
Center.

Section 3. This act shall take effect March 1, 2023.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** February 9, 2022

---

I respectfully request that **Senate Bill 1040 & Senate Bill 1042**, relating to **Registry of Persons with Special Needs & Public Records/Registry of Persons with Special Needs**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

9-1 412FB Tues

The Florida Senate

02-22-2022

APPEARANCE RECORD

CS/BB 1040

Meeting Date

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

Bill Number or Topic

Approp Subc on Health + Human Services

Committee

Amendment Barcode (if applicable)

Name

Kathleen Murphy

Phone

407-855-7604

Address

1747 Central Florida Pkwy

Email

legislation@floridapta.org

Street

Orlando, FL 32809

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FL PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate  
**APPEARANCE RECORD**

Tab 4  
SB 1040

2/22/2022

Meeting Date

Senate HHS

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name Olivia Babis

Phone 850-617-9718

Address 2473 Care Dr, 200

Email oliviab@drflorida.org

Street

Tallahassee FL 32308

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:  
Disability Rights FL

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

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

2-22-22

Meeting Date

1640

Bill Number or Topic

Committee

Name LAURENCE Philipson

Amendment Barcode (if applicable)

Phone 727-484-0237

Address 7240 Westwind Dr

Email advocate.philipson@gmail

FL FL 34668

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/22/22

Meeting Date

SB 1040

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Bobby Greene

Phone 904 535-8990

Address 103 25th Ave. S.

Email

Jacksonville, FL 32250

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

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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



The Florida Senate

APPEARANCE RECORD

SB 1040

2-22-22

Meeting Date

Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Martha Greene Phone 904 233-1866

Address 103 25th Ave S. # K11 Email msg-susan@msn.com

Jacksonville Beach FL 32250

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [x] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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



128694

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/22/2022	.	
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Appropriations Subcommittee on Health and Human Services  
(Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Protect Our Loved  
Ones Act."

Section 2. Section 402.88, Florida Statutes, is created to  
read:

402.88 Special Persons Registry in interactions with law  
enforcement.-



128694

11           (1) (a) A local law enforcement agency may develop and  
12 maintain a database, to be known as "The Special Persons  
13 Registry," listing persons who have developmental,  
14 psychological, or other disabilities or conditions that may be  
15 relevant to their interactions with law enforcement officers.  
16 Persons with any type of confirmed developmental, psychological,  
17 or other disability or condition, including, but not limited to,  
18 autism spectrum disorder, Alzheimer's disease or a dementia-  
19 related disorder, bipolar disorder, or Down syndrome, may be  
20 enrolled in the registry. The confirmation of the disability or  
21 condition must be certified by a licensed physician, physician  
22 assistant, or advanced practice registered nurse or, in the case  
23 of psychological conditions, by a licensed psychologist. An  
24 adult with a disability may enroll himself or herself in the  
25 registry. If a person with a disability has been declared  
26 incapacitated, a parent or legal guardian of the person may  
27 enroll him or her in the registry.

28           (b) A child with a disability may be enrolled in the  
29 registry by his or her parent or legal guardian. An adult  
30 enrolled by another person must be notified of that enrollment  
31 by the local law enforcement agency in writing at his or her  
32 address of record within 5 business days after enrollment in the  
33 registry. A minor child who was enrolled by another person must  
34 be notified by the agency in writing of that enrollment at his  
35 or her address of record within 5 business days after his or her  
36 18th birthday.

37           (c) A registration is valid until the person is removed  
38 from the registry. A minor or an adult who is under a  
39 guardianship may be removed from the registry by the minor's



128694

40 parent or legal guardian or the adult's legal guardian,  
41 respectively. A competent person who has reached 18 years of age  
42 may also choose to have his or her name removed from the  
43 registry. Upon a valid verbal or written request for removal of  
44 a person from the registry, the local law enforcement agency  
45 must remove the person's information from the registry within 5  
46 business days after the request.

47 (2) The registry may include, but need not be limited to,  
48 any of the following information:

49 (a) The listed person's name, contact information, personal  
50 identifying information, and disability or condition that may be  
51 relevant to interactions with law enforcement officers.

52 (b) If a person did not enroll himself or herself, the  
53 name, contact information, and personal identifying information  
54 of the person who enrolled the listed person in the registry.

55 (c) Any additional information provided, including the  
56 certification of the condition or disability.

57 (3) The local law enforcement agency may provide relevant  
58 information from the registry to a law enforcement officer  
59 engaged in his or her official duties.

60 Section 3. This act shall take effect January 1, 2023.

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete everything before the enacting clause  
65 and insert:

66 A bill to be entitled  
67 An act relating to The Special Persons Registry;  
68 providing a short title; creating s. 402.88, F.S.;



128694

69           authorizing local law enforcement agencies to develop  
70           and maintain a database, to be known as the "The  
71           Special Persons Registry," for a specified purpose;  
72           providing for enrollment in and removal from the  
73           registry; specifying information the registry may  
74           include; authorizing local law enforcement agencies to  
75           provide relevant information from the registry to law  
76           enforcement officers under certain circumstances;  
77           providing an effective date.



521594

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
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	.	
	.	

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Appropriations Subcommittee on Health and Human Services  
(Brodeur) recommended the following:

1           **Senate Substitute for Amendment (128694) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. This act may be cited as the "Protect Our Loved  
7 Ones Act."

8           Section 2. Section 402.88, Florida Statutes, is created to  
9 read:

10           402.88 Special Persons Registry in interactions with law



521594

11 enforcement.-

12 (1) (a) A local law enforcement agency may develop and  
13 maintain a database, to be known as "The Special Persons  
14 Registry," listing persons who have developmental,  
15 psychological, or other disabilities or conditions that may be  
16 relevant to their interactions with law enforcement officers.  
17 Persons with any type of confirmed developmental, psychological,  
18 or other disability or condition, including, but not limited to,  
19 autism spectrum disorder, Alzheimer's disease or a dementia-  
20 related disorder, bipolar disorder, or Down syndrome, may be  
21 enrolled in the registry. The confirmation of the disability or  
22 condition must be certified by a physician or physician  
23 assistant licensed under chapter 458 or chapter 459 or an  
24 advanced practice registered nurse licensed under chapter 464.  
25 In the case of psychological conditions, the confirmation of the  
26 condition must be certified by a psychologist licensed under  
27 chapter 490, a mental health counselor licensed under chapter  
28 491, or a psychiatrist as defined in s. 394.455. An adult with a  
29 disability may enroll himself or herself in the registry. If a  
30 person with a disability has been declared incapacitated under  
31 chapter 744, a parent or legal guardian of the person may enroll  
32 him or her in the registry.

33 (b) A minor with a disability may be enrolled in the  
34 registry by his or her parent or legal guardian. An adult  
35 enrolled by another person must be notified of that enrollment  
36 by the local law enforcement agency in writing at his or her  
37 address of record within 5 business days after enrollment in the  
38 registry. A minor who was enrolled by another person must be  
39 notified by the agency in writing of that enrollment at his or



521594

40 her address of record within 5 business days after his or her  
41 18th birthday.

42 (c) A registration is valid until the person is removed  
43 from the registry. A minor or an incapacitated adult may be  
44 removed from the registry by the minor's parent or legal  
45 guardian or the adult's legal guardian, respectively. A  
46 competent person who has reached 18 years of age may also choose  
47 to have his or her name removed from the registry. Upon a verbal  
48 or written request for removal of a person from the registry,  
49 the local law enforcement agency must remove the person's  
50 information from the registry within 5 business days after the  
51 request is made.

52 (2) The registry may include, but need not be limited to,  
53 any of the following information:

54 (a) The listed person's name, contact information, personal  
55 identifying information, and disability or condition that may be  
56 relevant to interactions with law enforcement officers.

57 (b) If a person did not enroll himself or herself, the  
58 name, contact information, and personal identifying information  
59 of the person who enrolled the listed person in the registry.

60 (c) Any additional information provided, including the  
61 certification of the condition or disability.

62 (3) The local law enforcement agency may provide relevant  
63 information from the registry to a law enforcement officer  
64 engaged in his or her official duties.

65 Section 3. This act shall take effect January 1, 2023.

66

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

68 And the title is amended as follows:





521594

69           Delete everything before the enacting clause  
70 and insert:

71                           A bill to be entitled  
72           An act relating to The Special Persons Registry;  
73           providing a short title; creating s. 402.88, F.S.;  
74           authorizing local law enforcement agencies to develop  
75           and maintain a database, to be known as the "The  
76           Special Persons Registry," for a specified purpose;  
77           providing for enrollment in and removal from the  
78           registry; specifying information the registry may  
79           include; authorizing local law enforcement agencies to  
80           provide relevant information from the registry to law  
81           enforcement officers under certain circumstances;  
82           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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: PCS/CS/SB 1040 (751752)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Brodeur

SUBJECT: Special Persons Registry

DATE: February 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>Money</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 1040, known as the “Protect Our Loved Ones” Act, authorizes a local law enforcement agency to develop and maintain a database, known as the “Special Needs Registry”, of persons who may have developmental, psychological, or other disabilities or conditions.

Parents and guardians may voluntarily enroll minors and incapacitated individuals in the registry. The registry may include:

- An enrollee’s demographic and contact information, and information related to the enrollee’s disability or condition;
- Contact information of persons who have enrolled individuals on the registry; and
- Certification of the disability or condition.

The bill provides notification requirements for enrollment onto the registry and a process for removing oneself from the registry.

The bill authorizes local law enforcement agencies to provide information from the registry to law enforcement officers to assist in performance of their official duties.

The bill does not have a fiscal impact on state government. The bill may have a negative yet indeterminate fiscal impact on those law enforcement agencies that choose to create and maintain a Special Needs Registry.

The bill takes effect January 1, 2023.

## II. Present Situation:

### Developmental Disabilities

Developmental disabilities<sup>1</sup> include autism, cerebral palsy, spina bifida, intellectual disabilities, Down syndrome, Prader-Willi syndrome, and Phelan-McDermid syndrome.<sup>2</sup>

Cerebral palsy<sup>3</sup> is a group of disabling symptoms of extended duration, which results from damage to the developing brain that may occur before, during, or after birth and that results in the loss or impairment of control over voluntary muscles.<sup>4</sup>

Spina bifida<sup>5</sup> is a birth defect in the vertebral column in which part of the spinal cord, which is normally protected within the vertebral column, is exposed. Spina bifida is caused by the failure of the neural tube to close during embryonic development. The neural tube is the embryonic structure that gives rise to the brain and spinal cord. People with spina bifida can have difficulty with bladder and bowel incontinence, cognitive (learning) problems, and limited mobility.<sup>6</sup>

Individuals suffering from intellectual disabilities have significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, which manifests before the age of 18.<sup>7</sup> Such individuals have certain limitations in both mental functioning and in adaptive skills such as communicating, self-care, and social skills. These limitations will cause a person to learn and develop more slowly. People with intellectual disabilities may take longer to learn to speak, walk, and take care of their personal needs such as dressing or eating.<sup>8</sup>

Down syndrome is a genetic disorder caused when abnormal cell division results in extra genetic material from chromosome 21. This genetic disorder, also known as trisomy 21, varies in severity, causes lifelong intellectual disability and developmental delays, and, in some people, causes health problems.<sup>9</sup>

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<sup>1</sup> Developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

<sup>2</sup> Agency for Persons with Disabilities, *Long-Range Program Plan (2021)*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=23172&DocType=PDF> (last visited February 3, 2022) (hereinafter cited as “The Long-Range Plan”).

<sup>3</sup> Section 393.063(6), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Spina bifida is defined in statute as a medical diagnosis of spina bifida cystica or myelomeningocele. Section 393.063(41), F.S.

<sup>6</sup> The Long-Range Plan, p. 79.

<sup>7</sup> Section 393.063(24), F.S. For the purposes of this definition, the term “adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community. The term “significantly sub-average general intellectual functioning” means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

<sup>8</sup> *Id.* at 73.

<sup>9</sup> *Id.* Down syndrome is defined in statute as a disorder caused by the presence of an extra chromosome 21. Section 393.063(15), F.S.

Prader-Willi syndrome<sup>10</sup> is a complex genetic condition that affects many parts of the body. In infancy, this condition is characterized by weak muscle tone, feeding difficulties, poor growth, and delayed development. Beginning in childhood, affected individuals develop an insatiable appetite and chronic overeating. As a result, most experience rapid weight gain leading to obesity. People with Prader-Willi syndrome typically have an intellectual disability or a learning disability and behavioral problems.<sup>11</sup>

Phelan-McDermid syndrome<sup>12</sup> is a rare condition due to a chromosomal abnormality. Symptoms vary in range and severity but often include low muscle tone, difficulty moving, absent-to-severely delayed speech, autistic features, moderate-to-profound intellectual disability, and epilepsy.<sup>13</sup>

### ***Autism***

Autism is a pervasive, neurologically-based developmental disability of extended duration that has onset during infancy or childhood, which causes severe learning, communication, and behavioral disorders.<sup>14</sup> Autism spectrum disorder (ASD) includes autism, Asperger's syndrome, and any other pervasive developmental disorder.<sup>15</sup> The Centers for Disease Control and Prevention (CDC) estimates that approximately one in 44 children has ASD.<sup>16</sup> The CDC also estimates that over 5.4 million adults have ASD.<sup>17</sup>

### ***Interactions with Law Enforcement for Individuals with Autism***

A person's developmental disability may make interactions with law enforcement more challenging. For example, identifying a person with an ASD can be confusing to any person unfamiliar with the condition, including law enforcement. Law enforcement can mistake the signs of autism with behaviors typically associated with those of criminals.<sup>18</sup> Common attributes of autism are communication differences and behaviors or thinking that are repetitive or restricted to an area of interest. These traits could be interpreted by law enforcement as not being compliant with questioning or direct instructions. A characteristic of ASD known as escalation

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<sup>10</sup> Prader-Willi syndrome is defined in statute as an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior. Section 393.063(29), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Phelan-McDermid Syndrome is defined in statute as a disorder caused by the loss of the terminal segment of the long arm of chromosome 22, which occurs near the end of the chromosome at a location designated q13.3, typically leading to developmental delay, intellectual disability, dolicocephaly, hypotonia, or absent or delayed speech. Section 393.063(28), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 393.063(5), F.S.

<sup>15</sup> Section 627.6686(2)(b), F.S.

<sup>16</sup> The Centers for Disease Control and Prevention (The CDC), *Data & Statistics on Autism Spectrum Disorder*, available at <https://www.cdc.gov/ncbddd/autism/data.html> (last visited February 3, 2022).

<sup>17</sup> The CDC, *Key Findings: CDC Releases First Estimates of the Number of Adults Living with Autism Spectrum Disorder in the United States*, available at <https://www.cdc.gov/ncbddd/autism/features/adults-living-with-autism-spectrum-disorder.html> (last visited February 3, 2022).

<sup>18</sup> Randy Lambert, *How Changing the Wes Kleinert Fair Interview Act and Establishing Law Enforcement Academy Training Standards Will Help the Autism Community*, *Child and Family Law Journal*, p. 48 (2018), available at <https://lawpublications.barry.edu/cflj/vol6/iss1/3> (last visited February 3, 2022).

poses a particular problem in encounters with law enforcement.<sup>19</sup> Escalation describes the response of a person with ASD under stress or in an unfamiliar situation.<sup>20</sup> Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, become combative, or simply shut down.<sup>21</sup> The individual may cover his or her ears and shriek, not knowing how or where to get help.<sup>22</sup> The presence of police lights and sirens, uniforms, loud and unfamiliar voices, or barking dogs often makes a difficult situation worse by contributing to the individual's sensory overload.<sup>23</sup>

### **Mental Health and Mental Illness**

Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community.<sup>24</sup>

The primary indicators used to evaluate an individual's mental health are:

**Emotional well-being-** Perceived life satisfaction, happiness, cheerfulness, peacefulness;

**Psychological well-being-** Self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and

**Social well-being-** Social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.<sup>25</sup> Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being. Mental illness affects millions of people in the United States each year. Nearly one in five adults lives with a mental illness.<sup>26</sup> During their childhood and adolescence, almost half of children will experience a mental disorder, though the proportion experiencing severe impairment during childhood and adolescence is much lower, at about 22 percent.<sup>27</sup>

Some examples of common mental health illnesses or disorders that can negatively impact how a person interacts with others, such as law enforcement officers, include schizophrenia, bipolar disorder, borderline personality disorder, and antisocial personality disorder.<sup>28</sup>

<sup>19</sup> Bernard J. Farber, *Police Interaction With Autistic Persons: The Need For Training*, Aele Monthly Law Journal, p. 106 (2009), available at <https://www.aele.org/law/2009all07/2009-07MLJ101.pdf> (last visited February 3, 2022).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> World Health Organization, *Mental Health: Strengthening Our Response*, <https://www.who.int/news-room/factsheets/detail/mental-health-strengthening-our-response> (last visited February 4, 2022).

<sup>25</sup> *Id.*

<sup>26</sup> National Institute of Mental Health (NIH), *Mental Illness*, <https://www.nimh.nih.gov/health/statistics/mental-illness> (last visited Feb.4, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> See National Alliance Mental Illness, *Mental Health Disorders*, available at <https://www.nami.org/About-Mental-Illness/Mental-Health-Conditions>; Psychiatry Online, *Contact Between Police and People With Mental Disorders: A Review of Rates*, available at <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201500312> (all sites last visited February 5, 2022).

## **Alzheimer's Disease**

Alzheimer's disease is a form of dementia, a general term for memory loss. It is a progressive brain disorder that damages and eventually destroys brain cells, leading to memory loss and changes in the functions of the brain. In the early stages of Alzheimer's disease, memory loss is mild; in late-stages, individuals lose the ability to carry on a conversation and respond to their environment. Currently, the disease has no cure, but treatment can temporarily slow the worsening of symptoms.<sup>29</sup>

Florida has an increasing number of individuals with Alzheimer's disease. An estimated 580,000 Floridians have Alzheimer's disease.<sup>30</sup> The projected number of Floridians with Alzheimer's disease is estimated to increase by 24% to 720,000 individuals by 2025.<sup>31</sup>

### ***Interactions with Law Enforcement for Individuals with Alzheimer's and Dementia***

Many behaviors associated with Alzheimer's disease and dementia tend to increase a person's chance of interacting with law enforcement. Because these individuals are often unable to explain their unusual behavior, their actions are more easily misunderstood.<sup>32</sup> Common instances that can cause someone with Alzheimer's disease to interact with law enforcement include wandering, auto accidents, erratic driving, accidental breaking and entering due to confusion, and unintentional shoplifting.<sup>33</sup>

### **Florida Crime Information Center (FCIC) System**

The Florida Crime Information Center (FCIC) system is an electronic database that provides criminal justice agencies with access to federal and state criminal justice information. The FCIC is managed by FDLE and contains information as reported to FDLE by law enforcement agencies through the state.<sup>34</sup>

### **Voluntary Registry Systems**

Law enforcement agencies nationwide have begun utilizing voluntary registry systems that provide officers with relevant information on individuals with special needs, including those with Alzheimer's disease.<sup>35</sup> Law enforcement agencies have found that such registries can:

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<sup>29</sup> Alzheimer's Association, *2021 Alzheimer's Disease Facts and Figures*, p. 69, available at <https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf> (last visited February 3, 2022).

<sup>30</sup> The Department of Elder Affairs, *2021 Alzheimer's Disease Advisory Committee Annual Report*, p. 4, available at [https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021\\_FINAL.pdf](https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021_FINAL.pdf) (last visited February 3, 2022).

<sup>31</sup> *Id.*

<sup>32</sup> Alzheimer's Association, *Alzheimer's Disease Guide for Law Enforcement*, available at [https://www.alz.org/national/documents/safereturn\\_lawenforcement.pdf](https://www.alz.org/national/documents/safereturn_lawenforcement.pdf) (last visited February 3, 2022).

<sup>33</sup> *Id.*

<sup>34</sup> The FDLE, *The FCIC*, available at <https://web.fdle.state.fl.us/pas/restricted/PAS/home/home.jsf> (last visited February 3, 2022).

<sup>35</sup> The International Association of Chiefs of Police (IACP), *A Guide to Law Enforcement on Voluntary Registry Programs for Vulnerable Populations*, p. 2, available at [https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry\\_0.pdf](https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry_0.pdf) (last visited February 3, 2022)(hereinafter cited as "The IACP Guide").

Promote community safety;  
Improve officer safety;  
Increase the speed and efficiency in which officers are able to respond, decreasing department liability;  
Reduce strain on department resources, both human and financial, during emergencies;  
Give community members peace of mind; and  
Promote community partnerships in responding to special needs community members.<sup>36</sup>

Voluntary registry systems allow law enforcement to obtain information that assists in response to calls for service involving individuals with conditions such as Alzheimer's disease.<sup>37</sup>

Voluntary registry systems have also proven helpful in responding to individuals in other special needs populations. Departments utilize the system for community members living with ASD, developmental disabilities, attention deficit/hyperactivity disorder (ADHD), epilepsy, brain injury, mental illness, and other disabilities that may affect the way individuals interact and respond to law enforcement officers and other first responders.<sup>38</sup>

### ***Project Safe and Sound***

In 2007, the Polk County Sheriff's Office (PCSO) began utilizing a voluntary registry system, called Project Safe and Sound (PSS), which provides bracelets to registrants in an effort to help identify wandering individuals with Alzheimer's disease and special needs children.<sup>39</sup>

Caregivers choosing to participate are asked to complete an application/authorization form which requires specific information about the child or adult being registered. The agency then enters the information into the PSS database, making the information accessible to all Polk County first responders. After the information is entered, the special needs person will be issued a "Safe & Sound" bracelet, which includes an assigned number. The bracelet also includes emergency contact information engraved on the plate of the bracelet. In the event a special needs child or adult wanders off and is found, responding law enforcement personnel will be able to contact the PCSO and confirm the identity of the individual.<sup>40</sup> First responders will be provided the caregiver's contact information so that the special needs person can be reunited with their caregiver.<sup>41</sup>

The PCSO was highlighted in *A Guide to Law Enforcement on Voluntary Registry Programs for Vulnerable Adults* for using existing grant funds to build and sustain the PSS program and leveraging a partnership with a local engraver who engraves PSS bracelets with ID numbers at no cost to the program.<sup>42</sup>

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 3.

<sup>39</sup> Polk County Sheriff's Office, *Project Safe & Sound*, available at <http://www.polksheriff.org/programs-services/crime-prevention-programs-for-adults/project-safe-sound> (last visited February 3, 2022).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> The IACP Guide at 32 and 24.

### **Florida Special Needs Registry**

The DOH, in coordination with its county health departments and each local emergency management agency in the state, developed a registry for persons with special needs to register with their local emergency management agency to receive assistance during a disaster. The statewide registry provides first responders with valuable information to prepare for disasters or other emergencies.<sup>43</sup> All records, data, information, correspondence, and communications relating to the registry are confidential and exempt from Florida's public records laws.<sup>44</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 402.88, F.S., providing that the bill may be cited as the "Protect Our Loved Ones Act." The bill authorizes a local law enforcement agency to develop and maintain a database, known as the "Special Needs Registry" of persons who may have developmental, psychological, or other disability or condition that may be relevant to their interactions with a law enforcement officer, including but not limited to, a confirmed diagnosis of the following: Autism spectrum disorder; Alzheimer's disease; Dementia; Bipolar disorder; and Down syndrome.

Confirmation of a disability or condition must be certified by a licensed physician or licensed physician assistant or a licensed advanced practice registered nurse. Confirmation of a psychological condition must be certified by a licensed psychologist, licensed mental health counselor, or a psychiatrist.

Any adult with a disability may enroll himself or herself in the registry. If an individual with a disability is a minor or has been declared incapacitated a parent or legal guardian may enroll the individual in the registry.

An adult enrolled onto the registry by another person must be notified of that enrollment by the local law enforcement agency in writing within five business days after such enrollment. A minor enrolled onto the registry must be notified of that enrollment by the local law enforcement agency in writing within five business days after his or her 18<sup>th</sup> birthday.

A minor or an incapacitated individual may be removed from the registry by his or her parent or legal guardian. A competent person who is 18 years old may remove himself or herself from the registry. Upon a verbal or written request for removal of a person from the registry, a local law enforcement agency must remove an individual's information from the registry within five business days after the request is made.

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<sup>43</sup> Florida Department of Health, *Florida Special Needs Registry*, available at: <https://snr.flhealthresponse.com/> (last visited February 17, 2022).

<sup>44</sup> Sections 252.905, and 252.355(4), F.S., both provide a public records exemption for information related to the Florida Special Needs Registry.



The registry may include, but is not limited to the following:

An enrollee's demographic and contact information, and information related to the enrollee's disability or condition;

Contact information of those who have enrolled individuals on the registry;

Any additional information including the certification of the condition or disability; and

The information provided to law enforcement officers under the bill may assist officers in their official duties by preparing them to respectfully and appropriately interact with an individual enrolled in the registry who has a relevant disability or condition.

The bill takes effect January 1, 2023.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

The bill does not have a fiscal impact on state government. The bill may have a negative yet indeterminate fiscal impact on those law enforcement agencies that choose to create and maintain a Special Needs Registry.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 402.88 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 February 22, 2022:**

The committee substitute:

- Authorizes a local law enforcement agency, rather than the DOH, to develop and maintain Special Persons Registry databases. Each local law enforcement agency has discretion in whether or not they wish to establish such a database.
- Revises who can enroll an individual in the registry. If an individual with a disability is a minor or has been declared incapacitated a parent or legal guardian may enroll the individual in the registry. Deletes caregivers from the list of persons that may enroll an individual on the registry.
- Requires that an individual be notified in writing by the local law enforcement agency that they have been enrolled in the registry. A minor must be notified in writing that they are enrolled in the registry five days after his or her 18th birthday.
- Revises who can be enrolled onto the registry from those who may have a developmental, psychological, or other disability or condition to those with a confirmed diagnosis. Confirmation of the disability or condition must be made by a licensed physician, physician's assistant, or advanced practice registered nurse. Confirmation of a psychological condition must be made by a certified psychologist, mental health counselor, or a psychiatrist.
- Provides a means to remove an individual from the registry. Specifically:
  - Any competent person over the age of 18 years old may remove oneself from the registry.
  - A minor may be removed by his or her parents or legal guardian.
  - An incapacitated adult may be removed by his or her legal guardian.

- Requires a law enforcement agency to remove a person from the registry upon a verbal or written request. The person must be removed from the registry within five business days after the request is made.
- Revises the information that may be included in the registry. Specifically:
  - Adds the certification of the condition or disability.
  - Removes a provision allowing any information requested by the DOH or the FDLE or otherwise held by a law enforcement agency, a county emergency management agency, or a local fire department for the purpose of assisting law enforcement officers, emergency medical personnel, or fire personnel in responding to a call.
- Authorizes a local law enforcement agency, rather than the FDLE, to provide relevant information from the registry to a law enforcement officer engaged in his or her official duties.
- Removes from the underlying bill a requirement that the DOH provide certain information to a law enforcement officer engaged in their duties upon an officer's request made through the Florida Crime Information Center.
- Revises the effective date from March 1, 2023, to January 1, 2023.

**CS by Children, Families, and Elder Affairs on February 8, 2022:**

The Committee Substitute:

- Changes the name of the voluntary registry created by the bill from “Registry of Persons with Special Needs” to the “Special Persons Registry”.
- Changes the entity creating and maintaining the registry from the APD to the DOH.
- Revises the effective date to March 1, 2023.

**B. Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and  
Senator Brodeur

586-02804-22

20221042c1

1 A bill to be entitled  
2 An act relating to public records; amending s. 402.88,  
3 F.S.; providing an exemption from public records  
4 requirements for all records, data, information,  
5 correspondence, and communications relating to the  
6 enrollment of persons in the Special Persons Registry  
7 maintained by the Department of Health; providing  
8 exceptions; authorizing law enforcement agencies,  
9 county emergency management agencies, and local fire  
10 departments to further disclose confidential and  
11 exempt information under certain circumstances;  
12 providing for future legislative review and repeal of  
13 the exemption; providing a statement of public  
14 necessity; providing for retroactive application;  
15 providing a contingent effective date.  
16  
17 Be It Enacted by the Legislature of the State of Florida:  
18  
19 Section 1. Subsection (3) is added to section 402.88,  
20 Florida Statutes, as created by SB 1040 or similar legislation,  
21 to read:  
22 402.88 Special Persons Registry for interactions with law  
23 enforcement; public records exemption.-  
24 (3) (a) All records, data, information, correspondence, and  
25 communications relating to the enrollment of persons as provided  
26 in subsection (1) and such information included in any locally  
27 maintained registry that is substantially similar to the  
28 registry in subsection (1) are confidential and exempt from s.  
29 119.07(1) and s. 24(a), Art. I of the State Constitution and may

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

586-02804-22

20221042c1

30 not be disclosed except, upon request, to a law enforcement  
31 agency, a county emergency management agency, or a local fire  
32 department, or as otherwise specifically authorized by this  
33 section.  
34 (b) A law enforcement agency, county emergency management  
35 agency, or local fire department in possession of materials  
36 described in paragraph (a) may further disclose information  
37 contained in such materials to others not specifically listed  
38 only as follows:  
39 1. With the express written consent of the registry  
40 enrollee or the legally authorized representative of such  
41 enrollee;  
42 2. In a medical emergency;  
43 3. By court order upon a finding of good cause;  
44 4. To another governmental agency in the performance of its  
45 duties and responsibilities; or  
46 5. In the interest of public safety, to assist in locating  
47 the enrollee, or to promote the safety or well-being of the  
48 enrollee, as determined by the law enforcement agency.  
49 (c) This subsection is subject to the Open Government  
50 Sunset Review Act in accordance with s. 119.15 and shall stand  
51 repealed on October 2, 2027, unless reviewed and saved from  
52 repeal through reenactment by the Legislature.  
53 Section 2. The Legislature finds that it is a public  
54 necessity to make all records, data, information,  
55 correspondence, and communications relating to the enrollment of  
56 persons in the Special Persons Registry under s. 402.88, Florida  
57 Statutes, confidential and exempt from s. 119.07(1), Florida  
58 Statutes, and s. 24(a), Article I of the State Constitution.

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

586-02804-22

20221042c1

59 Such records would likely include confidential medical  
60 information and sensitive personal information about the persons  
61 listed in the registry. The potential disclosure of such  
62 information would deter persons from being enrolled in the  
63 registry, which would then deprive law enforcement officers of  
64 information that would better enable them to interact with such  
65 persons in safe and appropriate ways.

66 Section 3. The exemption created in s. 402.88(3), Florida  
67 Statutes, applies retroactively to such confidential and exempt  
68 information held by a law enforcement agency, a county emergency  
69 management agency, or a local fire department before the  
70 effective date of this act.

71 Section 4. This act shall take effect on the same date that  
72 SB 1040 or similar legislation takes effect, if such legislation  
73 is adopted in the same legislative session or an extension  
74 thereof and becomes a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** February 9, 2022

---

I respectfully request that **Senate Bill 1040 & Senate Bill 1042**, relating to **Registry of Persons with Special Needs & Public Records/Registry of Persons with Special Needs**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9

41 Tues 412 RB

The Florida Senate  
**APPEARANCE RECORD**

02-22-2022

CS/BB 1042

Meeting Date

Bill Number or Topic

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

Approp Sub Com Health & Human Services  
Committee

Amendment Barcode (if applicable)

Name Kathleen Murphy

Phone 407-855-7604

Address 1747 Central Florida Pkwy  
Street

Email legislation@floridapta.org

Orlando, FL 32809  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

FLPTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



768172

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/22/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services  
(Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 69  
and insert:  
management agency, or a local fire department before, on, or  
after the

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

And the title is amended as follows:

Delete line 14





768172

11 and insert:  
12       necessity; providing applicability;



569488

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2022	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Health and Human Services  
(Brodeur) recommended the following:

**Senate Substitute for Amendment (768172) (with title amendment)**

Delete lines 19 - 69  
and insert:

Section 1. Subsection (4) is added to section 402.88,  
Florida Statutes, as created by SB 1040 or similar legislation,  
to read:

402.88 Special Persons Registry in interactions with law  
enforcement; public records exemption.-



569488

11           (4) (a) All records, data, information, correspondence, and  
12 communications relating to the enrollment of persons as provided  
13 in subsection (1) and such information included in any locally  
14 maintained registry that is substantially similar to the  
15 registry in subsections (1) and (2) are confidential and exempt  
16 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
17 and may not be disclosed except, upon request, to a law  
18 enforcement agency, a county emergency management agency, or a  
19 local fire department, or as otherwise specifically authorized  
20 by this section.

21           (b) A law enforcement agency, county emergency management  
22 agency, or local fire department in possession of materials  
23 described in paragraph (a) may further disclose information  
24 contained in such materials to others not specifically listed  
25 only as follows:

26           1. With the express written consent of the registry  
27 enrollee or the legally authorized representative of such  
28 enrollee;

29           2. In a medical emergency;

30           3. By court order upon a finding of good cause;

31           4. To another governmental agency in the performance of its  
32 duties and responsibilities; or

33           5. In the interest of public safety, to assist in locating  
34 the enrollee, or to promote the safety or well-being of the  
35 enrollee, as determined by the law enforcement agency.

36           (c) This subsection is subject to the Open Government  
37 Sunset Review Act in accordance with s. 119.15 and shall stand  
38 repealed on October 2, 2027, unless reviewed and saved from  
39 repeal through reenactment by the Legislature.



569488

40           Section 2. The Legislature finds that it is a public  
41 necessity to make all records, data, information,  
42 correspondence, and communications relating to the enrollment of  
43 persons in the Special Persons Registry under s. 402.88, Florida  
44 Statutes, confidential and exempt from s. 119.07(1), Florida  
45 Statutes, and s. 24(a), Article I of the State Constitution.  
46 Such records would likely include confidential medical  
47 information and sensitive personal information about the persons  
48 listed in the registry. The potential disclosure of such  
49 information would deter persons from being enrolled in the  
50 registry, which would then deprive law enforcement officers of  
51 information that would better enable them to interact with such  
52 persons in safe and appropriate ways.

53           Section 3. The exemption created in s. 402.88(4), Florida  
54 Statutes, applies retroactively to such confidential and exempt  
55 information held by a law enforcement agency, a county emergency  
56 management agency, or a local fire department before, on, or  
57 after the

58  
59 ===== T I T L E   A M E N D M E N T =====

60 And the title is amended as follows:

61           Delete line 14

62 and insert:

63           necessity; providing applicability;

**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

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BILL: PCS/CS/SB 1042 (873190)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Brodeur

SUBJECT: Public Records/Special Persons Registry

DATE: February 24, 2022      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>Money</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 1042 creates an exemption from the public records requirements of section 119.07(1), Florida Statutes, and section 24(a), Art. I of the State Constitution for the following information relating to the enrollment of individuals on the Special Needs Registry (SNR) created by SB 1040:

- Records;
- Data;
- Information;
- Correspondence; and
- Communications.

The bill also applies the exemption to any locally maintained registry that is substantially similar to the SNR. The bill specifies that such information may not be disclosed except, upon request, to:

- A law enforcement agency;
- A county emergency management agency;
- A local fire department; or
- As otherwise specifically authorized by the bill.

The bill provides for an Open Government Sunset review and contains a statement of public necessity as required by the State Constitution.

The bill also applies the exemption retroactively to confidential and exempt information held by one of the agency entities listed above before, on, or after the effective date of the act.

The bill is not expected to have a fiscal impact. See Section V. Fiscal Impact Statement.

The bill provides that the act shall take effect on the same date that SB 1040 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law. CS/CS/SB 1040 has an effective date of January 1, 2023.

## II. Present Situation:

### Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

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<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

## Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>16</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if

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<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.



the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

## Autism

Autism is a pervasive, neurologically-based developmental disability of extended duration that has onset during infancy or childhood, which causes severe learning, communication, and behavioral disorders.<sup>27</sup> Autism spectrum disorder (ASD) includes autism, Asperger's syndrome, and any other pervasive developmental disorder.<sup>28</sup> The Centers for Disease Control and Prevention (CDC) estimates that approximately one in 44 children has ASD.<sup>29</sup> The CDC also estimates that over 5.4 million adults have ASD.<sup>30</sup>

### *Interactions with Law Enforcement for Individuals with Autism*

A person's developmental disability may make interactions with law enforcement more challenging. For example, identifying a person with an ASD can be confusing to any person unfamiliar with the condition, including law enforcement. Law enforcement can mistake the signs of autism with behaviors typically associated with those of criminals.<sup>31</sup> Common attributes of autism are communication differences and behaviors or thinking that are repetitive or restricted to an area of interest. These traits could be interpreted by law enforcement as not being compliant with questioning or direct instructions. A characteristic of ASD known as escalation poses a particular problem in encounters with law enforcement.<sup>32</sup> Escalation describes the response of a person with ASD under stress or in an unfamiliar situation.<sup>33</sup> Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, become combative, or simply shut down.<sup>34</sup> The individual may cover his or her ears and shriek, not knowing how or where to get help.<sup>35</sup> The presence of police lights and sirens, uniforms, loud and unfamiliar voices, or barking dogs often makes a difficult situation worse by contributing to the individual's sensory overload.<sup>36</sup>

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<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> Section 393.063(5), F.S.

<sup>28</sup> Section 627.6686(2)(b), F.S.

<sup>29</sup> The Centers for Disease Control and Prevention (The CDC), *Data & Statistics on Autism Spectrum Disorder*, available at <https://www.cdc.gov/ncbddd/autism/data.html> (last visited February 3, 2022).

<sup>30</sup> The CDC, *Key Findings: CDC Releases First Estimates of the Number of Adults Living with Autism Spectrum Disorder in the United States*, available at <https://www.cdc.gov/ncbddd/autism/features/adults-living-with-autism-spectrum-disorder.html> (last visited February 3, 2022).

<sup>31</sup> Randy Lambert "How Changing the Wes Kleinert Fair Interview Act and Establishing Law Enforcement Academy Training Standards Will Help the Autism Community," *Child and Family Law Journal*, p. 48 (2018), available at <https://lawpublications.barry.edu/cflj/vol6/iss1/3> (last visited February 3, 2022).

<sup>32</sup> Bernard J. Farber, *Police Interaction With Autistic Persons: The Need For Training*, *AeL Monthly Law Journal*, p. 106 (2009), available at <https://www.aele.org/law/2009all07/2009-07MLJ101.pdf> (last visited February 3, 2022).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

## Alzheimer's Disease

Alzheimer's disease is a form of dementia, a general term for memory loss. It is a progressive brain disorder that damages and eventually destroys brain cells, leading to memory loss and changes in the functions of the brain. In the early stages of Alzheimer's disease, memory loss is mild; in late-stages, individuals lose the ability to carry on a conversation and respond to their environment. Currently, the disease has no cure, but treatment can temporarily slow the worsening of symptoms.<sup>37</sup>

Florida has an increasing number of individuals with Alzheimer's disease. An estimated 580,000 Floridians have Alzheimer's disease.<sup>38</sup> The projected number of Floridians with Alzheimer's disease is estimated to increase by 24% to 720,000 individuals by 2025.<sup>39</sup>

### *Interactions with Law Enforcement for Individuals with Alzheimer's and Dementia*

Many behaviors associated with Alzheimer's disease and dementia tend to increase a person's chance of interacting with law enforcement. Because these individuals are often unable to explain their unusual behavior, their actions are more easily misunderstood.<sup>40</sup> Common instances that can cause someone with Alzheimer's disease to interact with law enforcement include wandering, auto accidents, erratic driving, accidental breaking and entering due to confusion, and unintentional shoplifting.<sup>41</sup>

### Voluntary Registry Systems

Law enforcement agencies nationwide have begun utilizing voluntary registry systems that provide officers with relevant information on individuals with special needs, including those with Alzheimer's disease.<sup>42</sup> Law enforcement agencies have found that such registries can:

- Promote community safety;
- Improve officer safety;
- Increase the speed and efficiency in which officers are able to respond, decreasing department liability;
- Reduce strain on department resources (human and financial) during emergencies;
- Give community members peace of mind; and
- Promote community partnerships in responding to special needs community members.<sup>43</sup>

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<sup>37</sup> Alzheimer's Association, *2021 Alzheimer's Disease Facts and Figures*, available at

<https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf> (last visited February 3, 2022).

<sup>38</sup> The Department of Elder Affairs, *2021 Alzheimer's Disease Advisory Committee Annual Report*, p. 4, available at [https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021\\_FINAL.pdf](https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021_FINAL.pdf) (last visited February 3, 2022).

<sup>39</sup> *Id.*

<sup>40</sup> Alzheimer's Association, *Alzheimer's Disease Guide for Law Enforcement*, available at

[https://www.alz.org/national/documents/safereturn\\_lawenforcement.pdf](https://www.alz.org/national/documents/safereturn_lawenforcement.pdf) (last visited February 3, 2022).

<sup>41</sup> *Id.*

<sup>42</sup> The International Association of Chiefs of Police (IACP), *A Guide to Law Enforcement on Voluntary Registry Programs for Vulnerable Populations*, p. 2, available at

[https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry\\_0.pdf](https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry_0.pdf) (last visited February 3, 2022) (hereinafter cited as "The IACP Guide").

<sup>43</sup> *Id.*

Voluntary registry systems allow law enforcement to obtain information that assists in response to calls for service involving individuals with conditions such as Alzheimer's disease.<sup>44</sup>

Voluntary registry systems have also proven helpful in responding to individuals in other special needs populations. Departments utilize the system for community members living with ASD, developmental disabilities, attention deficit/ hyperactivity disorder (ADHD), epilepsy, brain injury, mental illness, and other disabilities that may affect the way individuals interact and respond to law enforcement officers and other first responders.<sup>45</sup>

### ***Confidentiality of Information***

Voluntary registry systems generally contain large amounts of personal and sensitive information. Confidentiality concerns, coupled with a general fear of law enforcement prevalent in some communities, could hinder community willingness to participate in voluntary registry programs.<sup>46</sup> Some community members may be hesitant to participate due to fear exploitation of registry data.<sup>47</sup> Others fear that registry information collected may be used to violate the rights of special needs individuals by inappropriately releasing the information to outside parties and entities.<sup>48</sup>

Some agencies utilizing voluntary registry systems use disclaimers, waivers, or releases on voluntary registry systems' registration forms or questionnaires to notify registrants that providing data is voluntary and to ensure that registrants and their caregivers know that information will be used solely for the purpose of assisting first responders in providing service.<sup>49</sup> Other individuals have also expressed concerns regarding Health Insurance Portability and Accountability Act (HIPAA) compliance of registry information collection and storage.<sup>50</sup>

### **III. Effect of Proposed Changes:**

The bill amends the proposed s. 402.88, F.S., which would be created by SB 1040. The bill creates an exemption from the public records requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution for the following information relating to the enrollment of individuals on the Special Needs Registry (SNR) created by SB 1040:

- Records;
- Data;
- Information;
- Correspondence; and
- Communications.

The bill also applies the exemption to any locally maintained registry that is substantially similar to the SNR. The bill specifies that such information may not be disclosed except, upon request, to:

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 3.

<sup>46</sup> The IACP Guide at 21.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

- A law enforcement agency;
- A county emergency management agency;
- A local fire department.

Any of the above-listed agency entities are permitted to disclose information otherwise deemed confidential and exempt by the bill to others not specifically listed only under the following circumstances:

- With the express written consent of the registry enrollee or the legally authorized representative of such enrollee;
- In a medical emergency;
- By court order upon a finding of good cause;
- To another governmental agency when needed for the performance of its duties and responsibilities; or
- In the interest of public safety, to;
  - Assist in locating the enrollee; or
  - Promote the safety or well-being of the enrollee, as determined by the law enforcement agency.

The bill includes a public necessity statement, specifying the need to make all records, data, information, correspondence, and communications relating the enrollment of persons in the SNR confidential and exempt from Florida's public records laws. The bill provides that such records are likely to include confidential medical information and sensitive personal information of individuals on the SNR. The bill states that the potential disclosure of such information will deter enrollment, thereby depriving law enforcement of information which would enable them to interact with those eligible for enrollment in safe and appropriate ways.

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2027, unless reviewed and saved from repeal by the Legislature.

The bill also applies the exemption retroactively to confidential and exempt information held by one of the agency entities listed above before, on, or after the effective date of the act.

The bill provides that the act shall take effect on the same date that SB 1040 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

CS/CS/SB 1040 has an effective date of January 1, 2023.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records, data, information, correspondence, and communication relating to the enrollment of individuals on the SNR. Thus, the bill requires a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect sensitive personal information, and confidential medical information, of individuals enrolled in the SNR. This bill exempts only such information from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not appear to give the APD the option or ability to request information from any other agencies who have information as contemplated in SB 1040.<sup>51</sup>

VIII. Statutes Affected:

This bill substantially amends section 402.88 of the Florida Statutes, if created by SB 1040.

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 February 22, 2022:**

The committee substitute conforms the public records exemption to the changes made by CS/CS/SB 1040. The committee substitute also clarifies that the public records exemption applies retroactively to all confidential information held by a law enforcement agency, a county emergency management agency, or a local fire department *before, on, or after* the effective date of the bill, rather than just before the effective date of the bill.

**CS by Children, Families, and Elder Affairs on February 8, 2022:**

The Committee Substitute:

- Changes references to the voluntary registry from “Registry of Persons with Special Needs” to the “Special Needs Registry”.

B. Amendments:

None.

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

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<sup>51</sup> The APD, *Agency Analysis of HB 735*, p. 2. (on file with the Senate Children, Families, and Elder Affairs Committee).

By the Committee on Children, Families, and Elder Affairs; and  
Senator Book

586-02287-22

20221452c1

1 A bill to be entitled  
2 An act relating to funding for sheriffs providing  
3 child protective investigative services; amending s.  
4 39.3065, F.S.; authorizing sheriffs who provide child  
5 protective investigative services to carry forward a  
6 certain percentage of unexpended state funds each  
7 fiscal year; requiring certain funds to be returned to  
8 the Department of Children and Families; prohibiting  
9 funds carried forward from being used in certain ways;  
10 requiring that certain expenditures be reported to the  
11 department; authorizing unexpended funds to be  
12 retained through contract or grant agreement renewals  
13 under certain circumstances; providing an effective  
14 date.  
15  
16 Be It Enacted by the Legislature of the State of Florida:  
17  
18 Section 1. Paragraph (c) of subsection (3) of section  
19 39.3065, Florida Statutes, is amended to read:  
20 39.3065 Sheriffs of certain counties to provide child  
21 protective investigative services; procedures; funding.-  
22 (3)  
23 (c) Funds for providing child protective investigations  
24 must be identified in the annual appropriation made to the  
25 department, which shall award grants for the full amount  
26 identified to the respective sheriffs' offices. Notwithstanding  
27 ss. 216.181(16)(b) and 216.351, the department may advance  
28 payments to the sheriffs for child protective investigations. A  
29 sheriff may carry forward documented unexpended state funds from

Page 1 of 2

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

586-02287-22

20221452c1

30 one fiscal year to the next. However, the cumulative amount of  
31 state funds carried forward may not exceed 8 percent of each  
32 sheriff's office total contract amount or grant agreement  
33 amount. Any unexpended state funds in excess of that amount and  
34 all unexpended federal funds must be returned to the department.  
35 The funds carried forward may not be used to create increased  
36 recurring future obligations or for any type of program or  
37 service that is not currently authorized by the existing  
38 contract or grant agreement with the department. The expenditure  
39 of funds carried forward must be separately reported to the  
40 department. Funds carried forward may be retained through a  
41 contract or grant agreement renewal and any new procurements as  
42 long as the same sheriff's office is retained by the department.  
43 All unexpended funds at the expiration of the contract or grant  
44 agreement must be returned to the department. Funds for the  
45 child protective investigations may not be integrated into the  
46 sheriffs' regular budgets. Budgetary data and other data  
47 relating to the performance of child protective investigations  
48 must be maintained separately from all other records of the  
49 sheriffs' offices and reported to the department as specified in  
50 the grant agreement.  
51 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** January 25, 2022

---

I respectfully request that **Senate Bill 1452**, relating to Funding for the Sheriffs Providing Child Protective Investigative Services, be placed on the:

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

Thank you for your consideration.

A handwritten signature in cursive script that reads "Lauren Book".

---

Minority Leader Lauren Book  
Florida Senate, District 32



The Florida Senate

APPEARANCE RECORD

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

Tab 6

2/22/2022

1452

Meeting Date

Bill Number or Topic

HHS Approps

Committee

Amendment Barcode (if applicable)

Name Robby Holroyd

Phone 954-803-0231

Address 205 S Adams St.

Email REH@trippscott.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Broward Sheriff's Office

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

---

BILL: CS/SB 1452

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

SUBJECT: Funding for Sheriffs Providing Child Protective Investigative Services

DATE: February 21, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<u>Recommend: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1452 authorizes a sheriff's office who contracts with the Department of Children and Families (DCF) to carry forward documented unexpended state funds from one fiscal year to the next, but the cumulative amount carried forward is capped at eight percent of the total contract amount or grant agreement amount. Any unexpended state funds in excess of the eight percent cap and all unexpended federal funds must be returned to the DCF.

The funds carried forward:

- May not be used to create increased recurring future obligations;
- May not be used for any type of program or service that is not currently authorized by the existing contract or grant agreement with the DCF; and
- May be retained through a contract or grant agreement renewal and any new procurements as long as the same sheriff's office is retained by the DCF.

All unexpended funds at the expiration of the contract or grant agreement must be returned to the DCF.

The bill is expected to have an insignificant negative fiscal impact on state expenditures. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2022.

## II. Present Situation:

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).<sup>1</sup> A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,<sup>2</sup> abandonment,<sup>3</sup> or neglect.<sup>4</sup> A child protective investigator (CPI) investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.<sup>5</sup>

Between October 1, 2020 and September 31, 2021, a total of 168,582 child protective investigations were conducted and 99.5 percent of these investigations were commenced within 24 hours of receiving the abuse report.<sup>6</sup> Of the investigations closed within the same period, a total of 240,694 alleged victims were seen with over 93 percent seen within 24 hours of the hotline intake decision date and time.<sup>7</sup>

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>8</sup>

---

<sup>1</sup> Section 39.201(1), F.S.

<sup>2</sup> Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>3</sup> Section 39.01(1), F.S. The term “abandoned” or “abandonment” 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.

<sup>4</sup> Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

<sup>5</sup> Section 39.101(2), F.S.

<sup>6</sup> The DCF, *Office of Child Welfare Dashboard*, January 10, 2022, available at [Child Welfare - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited Jan. 21, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> *See s. 39.01(14)*, F.S., for the definition of “child who is found to be dependent”.

### **Child Protective Investigators (CPIs)**

The DCF employs CPIs who must meet minimum qualifications, including, but not limited to, a bachelor's degree, and certification and training requirements.<sup>9</sup> A CPI has certain responsibilities, including, in part:

- Conducting investigations relating to allegations of abuse, abandonment, and/or special conditions for children;
- Working closely with law enforcement;
- Collecting information through observation and interviews with certain persons, including the children and parents;
- Engaging families to understand the family dynamics;
- Assessing danger threats, child vulnerabilities and caregiver protective capacities;
- Developing present and/or impending danger plans;
- Managing and modifying safety plans as necessary during the investigation;
- Arranging emergency placement for any child that cannot safely remain in the home;
- Notifying the state attorney, law enforcement, child protection team and other required individuals as appropriate;
- Providing written present and impending danger assessments;
- Completing Risk Assessment on families investigated and explaining risk score to family;
- Conducting staffing's required for families with risk scores that are High and Very High Risk;
- Providing families with services linkages to agency and community resources;
- Conducting initial/ongoing child present and impending danger assessments; and
- Developing with the family a signed Present Danger Plan and a signed safety plan.<sup>10</sup>

CPIs are required to work nights and weekends to perform their responsibilities and timely complete their assigned investigations.<sup>11</sup>

### **Contracts with Sheriffs' Offices**

Following a pilot program with the Manatee County Sheriff's Office, the DCF contracted with the sheriffs of Pasco County, Manatee County, Broward County, and Pinellas County to provide all child protective investigation services in their respective counties beginning in fiscal year 1999-2000.<sup>12</sup> The following year, the DCF was authorized to enter into grant agreements with sheriffs of other counties to perform child protective investigations in those counties.<sup>13</sup>

The sheriffs of other counties who enter into an agreement with the DCF must:

- Adopt the child welfare model that is used by CPIs who are employed by the DCF;<sup>14</sup>

---

<sup>9</sup> The DCF, *Child Protective Investigator*, available at [Child Protective Investigator, Employment Opportunities - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited Jan. 21, 2022).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Section 39.3065(3)(a), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

- Operate in accordance with the performance standards and outcome measures required for protective investigations that are conducted by the DCF;<sup>15</sup>
- Operate in compliance with federal performance standards and metrics<sup>16</sup> that are imposed by federal law, regulation, or funding requirements;
- Operate in accordance with the same child welfare practice model principals used by, and the same state performance standards and metrics that are imposed on, child protective investigators employed by the DCF.<sup>17</sup>

Each CPI who is employed by the sheriff must complete the same mandatory training that is required of CPIs who are employed by the DCF.<sup>18</sup>

The DCF and all contracted sheriffs, or his or her designee, must meet at least quarterly to collaborate on federal and state quality assurance and quality improvement initiatives.<sup>19</sup> The DCF must conduct an annual performance evaluation of all sheriffs providing services pursuant to a grant agreement.<sup>20</sup> Current law sets out criteria and standards that must be applied when the DCF is conducting the annual evaluations.<sup>21</sup>

### ***Sheriff Funding for CPI Contracts***

Funds for providing child protective investigations must be identified in the annual appropriations made to the DCF, and the DCF must award grants for the full amount of the appropriations to the sheriffs' offices. The DCF is allowed to make advance payments to the sheriffs for conducting child protective investigations. Funds provided to sheriffs' offices for investigations may not be integrated into the sheriffs' regular budgets, and must be maintained separately from all other records. The sheriffs' offices must be reported to the DCF as set out in the grant agreement.<sup>22</sup>

The sheriffs' offices total contact amount for child protective investigative services is \$57.7 million<sup>23</sup> and eight percent of that total is \$4.6 million. Over the past three years the sheriffs' offices have on average returned \$1.1 million per year to the DCF.

There is no provision under current law which allows sheriffs' offices to carry forward any unexpended funds. Below is a table that summarizes the amounts of unexpended funds each sheriffs' office returned to the DCF in the past three years.

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<sup>15</sup> Section 39.3065(3)(b)1., F.S. The DCF is required to comply with child protection and child welfare outcomes, such as children are first and foremost protected from abuse and neglect; children are safely maintained in their homes, if possible and appropriate; services are provided to protect children and prevent removal from their home; and children have permanency and stability in their living arrangements.

<sup>16</sup> Examples of some of the metrics are noted above, such as commencing the investigation and seeing the alleged victim within 24 hours.

<sup>17</sup> Section 39.3065(3)(b), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 39.3065(3)(d), F.S.

<sup>20</sup> Section 39.3062(3)(e), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 39.3065(3)(c), F.S.

<sup>23</sup> Chapter 2021-36, Laws of Fla. (SB 2500), Specific Appropriation 311.

**UNEXPENDED FUNDS RETURNED BY SHERIFFS' OFFICES**

Sheriff	CPI Services	Regular Training	Title IV-E Training	Vehicle usage/ Mileage reimbursement/ Miscellaneous	Total
<b>FISCAL YEAR 2020-21</b>					
Broward	\$937,741	\$1,605	\$92,596	-	\$1,031,942
Hillsborough	\$133,905	\$350	\$18,495	-	\$152,750
Manatee	-	-	-	-	-
Pasco	\$3,928	-	-	\$17,811	\$21,739
Pinellas	-	-	-	-	-
Seminole	-	-	-	-	-
Walton	-	-	-	-	-
<b>FY 2020-21 Total</b>	<b>\$1,075,574</b>	<b>\$1,955</b>	<b>\$111,091</b>	<b>\$17,811</b>	<b>\$1,206,431</b>
<b>FISCAL YEAR 2019-20</b>					
Broward	\$355,796	\$353	\$1,608	-	\$357,757
Hillsborough	\$230,501	\$4,688	\$68,124	\$13,352	\$316,665
Manatee	-	-	-	-	-
Pasco	\$3,100	-	-	\$14,675	\$17,775
Pinellas	-	-	-	-	-
Seminole	-	-	\$16,238	-	\$16,238
Walton	-	\$16,725	(\$692)	-	\$16,033
<b>FY 2019-20 Total</b>	<b>\$589,397</b>	<b>\$21,766</b>	<b>\$85,278</b>	<b>\$28,027</b>	<b>\$724,468</b>
<b>FISCAL YEAR 2018-19</b>					
Broward	\$844,566	-	\$13,478	-	\$858,044
Hillsborough	\$139,025	-	\$231,375	\$928	\$371,328
Manatee	-	-	-	-	-
Pasco	-	-	-	\$15,091	\$15,091
Pinellas	-	-	\$82,489	-	\$82,489
Seminole	-	-	\$62,974	-	\$62,974
Walton	-	\$7,734	\$17,333	-	\$25,067
<b>FY 2018-19 Total</b>	<b>\$983,591</b>	<b>\$7,734</b>	<b>\$407,649</b>	<b>\$16,019</b>	<b>\$1,414,993</b>

**Community-Based Care Lead Agency Funding**

Community-based care lead agencies (lead agencies) are responsible for providing services to children who have been abused, neglected or abandoned and are involved in Florida's child welfare system.<sup>24</sup> Section 409.990, F.S., provides for the funding of these lead agencies to perform such duties and, in part, authorizes a lead agency to carry forward unexpended state

<sup>24</sup> See the DCF, *Community-Based Care*, available at [Community Based Care - Florida Department of Children and Families \(myflfamilies.com\)](http://myflfamilies.com) (last visited January 23, 2022).

funds from one fiscal year to the next, but the cumulative amount carried forward must not exceed eight percent of the total contract with the DCF. Any excess funds must be returned to the DCF.<sup>25</sup>

The funds that are carried forward may not be used to increase recurring future obligations, and may not be used for any program or services that are not authorized under the contract with the DCF. Expenditures of funds carried forward must be separately reported to the DCF. Any funds at the end of a contract period must be returned, but funds carried forward may be retained through any contract renewal provided the same lead agency is contracted with the DCF.<sup>26</sup>

### **III. Effect of Proposed Changes:**

The bill provides that a sheriff who is contracted with the DCF to provide child protective services may carry forward documented, unexpended state funds from one fiscal year to the next. However, the cumulative amount carried forward may not exceed eight percent of each sheriff's office total contract or grant agreement amount. Any unexpended state funds in excess of that amount and all federal funds must be returned to the DCF.

The funds that are carried forward may not be used to create increased recurring future obligations or for any program or service that is not currently authorized by the existing contract or grant agreement with the DCF. The funds carried forward must be separately reported to the DCF. Funds carried forward may be retained through a contract or grant agreement renewal and any new procurements as long as the same sheriff's office is retained by the DCF. All unexpended funds at the expiration of the contract or grant agreement must be returned to the DCF.

The bill takes effect on July 1, 2022

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>25</sup> Section 409.990(5), F.S.

<sup>26</sup> *Id.*

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1452 allows the sheriffs’ offices that contract with the DCF for the provision of child protective investigations to carry forward documented, unexpended funds from one fiscal year to the next. However, the bill caps the amount of carry forward at eight percent of the sheriff’s annual contract amount. Any unexpended funds in excess of eight percent must be returned to the DCF. Currently, the sheriffs’ offices are required to return all unexpended funds to the DCF. The ability to retain a portion of the unexpended funds may affect the DCF’s reversions to the General Revenue Fund. The sheriffs’ offices contacts for fiscal year 2021-2022 total \$57.7 million<sup>27</sup> and eight percent of that total is \$4.6 million. Over the past three years, the sheriffs’ offices have on average returned \$1.1 million per year to the DCF.

	<b>Annual Contract Amount</b>	<b>8% of Annual Contract Amount</b>	<b>3-Year Average Reversion</b>
<b>Broward</b>	\$15,201,864	\$1,216,149	\$749,248
<b>Hillsborough</b>	\$13,738,700	\$1,099,096	\$280,248
<b>Manatee</b>	\$4,855,360	\$388,429	\$0
<b>Pasco</b>	\$6,466,825	\$517,346	\$18,202
<b>Pinellas</b>	\$11,915,854	\$953,268	\$27,496
<b>Seminole</b>	\$4,633,803	\$370,704	\$26,404
<b>Walton</b>	\$860,607	\$68,849	\$13,700
<b>Total</b>	<b>\$57,673,013</b>	<b>\$4,613,841</b>	<b>\$1,115,297</b>

<sup>27</sup> Chapter 2021-36, Laws of Fla. (SB 2500), Specific Appropriation 311.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 39.3065 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

**CS by Children, Families, and Elder Affairs on January 25, 2022:**

The committee substitute:

- Clarifies the amount that may be carried forward applies to each sheriff's office, instead of the cumulative amount of all sheriffs' offices;
- Specifies that the amount of unexpended funds that may be carried forward must be state funds; and
- Clarifies that the unexpended funds which must be returned to the DCF are any unexpended state funds in excess of 8 percent of each sheriff's office total contract or grant agreement amount, and all unexpended federal funds.

**B. Amendments:**

None.

By Senator Garcia

37-00999B-22

20221598\_\_

1 A bill to be entitled  
 2 An act relating to the Domestic Violence Task Force;  
 3 creating s. 39.909, F.S.; creating the Domestic  
 4 Violence Task Force adjunct to the Department of  
 5 Children and Families; requiring the department to  
 6 provide certain services to the task force; providing  
 7 purposes of the task force; specifying the composition  
 8 of the task force; providing for the appointment of  
 9 task force members and requirements for meetings;  
 10 specifying duties of the task force; requiring state  
 11 departments and agencies to provide requested  
 12 assistance to the task force; requiring the task force  
 13 to submit reports to the Governor and the Legislature  
 14 by certain dates; providing for dissolution of the  
 15 task force; providing for future repeal, unless saved  
 16 by the Legislature through reenactment; providing an  
 17 effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

20  
 21 Section 1. Section 39.909, Florida Statutes, is created to  
 22 read:

23 39.909 Domestic Violence Task Force.—

24 (1) CREATION.—The Domestic Violence Task Force, a task  
 25 force as defined in s. 20.03(8), is created adjunct to the  
 26 department. The department shall provide administrative and  
 27 support staff services relating to the functions of the task  
 28 force.

29 (2) PURPOSES.—The purposes of the task force are to

Page 1 of 5

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

37-00999B-22

20221598\_\_

30 evaluate the child welfare system in relation to domestic  
 31 violence investigations and cases in this state, to consider  
 32 proposed legislation, and to make recommended changes to  
 33 existing laws, rules, and policies.  
 34 (3) MEMBERSHIP; APPOINTMENT; MEETINGS.—  
 35 (a) The task force shall be composed of the following  
 36 members:  
 37 1. The Secretary of Children and Families or the  
 38 secretary's designee, who shall serve as chair;  
 39 2. The president of the Florida Partnership to End Domestic  
 40 Violence or the president's designee;  
 41 3. A representative of domestic violence courts, appointed  
 42 by the Governor;  
 43 4. A domestic violence victim, appointed by the President  
 44 of the Senate;  
 45 5. A representative of a certified domestic violence  
 46 center, appointed by the Speaker of the House of  
 47 Representatives;  
 48 6. A representative of a certified batterers' intervention  
 49 program, appointed by the Governor;  
 50 7. A child protective investigator from the department,  
 51 appointed by the President of the Senate;  
 52 8. A representative from a county sheriff's office  
 53 protective investigation team, appointed by the Speaker of the  
 54 House of Representatives;  
 55 9. A representative from the field of law enforcement,  
 56 appointed by the Governor;  
 57 10. A chief executive officer of a community-based care  
 58 lead agency, appointed by the President of the Senate; and

Page 2 of 5

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

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59 11. A licensed therapist who specializes in treating  
 60 victims of domestic violence, appointed by the Speaker of the  
 61 House of Representatives.

62 (b) Appointments to the task force must be made by August  
 63 1, 2022. Members shall be appointed to serve at the pleasure of  
 64 the appointing authority. A vacancy on the task force must be  
 65 filled in the same manner as the original appointment.

66 (c) The task force shall convene for its first meeting by  
 67 no later than September 1, 2022. The task force shall meet  
 68 quarterly or upon the call of the chair and hold its meetings by  
 69 teleconference or other electronic means.

70 (4) DUTIES.—

71 (a) The duties of the Domestic Violence Task Force shall  
 72 include all of the following:

73 1. Examining the effectiveness of current operations and  
 74 treatment in batterers' intervention programs, the consistency  
 75 in enforcement of laws, and the level of accountability of  
 76 agencies and providers that conduct protective investigations  
 77 and that are responsible for handling dependency cases for  
 78 domestic violence incidents.

79 2. Eliciting feedback and seeking input from stakeholders  
 80 who are responsible for domestic violence investigations and  
 81 cases in the child welfare system regarding necessary policy or  
 82 rule changes.

83 3. Developing best practices, policies, and procedures  
 84 relating to domestic abuse reports and delivery of services to  
 85 the victims and perpetrators of domestic violence acts, and  
 86 addressing the specific challenges when such incidents involve  
 87 children.

37-00999B-22

20221598\_\_

88 4. Developing updated protocols, as necessary, to ensure  
 89 that policies and procedures relating to domestic violence abuse  
 90 reports, dependency cases, and termination of parental rights  
 91 cases are consistently enforced.

92 5. Developing policies relating to the roles of the  
 93 department and the Florida Partnership to End Domestic Violence  
 94 with respect to domestic violence incidents, including, but not  
 95 limited to, such incidents that involve children. Such policies  
 96 must evaluate their oversight of domestic violence services with  
 97 a goal of optimizing accountability.

98 6. Evaluating the appropriateness of establishing a  
 99 diversion program model for victims of domestic violence who  
 100 become subject to dependency proceedings related to children in  
 101 their custody as a result of such domestic violence, which  
 102 allows for judicial oversight if certain criteria are met but  
 103 which permits the dependency petition to be dismissed without  
 104 prejudice if the victim completes narrowly tailored services  
 105 related to intimate partner violence which are deemed necessary  
 106 to keep the child safe.

107 7. Determining the need for updated definitions and  
 108 corresponding provisions applicable to domestic violence abuse  
 109 reports and dependency cases, such as "failure to protect" and  
 110 "intimate partner violence."

111 8. Determining when a domestic violence victim's failure to  
 112 protect his or her child may be used as a basis to file a  
 113 shelter petition.

114 9. Evaluating steps needed, as appropriate, to ensure  
 115 proper implementation of and adherence to, as appropriate, the  
 116 Safe and Together model that has been used in this state.

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117 10. Determining what steps should be taken during a  
118 domestic violence investigation to ensure a nonoffending or  
119 victim parent is aware of the option to seek an injunction and  
120 request to remain in the home with the child, if appropriate.

121 (b) The task force may call upon appropriate departments  
122 and agencies of state government for such professional  
123 assistance as may be needed in the discharge of its duties, and  
124 such departments and agencies shall provide such assistance in a  
125 timely manner.

126 (5) REPORTS.—By March 1, 2023, the task force shall submit  
127 an interim report to the Governor, the President of the Senate,  
128 and the Speaker of the House of Representatives which contains  
129 its findings and recommendations on best practices, policies,  
130 and procedures relating to domestic abuse reports and cases  
131 involving children, as well as proposed changes to current  
132 legislation to implement the task force's recommendations. The  
133 task force shall submit its final report to the Governor, the  
134 President of the Senate, and the Speaker of the House of  
135 Representatives by September 1, 2023. The task force is  
136 dissolved upon submission of the final report.

137 (6) REPEAL.—This section is repealed September 1, 2024,  
138 unless saved from repeal through reenactment by the Legislature.

139 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

## Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Appropriations Subcommittee on Health and Human Services

**Subject:** Committee Agenda Request

**Date:** February 3, 2022

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I respectfully request that **Senate Bill 1598**, relating to Domestic Violence Task Force, be placed on the:

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

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

Senator Ileana Garcia  
Florida Senate, District 37

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: SB 1598

INTRODUCER: Senator Garcia

SUBJECT: Domestic Violence Task Force

DATE: February 21, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Cox</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1598 creates a Domestic Violence Task Force (Task Force) adjunct to the Department of Children and Families (DCF). The department is required to provide administrative and support staff services to the Task Force.

The bill sets out the purposes of the Task Force which are to:

- Evaluate the child welfare system in relation to domestic violence investigations and cases in Florida;
- Consider proposed legislation; and
- Make recommendations to change existing laws, rules and policies.

The Task Force consists of 11 members, including the Secretary of the Department of Children and Families and the president of the Florida Partnership to End Domestic Violence and nine other individuals appointed by the Governor or the legislature.

The Task Force is required to hold its first meeting by September 1, 2022, and conduct quarterly meetings thereafter via teleconference or other electronic means. The Task Force may call upon state agencies for assistance in the discharge of its duties.

The Task Force must submit a final report on its findings and recommendations by September 1, 2023. Upon submission of the final report, the Task Force is dissolved and the corresponding statute that created it is repealed.

This bill will likely have an insignificant fiscal impact on state government.

The bill takes effect July 1, 2022.

## II. Present Situation:

Domestic violence continues to be a widespread issue throughout the United States<sup>1</sup> and worldwide.<sup>2</sup> Domestic violence is a pattern of behavior, violence, or threats of violence that a person uses to gain power and control over a current or former intimate partner.<sup>3</sup>

Under Florida law, the term “domestic violence” means any assault,<sup>4</sup> aggravated assault,<sup>5</sup> battery,<sup>6</sup> aggravated battery,<sup>7</sup> sexual assault, sexual battery,<sup>8</sup> stalking,<sup>9</sup> aggravated stalking,<sup>10</sup> kidnapping,<sup>11</sup> false imprisonment,<sup>12</sup> or any criminal offense resulting in physical injury or death of one family or household member by another family member or household member.<sup>13</sup> A family

<sup>1</sup> National Conference of State Legislatures (NCSL), *Domestic Violence/Domestic Abuse Definitions and Relationships*, June 13, 2019, available at [Domestic Violence/Domestic Abuse Definitions and Relationships \(ncsl.org\)](https://www.ncsl.org/legislative-policy-research/domestic-violence-domestic-abuse-definitions-and-relationships) (last visited Jan. 20, 2022) (hereinafter cited as “NCSL DV”).

<sup>2</sup> Khan, N. *What Are the Effects of Domestic Violence on the Family and Children*, Better Help, November 11, 2021, available at [Domestic Violence - What Are The Effects Of Domestic Violence On Children? | BetterHelp](https://www.betterhelp.com/blog/2021/11/11/what-are-the-effects-of-domestic-violence-on-children/) (last visited Jan. 20, 2022).

<sup>3</sup> Florida Coalition Against Domestic Violence, *Leading Florida Higher, Lifting Survivors Upward, Florida’s Commitment to Ending Domestic Violence and Saving Lives*, p. 3, available at <https://www.myflfamilies.com/service-programs/domestic-violence/docs/2019%20Annual%20%20Report.pdf> (last visited Jan. 20, 2022).

<sup>4</sup> Section 784.011(1), F.S., defines “assault” as intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

<sup>5</sup> Section 784.021(1), F.S., defines “aggravated assault” as an assault with a deadly weapon without the intent to kill; or with an intent to commit a felony.

<sup>6</sup> Section 784.03(1)(a), F.S., states that the offense of battery occurs when a person: actually and intentionally touches or strikes another person against the will of the other; or intentionally causes bodily harm to another person.

<sup>7</sup> Section 784.045(1)(a), F.S., states a person commits aggravated battery who, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon.

<sup>8</sup> Section 794.011(1)(h), F.S., defines “sexual battery” as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

<sup>9</sup> Section 748.048(2), F.S., states a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking.

<sup>10</sup> Section 784.048(3), F.S., states that a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking. Section 784.048(1)(a), F.S., states that “harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Section 784.048(1)(c), F.S., defines “credible threat” as a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. Section 784.048(1)(d), F.S., states “cyberstalk” means: to engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission. Section 784.048(1)(b), F.S., defines “course of conduct” as a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose.

<sup>11</sup> Section 787.01(1)(a), F.S., defines “kidnapping” as forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will and without lawful authority, with intent to: hold for ransom or reward or as a shield or hostage; commit or facilitate commission of any felony; inflict bodily harm upon or to terrorize the victim or another person; or interfere with the performance of any governmental or political function.

<sup>12</sup> Section 787.02(1)(a), F.S., defines “false imprisonment” as forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will.

<sup>13</sup> Section 741.28(2), F.S.

or household member includes spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.<sup>14</sup> The use of threats, intimidation, isolation, and using children as pawns are examples of the tactics domestic violence perpetrators use against victims.<sup>15</sup>

Domestic violence harms all family members.<sup>16</sup> Family violence harms the victim and presents dangers for immediate family members.<sup>17</sup> Significant trauma, such as domestic violence, can interfere with brain and skill development of the young child.<sup>18</sup> A child's emotional, psychological, or physical development can be harmed if he or she is exposed to violence at a young age.<sup>19</sup> Children who witness violence are more likely to have difficulty in school, abuse drugs or alcohol, act aggressively, and suffer from depression.<sup>20</sup>

### ***Domestic Violence Data***

Based on data from 2000 to 2018, approximately 26 percent of women have been subjected to physical or sexual violence from a current or former husband or male intimate partner at least once in their lifetime, totaling approximately 641 to 753 million victims.<sup>21</sup> According to a national study conducted by the Centers for Disease Control and Prevention (CDC), approximately 1 in 4 women and nearly 1 in 10 men have experienced domestic violence acts including sexual violence, physical violence, or stalking in their lifetime.<sup>22</sup> The CDC also estimates that over 43 million women and 37 million men have been victims of such domestic violence by intimate partners throughout their lifetime.<sup>23</sup> The national cost of medical and mental health care services related to domestic violence is estimated to be over \$8 billion annually.<sup>24</sup>

The National Domestic Violence Hotline (NDVH) is available to help by phone, live chat, and text 24 hours per day, 7 days per week.<sup>25</sup> The hotline receives more than 24,000 calls per

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<sup>14</sup> Section 741.28(3), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Seifert, K. *Domestic Violence Harms All Family Members*, Psychology Today, October 30, 2012, available at [Domestic Violence Harms All Family Members | Psychology Today](#) (last visited Jan. 20, 2022) (hereinafter cited as "DV Harms Families").

<sup>17</sup> U.S. Department of Justice, Office of Justice Programs, *Family Violence, Special Features*, available at [Family Violence | Overview | Office of Justice Programs \(ojp.gov\)](#) (last visited Jan. 20, 2022) (hereinafter cited as "US DOJ Family Violence").

<sup>18</sup> DV Harms Families.

<sup>19</sup> US DOJ Family Violence.

<sup>20</sup> *Id.*

<sup>21</sup> World Health Organization (WHO) on behalf of the United Nations Inter Agency Working Group on Violence Against Women Estimation and Data, *Violence Against Women Prevalence Estimates, 2018: Executive Summary*, 2018, [Violence against women prevalence estimates, 2018 – Executive summary \(who.int\)](#) (last visited Feb. 21, 2022).

<sup>22</sup> The CDC, *The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release*, p. 7, Nov. 2018, available at [The National Intimate Partner and Sexual Violence Survey: 2015 Data Brief — Updated Release \(cdc.gov\)](#) (last visited Jan. 19, 2022) (hereinafter cited as "CDC Study").

<sup>23</sup> *Id.* at pp. 20 & 22.

<sup>24</sup> Huecker, M., King, K., & others, *Domestic Violence*. National Center for Biotechnology Information, Aug. 26, 2021, available at [Domestic Violence - StatPearls - NCBI Bookshelf \(nih.gov\)](#) (last visited Jan. 20, 2022).

<sup>25</sup> NDVH, *Here for You*, available at [Domestic Violence Support | The National Domestic Violence Hotline \(theline.org\)](#) (last visited Jan. 19, 2022).



month.<sup>26</sup> As of December 2021, Florida has transitioned all services for the hotline to the Domestic Violence Collaborative, which is a new contractor that represents a conglomerate of three certified domestic violence centers. The Collaborative will offer a domestic violence hotline to provide legal advice and referrals for services.<sup>27</sup> During Fiscal Year 2019-2020, the domestic violence hotline received 73,817 calls from individuals seeking emergency services, information and assistance.<sup>28</sup>

## Stakeholders

There are several stakeholders which are responsible for, and contribute to, the operation and functions of domestic violence programs, dependency cases, and injunctions of protection in Florida. Some of the key entities and their roles are described below.

### *The Department of Children and Families (DCF)*

The DCF is required to comply with child protection and child welfare outcomes, including:

- Children are first and foremost protected from abuse and neglect;
- Children are safely maintained in their homes, if possible and appropriate;
- Services are provided to protect children and prevent removal from their home; and
- Children have permanency and stability in their living arrangements.<sup>29</sup>

With respect to the duties and functions relating to domestic violence incidents, the DCF is statutorily responsible for the statewide domestic violence program. Section 39.903, F.S., requires the DCF to:

- Operate the domestic violence program and coordinate and administer statewide activities;
- Receive and approve or reject applications for initial certification of domestic violence centers, and annually renew the certification thereafter;
- Inspect the premises of domestic violence centers that are applying for an initial certification or facing potential suspension or revocation of certification;
- Promote the involvement of certified domestic violence centers in the coordination, development, and planning of domestic violence programming in the circuits;
- Coordinate with state agencies that have health, education, or criminal justice responsibilities;
- Cooperate with, assist in and participate in, programs of other properly qualified state agencies;
- Contract with an entity or entities for the delivery and management of services for Florida's domestic violence program if it is in the best interest of the state;
- Consider applications from certified domestic violence centers for capital improvement grants and award those grants; and

<sup>26</sup> U.S. Department of Health & Human Services, Family and Youth Services Bureau, *The National Domestic Violence Hotline*, available at [The National Domestic Violence Hotline | The Administration for Children and Families \(hhs.gov\)](https://www.hhs.gov/ohp/dv-hotline/) (last visited Jan. 19, 2022).

<sup>27</sup> The DCF, *Domestic Violence Services January 2022, PowerPoint Presentation by DaMonica Smith in the January 18, 2022 Meeting of the Senate Committee on Children, Families, and Elder Affairs* (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>28</sup> Florida DV Statistics.

<sup>29</sup> Section 409.986(2), F.S.

- Adopt rules to administer this section.

The DCF is also tasked with certifying and monitoring batterers' intervention programs ("BIP") that are used by the justice system to ensure statewide consistency.<sup>30</sup> The DCF must adopt rules to administer this section, including but not limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs.<sup>31</sup>

### ***Florida Partnership to End Domestic Violence (FPEDV)***

In 2020, the FPEDV replaced the Florida Coalition Against Domestic Violence ("Coalition") following a finding that the chief executive officer of the Coalition was paid more than \$7.5 million over three years.<sup>32</sup> Each state is required by the federal government to have a State Domestic Violence Coalition to access the federal funding provided for in the Family Violence Prevention and Services Act.<sup>33</sup> The FPEDV is a nonprofit 501(c)3 organization that is positioned to become Florida's new federally recognized Domestic Violence Coalition.<sup>34</sup>

The FPEDV's mission is to eliminate domestic violence by promoting safe families, providing technical assistance to centers and providers, and engaging in systems and social change. It is tasked with:

- Providing education, support and technical assistance for domestic violence service providers;
- Serving as an information clearinghouse, primary point of contact, and resource center on domestic violence in the state;
- Following and providing updates on relevant national developments;
- Supporting the development of policies, protocols, and procedures to improve domestic violence intervention and prevention in Florida; and
- Working cooperatively with all related state and federal agencies.<sup>35</sup>

<sup>30</sup> Chapter No. 2021-152, L.O.F., in part, revived, reenacted, and amended s. 741.327, F.S., to authorize the DCF to certify and monitor BIPs. The DCF was authorized to adopt rules to administer this section, including but not limited to, developing criteria for the approval, suspension, or rejection of certification of BIPs. Prior to 2021, the DCF performed this role from 2001 through 2012 under s. 741.325, F.S. However, the General Appropriations Act of 2011-2012 eliminated funding for the DCF's BIP certification staff, and the Legislature repealed s. 741.32(2), F.S., which removed the DCF's Office of Certification and Monitoring of Batterers' Intervention and repealed the statutory requirement that batterers' intervention programs be certified by the DCF. Ch. 2011-69, Laws of Florida.

<sup>31</sup> Section 741.327(2), F.S.

<sup>32</sup> See Dan Sweeney, *Disgraced nonprofit CEO served a subpoena via Twitter by Florida House*, Sun Sentinel, Mar. 05, 2020, available at <https://www.sun-sentinel.com/news/politics/fl-ne-tiffany-carr-subpoena-twitter-20200305-vhqbdq5ucnc3tajblvkezerh64-story.html>; Renzo Downey, *Ron DeSantis calls for reviews of state's private-public contracts*, Florida Politics, Feb 20, 2020, available at <https://floridapolitics.com/archives/320097-ron-desantis-calls-for-reviews-of-states-private-public-contracts/>; Mary Ellen Klas, *Tampa Bay Times, Eckerd Connects in Clearwater Exceeded Florida Cap on Salaries, Says IG Report*, Oct. 19, 2021, available at [Eckerd Connects in Clearwater exceeded Florida cap on salaries, says IG report \(tampabay.com\)](https://www.tampabay.com/news/politics/govt/Eckerd-Connects-in-Clearwater-exceeded-Florida-cap-on-salaries-says-IG-report/) (all sites last visited Jan. 19, 2022).

<sup>33</sup> 42 U.S.C. §10411(c).

<sup>34</sup> The FPEDV, *About Us, Our Story*, available at [About Us - FPEDV](https://www.fpedv.org/about-us) (last visited Jan. 19, 2022).

<sup>35</sup> *Id.*

### *Domestic Violence Centers*

Domestic violence centers provide services to survivors of domestic violence.<sup>36</sup> Florida has 41 certified domestic violence centers. The certified domestic violence centers provide crisis counseling and support services to victims of domestic violence and their children.<sup>37</sup>

The certified domestic violence centers provide all of the following services free of charge:

- Emergency shelter.
- A 24-hour crisis and information hotline.
- Safety planning.
- Counseling, case management, and child assessments.
- Education for community awareness.
- Training for law enforcement and other professionals.
- Other ancillary services such as relocation assistance, daycare, and transitional housing.<sup>38</sup>

Domestic violence centers must be certified by the DCF in order to receive state funding.<sup>39</sup> The DCF sets criteria for certification and minimum standards to ensure the health and safety of clients served.<sup>40</sup> To be eligible for certification as a domestic violence center, an applicant must apply to the DCF and be a not-for-profit entity.<sup>41</sup> A domestic violence center's primary mission must be to provide services to survivors of domestic violence. Certified domestic violence centers employ staff and rely on volunteers to provide services to survivors. Certified domestic violence centers also provide nonresidential outreach services.<sup>42</sup>

An applicant may seek certification to serve an area that has an existing certified domestic violence center; however, the applicant must show there is an unmet need in the area.<sup>43</sup> One of the minimum criteria that an applicant must meet is that the domestic violence center has been providing services to survivors for 18 consecutive months, including 12 months as an emergency shelter.<sup>44</sup> After the DCF certifies a domestic violence center, the certification is good for one year and automatically expires on June 30. If there is a favorable report from the DCF, it will annually renew a domestic violence center's certification.<sup>45</sup>

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<sup>36</sup> Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C.

<sup>37</sup> The DCF, *Domestic Violence Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited Jan. 20, 2022).

<sup>38</sup> *Id.*

<sup>39</sup> Section 39.905(6)(a), F.S.

<sup>40</sup> Sections 39.903(9) and 39.905(1), F.S.; Rule 65H-1, F.A.C.

<sup>41</sup> The DCF, *Domestic Violence Center, Application for Certification, Form CF613*, p. 3, January 2015, available at [https://www.myflfamilies.com/service-programs/domestic-violence/docs/CF-613\\_Application-for-Certification.pdf](https://www.myflfamilies.com/service-programs/domestic-violence/docs/CF-613_Application-for-Certification.pdf) (last visited Jan. 20, 2022).

<sup>42</sup> Section 39.905(1)(c), F.S.

<sup>43</sup> Section 39.905(1)(i), F.S.; Rule 65H-1.012, F.A.C.

<sup>44</sup> Section 39.905(1)(h), F.S.; Rule 65H-1.012, F.A.C.

<sup>45</sup> Section 39.905(3), F.S.; Rule 65H-1.012, F.A.C.

During FY 2019-20, Florida's certified domestic violence centers<sup>46</sup> provided emergency shelter to 13,250 survivors of domestic violence and their children.<sup>47</sup>

### ***Law Enforcement***

Law enforcement officers are often the first actors who a victim of domestic violence is likely to encounter. As first responders, law enforcement officers play an important role in protecting victim safety and enhancing offender accountability. The visibility and authority of law enforcement increases the likelihood that a person experiencing domestic violence will come into contact with such officers. The goal of the law enforcement response to domestic violence should be to reduce the prevalence and frequency of the crime, while preserving officer safety. Domestic violence calls are among the most dangerous situations in which an officer may find himself or herself.<sup>48</sup>

Section 741.29, F.S., requires law enforcement officers investigating an alleged incident of domestic violence to perform certain actions to:

- Assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds.
- Advise the victim that there is a domestic violence center from which the victim may receive services.
- Give the victim immediate notice of the legal rights and remedies available on a standard form.

In 2019, there were 105,298 crimes of domestic violence reported to the Florida Department of Law Enforcement which resulted in 66,069 arrests.<sup>49</sup>

### ***Domestic Violence Courts***

Domestic violence cases that relate to injunctions are a family court case, but many of the legal issues overlap with several other types of cases, such as dependency and dissolution cases.<sup>50</sup> Several circuits, such as the tenth, eleventh, and seventeenth, have domestic violence courts.<sup>51</sup> Some circuits have several judges who are assigned exclusively to hear domestic violence

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<sup>46</sup> Section 39.902(2), F.S.; Rule 65H-1.011, F.A.C. provide that domestic violence centers provide services to survivors of domestic violence. Florida has 41 certified domestic violence centers. The certified domestic violence centers provide crisis counseling and support services to victims of domestic violence and their children. Department of Children and Families, *Domestic Violence Overview*, available at <https://www.myflfamilies.com/service-programs/domestic-violence/overview.shtml> (last visited Jan. 14, 2022).

<sup>47</sup> *Id.*

<sup>48</sup> See Stop Violence Against Women, *Role of Police*, available at [https://www.stopvaw.org/role\\_of\\_police](https://www.stopvaw.org/role_of_police); See also Palm Beach County Law Enforcement Guidelines *Domestic Violence Investigations*, p. 4, available at <https://www.flsheriffs.org/uploads/DVprotocolFNL.pdf> (all sites last visited Jan. 20, 2022).

<sup>49</sup> The DCF, *Domestic Violence Statistics*, available at [Domestic Violence - Florida Department of Children and Families \(myflfamilies.com\)](https://www.myflfamilies.com) (last visited Jan. 10, 2022) (hereinafter cited as "Florida DV Statistics") [citing the FDLE, *Florida's County and Jurisdictional Reported Domestic Violence Offenses, 2019*, available at [DV Jurisdiction Offenses 2019.aspx \(state.fl.us\)](https://www.flsheriffs.org), last visited (Jan. 10, 2022)].

<sup>50</sup> *Id.* at p. 1-4.

<sup>51</sup> See Tenth Judicial Circuit, *Domestic Violence*, available at [Domestic Violence | 10th Judicial Circuit Court \(flcourts.org\)](https://www.flcourts.org); Eleventh Judicial Circuit, *Domestic Violence*, available at [Domestic Violence \(flcourts.org\)](https://www.flcourts.org) (hereinafter cited as "11<sup>th</sup> Circuit DV Courts"); Seventeenth Judicial Circuit, *Domestic Violence*, available at [06 DOMESTIC VIOLENCE – Seventeenth Judicial Circuit of Florida \(flcourts.org\)](https://www.flcourts.org) (hereinafter cited as "17<sup>th</sup> Circuit DV Courts") (all sites last visited Jan. 19, 2022).

cases,<sup>52</sup> whereas other circuits do not specify the number of judges, if any, who are designated exclusively as domestic violence courts.<sup>53</sup> Florida's Domestic Violence Benchbook is a comprehensive book available to courts that addresses issues related to domestic violence injunctions, mandatory reporting, civil and criminal proceedings outlines, child support in domestic violence proceedings and other relevant case materials.<sup>54</sup>

### ***Batterers' Intervention Program (BIP)***

BIPs emerged in the United States in the late 1970's as one component of the social response to domestic violence.<sup>55</sup> BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future.<sup>56</sup>

Section 741.325, F.S., sets requirements for BIPs to meet, including that the:

- Primary purpose of the program must be the safety of the victim and children, if present;
- Batterer must be held accountable for acts of domestic violence;
- Program must be at least 29 weeks in length and include 24 weekly sessions, plus appropriate intake, assessment, and orientation programming;
- Program content must be based on a cognitive behavioral therapy model or a psychoeducational model that addresses tactics of power and control by one person over another; and
- Program shall be funded by user fees paid by the batterers who attend the program, which allows them to take responsibility for their acts of violence.<sup>57</sup>

There are several BIP providers throughout the state.<sup>58</sup> A list of them may be found on the Office of the State Courts Administrator (OSCA) website.<sup>59</sup>

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<sup>52</sup> See 11<sup>th</sup> Circuit DV Courts noting that there are seven judges who exclusively hear domestic violence cases. See also 17<sup>th</sup> Circuit DV Courts noting that there are four judges who are assigned to criminal and civil domestic violence divisions.

<sup>53</sup> Florida Second Judicial Circuit, *Navigating the Court System*, available at [Florida's 2nd Judicial Circuit | Court System \(leoncountyfl.gov\)](https://www.leoncountyfl.gov/Florida%20Judicial%20Circuit%20Court%20System) (last visited Jan. 20, 2022) (noting that circuit courts are courts of general jurisdiction that handle domestic relations cases and explicitly refer to family courts but not domestic violence). See also Florida Eighth Judicial Circuit, *The Eighth Judicial Circuit of Florida Administrative Order 9.03 (v 2022-1), General Assignments*, available at [9.03-v2022-General-Assignments-Effective-January-1-2022-December-31-2022.pdf \(circuit8.org\)](https://www.circuit8.org/9.03-v2022-General-Assignments-Effective-January-1-2022-December-31-2022.pdf) (last visited Jan. 20, 2022).

<sup>54</sup> The OCI, *Florida's Domestic Violence Benchbook*, June 2020, available at [Microsoft Word - DV Bench Book Changes - Final \(flcourts.org\)](https://www.flcourts.org/Microsoft-Word-DV-Bench-Book-Changes-Final) (last visited Jan. 20, 2022).

<sup>55</sup> Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, p. 1, December 2017, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited Jan. 20, 2022) (hereinafter cited as "Research on BIP and Policy Implications").

<sup>56</sup> *Id.* at pp. 3, 6.

<sup>57</sup> Section 741.325(1)(e), F.S., provides that there is an exception for local, state, or federal programs that are wholly or partly fund batterers' intervention programs.

<sup>58</sup> The OSCA, *Florida Courts*, Dec. 14, 2021, available at [Batterers' Intervention Program List of Providers - Florida Courts \(flcourts.org\)](https://www.flcourts.org/Batterers-Intervention-Program-List-of-Providers-Florida-Courts) (last visited Jan. 19, 2022).

<sup>59</sup> *Id.*

### ***Child Protective Investigators***

The DCF employs child protective investigators who must meet minimum qualifications, including, but not limited to, a bachelor's degree, a valid driver's license, and certification requirements.<sup>60</sup> A child protective investigator has certain responsibilities, including, in part:

- Conducting investigations relating to allegations of abuse, abandonment, and/or special conditions for children;
- Working closely with law enforcement; and
- Collecting information through observation and interviews with certain persons, including the children and parents.<sup>61</sup>

Currently, there are a total of seven county sheriff offices that conduct the child protective investigations in place of the DCF, including Pinellas, Pasco, Manatee, Hillsborough, Broward, Seminole, and Walton.<sup>62</sup> Current law provides that the DCF must transfer all responsibility for child protective investigations for Pinellas County, Manatee County, Broward County, and Pasco County to the sheriff of that county in which the child abuse, abandonment, or neglect is alleged to have occurred.<sup>63</sup> The sheriff offices are obligated to comply with performance standards and outcome measures required of the DCF.<sup>64</sup>

### ***Community-based Care Lead Agencies***

A lead agency is a single entity with which the DCF has a contract for the provision of care in the child protection and welfare system.<sup>65</sup> The DCF enters into 5-year contracts with lead agencies for the procurement of services.<sup>66</sup> There are minimum requirements with which lead agencies must comply to be eligible to contract with the DCF.<sup>67</sup>

The lead agencies are obligated to perform several duties, which apply to domestic violence reports and cases, including, in part, to:

- Serve the children who are referred as a result of abuse, abandonment, or neglect reports;
- Provide accurate and timely information to the DCF, as specified in s. 409.997, F.S.;
- Prepare and file all necessary court documents, and attend dependency court proceedings to give evidence;
- Ensure all individuals providing care to dependent children receive training and specified information and meet employment requirements;
- Comply with federal and state statutory requirements and agency rules in the provision of contractual rules; and

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<sup>60</sup> The DCF, *Child Protective Investigator*, available at [Child Protective Investigator, Employment Opportunities - Florida Department of Children and Families \(myflfamilies.com\)](https://myflfamilies.com) (last visited Jan. 19, 2022).

<sup>61</sup> *Id.*

<sup>62</sup> Florida's Center for Child Welfare, *Sheriff's contacts*, available at <http://centerforchildwelfare.fmhi.usf.edu/SherrifContacts.shtml> (last visited Jan. 20, 2022).

<sup>63</sup> Section 39.3065(1), F.S.

<sup>64</sup> Section 39.3065(3)(b), F.S.

<sup>65</sup> Section 409.986(3)(d), F.S.

<sup>66</sup> Section 409.987(3), F.S.

<sup>67</sup> Section 409.987(4), F.S.



- Use authority to subcontract for the provision of services provided the lead agency contribute to services and meet specified criteria.<sup>68</sup>

The DCF contracts with the following lead agencies as illustrated in the table and map below:<sup>69</sup>

<b>Lead Agency</b>	<b>Circuit(s)</b>
Lakeview Center, Families First Network	1
Big Bend Community Based Care, Inc.	2 & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida, Inc.	4 (Duval and Nassau) and 6 <sup>70</sup>
Kids First of Florida, Inc.	4 (Clay)
Kids Central, Inc.	5
Eckerd Connects	13 <sup>71</sup>
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children, Inc.	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children’s Network of SW Florida	20

In Fiscal Year 2019-2020, advocates developed 153,757 safety plans related to domestic violence cases and provided a total of 233,602 hours of advocacy and counseling services.<sup>72</sup>

**Dependency Process**

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida’s central abuse hotline (hotline), including incidents of domestic violence.<sup>73</sup> A child protective investigation begins if

<sup>68</sup> Section 409.988(1), F.S.

<sup>69</sup> The DCF, *Lead Agency Map, Community-Based Care*, available at: <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited Jan. 20, 2022).

<sup>70</sup> WUSF Public Media, *Family Support Services of North Florida will fully take over on January 1, 2022*, Nov. 30, 2021, available at [State selects replacement for Eckerd Connects to run foster care in Pinellas, Pasco | WUSF Public Media](https://www.wusf.com/news/local-news/family-support-services-of-north-florida-will-fully-take-over-on-january-1-2022) (last visited Jan. 20, 2022).

<sup>71</sup> Eckerd Connects will carry out its contract until it expires June 30, 2022. WFLA, *DCF, Eckerd Connects ending child welfare services contracts in 3 Tampa Bay counties*, available at <https://www.wfla.com/news/local-news/dcf-eckerd-connects-end-child-welfare-services-in-3-tampa-bay-counties/> (last visited Jan. 20, 2022).

<sup>72</sup> *Id.*

<sup>73</sup> Section 39.201(1), F.S.

the hotline determines the allegations meet the statutory definition of abuse,<sup>74</sup> abandonment,<sup>75</sup> or neglect.<sup>76</sup> A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.<sup>77</sup>

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.<sup>78</sup> The dependency court process is summarized in the table below.

**The Dependency Court Process**

<b>Dependency Proceeding</b>	<b>Description of Process</b>	<b>Controlling Statute</b>
Removal	A child protective investigation determines the child’s home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

<sup>74</sup> Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

<sup>75</sup> Section 39.01(1), F.S. The term “abandoned” or “abandonment” 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.

<sup>76</sup> Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

<sup>77</sup> Section 39.101(2), F.S.

<sup>78</sup> See s. 39.01(14), F.S., for the definition of “child who is found to be dependent”.



Dependency Proceeding	Description of Process	Controlling Statute
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Post disposition hearing	The court may change temporary placement at a post disposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

***Child Welfare and Domestic Violence***

Domestic violence can be a basis for a child becoming the subject of a dependency proceeding as described above if the allegations meet the statutory definition of abuse, abandonment, or neglect.

Often, complex relational dynamics are at play in an impacted household, creating multiple risk factors for those who are experiencing violence. Some examples these dynamics can be expressed with the following hypothetical circumstances:

- The offending parent may make allegations of child abuse and neglect against the non-offending parent as a control tactic.
- A survivor may decide to leave the relationship with the offending parent without having the financial resources to care for the children.
- The survivor might stay in a dangerous household for fear of more severe retaliation if he or she were to leave with the children.<sup>79</sup>

<sup>79</sup> Child Welfare.gov, *FACT Sheets, Domestic Violence: A Primer for Child Welfare Professionals*, p. 2-3, available at [https://www.childwelfare.gov/pubPDFs/domestic\\_violence.pdf](https://www.childwelfare.gov/pubPDFs/domestic_violence.pdf) (last visited Jan. 20, 2022).

In households where domestic violence is present, children’s experiences can range from overhearing or witnessing confrontations, to being hurt when intervening, or directly experiencing abuse. Several factors influence the impact of domestic violence on children, including the nature of the violence, the age and gender of the child, the amount of time that has elapsed since the child’s exposure to violence, and the presence of child maltreatment. It is important to note that not all children exposed to domestic violence experience negative effects, in part due to protective factors such as social competence and supportive relationships with adults.<sup>80</sup>

When domestic violence is identified and a case is screened in for services, caseworkers are tasked with assessing safety and risk in the household. The extensive overlap between domestic violence and child maltreatment requires a specialized and coordinated response in child welfare casework.<sup>81</sup>

### ***Termination of Parental Rights***

Section 39.806, F.S., authorizes the DCF to file a petition for termination of parental rights (TPR) against both parents when they fail to remedy the family problems that brought a child into the dependency system.<sup>82</sup> Alternatively, the DCF may move to terminate only one of the parent’s rights if it can prove certain grounds, such as incarceration, egregious conduct, aggravated child abuse, murder or manslaughter of the other parent or another child, or felony battery that resulted in serious bodily injury to the child or another child.<sup>83</sup>

### ***Strength & Together Model (SATM)***

The SATM was developed by the Safe & Together Institute (SATI) that was founded by David Mandel, MA, LPC, who is the Executive Director.<sup>84</sup> It is an internationally recognized model designed to increase child welfare professionals’ proficiency in domestic violence informed practice.<sup>85</sup> The SATI offers core and advanced training options, including certification programs.<sup>86</sup> Child welfare professionals and domestic violence advocates throughout the state have received domestic violence training and technical assistance.<sup>87</sup>

The SATI has worked with child welfare professionals and local community partners in several states, including Florida, to implement the SATM.<sup>88</sup> In 2010, for instance, the DCF, with the assistance of David Mandel & Associates as part of their Safe & Together consultation and

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<sup>80</sup> *Id.* at p. 3.

<sup>81</sup> *Id.* at p. 6.

<sup>82</sup> Section 39.8055, F.S.

<sup>83</sup> Sections 39.806 and 39.811(6), F.S.

<sup>84</sup> The SATI, *About Us, Founder’s Statement*, available at [FOUNDER’S STATEMENT - Safe & Together Institute \(safeandtogetherinstitute.com\)](https://www.safeandtogetherinstitute.com) (last visited Jan. 20, 2022).

<sup>85</sup> The SATI, *About Us, About the Model*, available at [ABOUT THE MODEL - Safe & Together Institute \(safeandtogetherinstitute.com\)](https://www.safeandtogetherinstitute.com) (last visit Jan. 20, 2022) (hereinafter cited as “SATI About the Model”).

<sup>86</sup> The SATI, *What We Offer, Trainings, Systems, Consultations and Tools for Becoming More Domestic Violence-Informed*, available at [WHAT WE OFFER - Safe & Together Institute \(safeandtogetherinstitute.com\)](https://www.safeandtogetherinstitute.com) (last visited Jan. 20, 2022).

<sup>87</sup> The DCF, *Domestic Violence, Programs, Child Welfare & Child Protection*, available at [Domestic Violence - Florida Department of Children and Families \(myflfamilies.com\)](https://www.myflfamilies.com) (last visited Jan. 20, 2022).

<sup>88</sup> SATI About the Model. SATI also partners with child welfare professionals in Colorado, Oregon, Michigan, Iowa, Connecticut, New York, New Jersey, Wisconsin, and the District of Columbia.

training work in Florida, is reported to have implemented new Hotline procedures related to allegations of “failure to protect” in domestic violence reports.<sup>89</sup> The new procedure requires an investigation to be initiated and a legal consultation before allegations of “failure to protect” may be made against a domestic violence survivor.<sup>90</sup>

It is unclear to what extent this model is being utilized currently in Florida to address allegations of abuse, abandonment, or neglect where domestic violence is occurring in the home and to what extent children are being removed from his or her caregiver as a result of such actions.

## **Injunctions**

Current law establishes a cause of action for an injunction for protection against domestic violence.<sup>91</sup> The circuit court has jurisdiction to hear a petition for injunction.<sup>92</sup> This petition may be filed by any person who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of domestic violence.<sup>93</sup> The person can file a petition against a current or former spouse, any person related by blood or marriage, any person who is or was residing within a single dwelling unit, or is a person with whom the petitioner had a child.<sup>94</sup> A person is not precluded from requesting an injunction because he or she is not a spouse.<sup>95</sup> The court is prohibited from issuing mutual orders of protection, but may issue separate injunctions for petition against domestic violence where each party has complied with the provisions under law which cannot be waived.<sup>96</sup>

An injunction may be sought even if there is no other cause of action pending between the parties, but a petitioner must disclose the pendency of any such action in a petition.<sup>97</sup> If an action is filed under ch. 61, F.S., regarding dissolution of marriage, support and time-sharing, any order entered in that proceeding takes precedence over any inconsistent provision of an injunction ordered under s. 741.30, F.S., which addresses matters governed by ch. 61, F.S.<sup>98</sup>

A sworn petition for injunction for protection against domestic violence must contain specific allegations of domestic violence, including facts and circumstances upon the basis of which relief is sought.<sup>99</sup> Effective October 1, 2002, the clerk of the court may not assess a fee for filing a petition for protection against domestic violence.<sup>100</sup> The clerk of the court is tasked with several responsibilities with respect to injunction proceedings, for instance providing simplified

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<sup>89</sup> The SATI, *Florida DCF Removes Takes Steps to Stop ‘Failure to Protect’ Allegations Against Domestic Violence Survivors*, Aug. 12, 2010, available at [Florida DCF removes takes steps to stop “failure to protect” allegations against domestic violence survivors - Safe & Together Institute \(safeandtogetherinstitute.com\)](https://www.safeandtogetherinstitute.com/press-releases/florida-dcf-removes-takes-steps-to-stop-failure-to-protect-allegations-against-domestic-violence-survivors) (last visited Jan. 20, 2022).

<sup>90</sup> *Id.*

<sup>91</sup> Section 741.30(1), F.S.

<sup>92</sup> Section 741.30(1)(a), F.S.

<sup>93</sup> Section 741.30(1)(a), F.S.

<sup>94</sup> Section 741.30(3)(f), F.S.

<sup>95</sup> Section 741.30(1)(e), F.S.

<sup>96</sup> Section 741.30(1)(i), F.S.

<sup>97</sup> Section 741.30(1)(b), F.S.

<sup>98</sup> Section 741.30(1)(c), F.S.

<sup>99</sup> Section 741.30(3)(a), F.S.

<sup>100</sup> Section 741.30(2)(a), F.S.

petition forms for the injunction, any modifications, and the enforcement of them, including instructions for completion.<sup>101</sup>

A domestic violence form pack and form packs for other injunctions, such as stalking and repeat violence, as well as helpful information and links on domestic violence are available on some clerk of courts websites, such as the Broward County Clerk of Court.<sup>102</sup> Current law sets out a sample of a sworn petition which must be in substantially the same form when it is filed with the court to request an injunction for domestic violence.<sup>103</sup>

If the sworn petition seeks to determine a parenting plan and time-sharing schedule with regard to the parties' minor child or children, allegations required under s. 61.522, F.S., of the Uniform Child Custody Jurisdiction and Enforcement Act must be accompanied by or included incorporated into the petition.<sup>104</sup>

In determining whether there is reasonable cause to believe that the petitioner is in imminent danger of becoming a victim of domestic violence, the court must consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

- The history between the petitioner and respondent, including any threats, harassment, stalking, or physical abuse;
- Whether the respondent has attempted to harm the petitioner or individuals closely associated with the petitioner;
- Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child;
- Whether the respondent has intentionally injured or killed a family pet;
- Whether the respondent has used, or has threatened to use, against the petitioner any weapons;
- Whether the respondent has a criminal history involving violence or the threat of violence;
- The existence of a verifiable order of protection issued previously or from another jurisdiction;
- Whether the respondent has destroyed personal property; and
- Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.<sup>105</sup>

The court may grant a temporary injunction ex parte, pending a full hearing, if it appears that an immediate and present danger of domestic violence exists.<sup>106</sup> The court may grant such relief that it deems proper, including an injunction:

- Restraining the respondent from committing any acts of domestic violence;
- Awarding to the petitioner the temporary and exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner;

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<sup>101</sup> *Id.*

<sup>102</sup> Brenda D. Forman Clerk of Courts (COC), *Domestic Violence Forms and Self-Help*, available at [Domestic Violence - Broward County Clerk of Courts \(browardclerk.org\)](http://DomesticViolence-BrowardCountyClerkofCourts(browardclerk.org)) (last visited Jan. 12, 2022).

<sup>103</sup> Section 741.30(3)(b), F.S.

<sup>104</sup> Section 741.30(3)(d), F.S.

<sup>105</sup> Section 741.30(6)(b), F.S.

<sup>106</sup> Section 741.30(6)(a), F.S.

- On the same basis as provided in s. 61.13, F.S., providing the petitioner a temporary parenting plan, including a time-sharing schedule, which may award the petitioner up to 100 percent of the time-sharing;
- Ordering the respondent to participate in treatment, intervention, or counseling services;
- Referring a petitioner to a certified domestic violence center;<sup>107</sup>
- Awarding to the petitioner the temporary, exclusive care, possession, or control of an animal that is owned or cared for by certain persons, including the parties to the injunction; and
- Ordering such other relief as the court deems necessary for the protection of a victim.<sup>108</sup>

Relief ordered that restrains the respondent from committing any acts of domestic violence or other relief granted that the court deems is necessary for protection of the victim remain in effect until the injunction is modified or dissolved.<sup>109</sup> Any temporary parenting plan remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting certain parenting rights, including, but not limited to, placement, adoption or time-sharing.<sup>110</sup>

A temporary or final judgment on injunction must explicitly state that:

- The injunction is valid and enforceable in all counties in the State of Florida;
- Law enforcement officers may use their arrest powers under s. 901.15(6), F.S. to enforce the terms of the injunction;
- The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's due process rights;
- The date the respondent was served with the temporary or final order, if the information is known;<sup>111</sup> and
- It is a violation of s. 790.233, F.S., and a first degree misdemeanor, for the respondent to possess or control any firearm or ammunition.<sup>112</sup>

The court may also include in the injunction an order that the respondent attend a batterer's intervention program (BIP),<sup>113</sup> and must order it in certain circumstances.<sup>114</sup> When the court orders the alleged perpetrator to participate in a BIP, the court must provide a list of batterers' intervention programs.<sup>115</sup>

<sup>107</sup> Section 741.30(6)(a)6., F.S., requires the court to provide the petitioner with a list of certified domestic centers.

<sup>108</sup> Section 741.30(6)(a), F.S.

<sup>109</sup> Section 741.30(6)(c), F.S., provides that any party may move to modify or dissolve the injunction at any time.

<sup>110</sup> Section 741.30(6)(a)4., F.S.

<sup>111</sup> Section 741.30(6)(d), F.S.

<sup>112</sup> Section 741.30(6)(g), F.S.

<sup>113</sup> BIPs are designed to address the root cause of domestic violence and deter participants from committing acts of domestic violence in the future. Battered Women's Justice Project, *Current Research on Batterer Intervention Programs and Implications for Policy*, p. 1, Dec. 2017, available at <https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf> (last visited Jan. 14, 2022).

<sup>114</sup> Section 741.30(6)(e), F.S.

<sup>115</sup> Section 741.30(6)(a)5., F.S.

## Task Force

Section 20.03, F.S., includes definitions related to organizational structure. It defines a “task force” as an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.<sup>116</sup>

Florida has established a number of task forces in the past related to child welfare. These have typically been created either by the Governor or DCF’s Secretary in response to a tragic incident involving a child under DCF’s custody. Examples of these include, in part:

- The Nubia Report, the Investigative Panel’s Findings and Recommendations, 2011.<sup>117</sup>
- Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings, 2007.<sup>118</sup>
- Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse, 2010.<sup>119</sup>
- Governor’s Blue Ribbon Panel on Child Protection, 2003 (Rilya Wilson).<sup>120</sup>

There is currently no task force that evaluates the impact of domestic violence and the removal of a child and initiation of dependency proceedings as a result of such domestic violence.

### III. Effect of Proposed Changes:

The bill creates the Task Force, as the term “task force” is defined in current law.<sup>121</sup> It is created adjunct to the Department of Children and Families (DCF), which must provide administrative and support staff services for the Task Force.

The bill sets out the purposes of the Task Force which are to:

- Evaluate the child welfare system in relation to domestic violence investigations and cases in Florida;
- Consider proposed legislation; and
- Make recommendations to change existing laws, rules and policies.

The Task Force is comprised of eleven members. Two members are specifically provided for by title, including the Secretary of Children and Families, or the secretary’s designee, and the president of the Florida Partnership to End Domestic Violence, or the president’s designee. The Governor, the President of the Senate, or the Speaker of the House of Representatives each appoint three of the nine remaining members. Specifically, the Governor must appoint:

<sup>116</sup> Section 20.30(8), F.S.

<sup>117</sup> Lawrence, D., Martinez, R., and Sewell, J., *The Nubia Report, The Investigative Panel’s Findings and Recommendations*, available at <http://centerforchildwelfare.org/kb/bppub/NubiasStory.pdf> (last visited Jan. 20, 2022).

<sup>118</sup> The DCF, *Family Safety Quality Assurance Review of Courtney Alisa Clark, Initial Findings*, available at <http://centerforchildwelfare.org/kb/FIPerformance/cclark%20QA%20Initial%20Findings.pdf> (last visited Jan. 20, 2022).

<sup>119</sup> The DCF, *Report of Gabriel Myers Work Group on Child-on-Child Sexual Abuse*, available at <https://www.myflfamilies.com/initiatives/GMWorkgroup/docs/Gabriel%20Myers%20COC%20Report%20May%2014%202010.pdf> (last visited Jan. 20, 2022).

<sup>120</sup> The DCF, *Governor’s Blue Ribbon Panel on Child Protection*, available at <http://centerforchildwelfare.org/kb/FIPerformance/BlueRibbonFinal110703.pdf> (last visited Jan. 20, 2022).

<sup>121</sup> There currently is no diversion program model in Florida for domestic violence victims related to dependency cases.<sup>121</sup> No such model has been identified as being used in any other state.

- A representative of domestic violence courts;
- A representative of a certified batterers' intervention program; and
- A representative from the field of law enforcement.

The President of the Senate must appoint:

- A domestic violence victim;
- A child protective investigator from the DCF; and
- A chief executive officer of a community-based care lead agency.

The Speaker of the House of Representatives must appoint:

- A representative of a certified domestic violence center;
- A representative from a county sheriff's office protective investigation team; and
- A licensed therapist who specializes in treating victims of domestic violence.

The Secretary of DCF or the secretary's designee will serve as chair of the Task Force. The nine members must be appointed by August 1, 2022, and they will be appointed to serve at the pleasure of the appointing authority. A vacancy on the Task Force must be filled in the same manner as the original appointment.

The Task Force must convene its first meeting by no later than September 1, 2022, and must meet quarterly or upon the call of the chair. It must hold its meetings by teleconference or other electronic means.

The bill sets out the duties of the Task Force which include, in summary, to:

- Examine the effectiveness of current operations and treatment in batterers' intervention programs, the consistency in enforcement of laws, and the level of accountability of agencies and providers;
- Elicit feedback and seek input from stakeholders who are responsible for domestic violence investigations and cases regarding certain changes;
- Develop best practices, policies and procedures relating to specified issues;
- Develop updated protocols, as necessary, to ensure that policies relating to certain domestic violence reports and cases are consistently enforced;
- Develop policies relating to the roles of the DCF and the Florida Partnership to End Domestic Violence with respect to specified domestic violence incidents with a goal of optimizing accountability;
- Evaluate the appropriateness of establishing a diversion program model for victims of domestic violence;
- Determine the need for updated definitions and corresponding provisions applicable to domestic violence abuse reports and dependency cases, such as "failure to protect" and "intimate partner violence";
- Determine when a domestic violence victim's failure to protect his or her child may be used as a basis to file a shelter petition;
- Evaluate steps needed, as appropriate, to ensure proper implementation of and adherence to, as appropriate, the SATM; and
- Determine what steps should be taken during a domestic violence investigation to ensure certain goals are met.



The Task Force may call upon appropriate departments and agencies of state government for professional assistance as may be needed in the discharge of its duties, and such agencies must provide such assistance in a timely manner.

The Task Force is required to submit an interim report by March 1, 2023, and a final report by September 1, 2023, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must contain its findings and recommendations on best practices, policies, and procedures regarding:

- Domestic Violence reports and cases involving children; and
- Proposed changes to current legislation to implement the Task Force's recommendations.

The Task Force is dissolved upon submission of its final report. The new section created under the bill to establish the Task Force is repealed on September 1, 2024, unless saved from repeal through reenactment by the Legislature.

The bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.



**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

SB 1598 will have an insignificant fiscal impact on state government. Specifically, the Department of Children and Families (DCF), which is responsible for providing administrative and support services to the Task Force can likely absorb any workload or support costs through the department's existing base budget.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 39.909 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.

# CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Appropriations Subcommittee on Health & Human Services

Judge:

Started: 2/22/2022 9:05:31 AM

Ends: 2/22/2022 9:40:42 AM

Length: 00:35:12

9:05:34 AM Sen. Bean (Chair)  
9:06:21 AM S1010  
9:06:39 AM Sen. Gibson  
9:07:21 AM JoAnne DeVries (waives in support)  
9:07:30 AM Mary Dailey (waives in support)  
9:07:35 AM Jean Siebenaler (waives in support)  
9:07:46 AM Nancy McCauley (waives in support)  
9:07:53 AM Joan LeBaron (waives in support)  
9:07:59 AM Patricia Benson (waives in support)  
9:08:26 AM Sen. Burgess  
9:08:38 AM Sen. Harrell  
9:09:31 AM Sen. Gibson  
9:11:08 AM Sen. Bean  
9:11:38 AM S764  
9:11:58 AM Sen. Albritton  
9:12:55 AM Sen. Bean  
9:13:01 AM Sen. Rouson  
9:13:13 AM Sen. Albritton  
9:14:24 AM Sen. Rodrigues  
9:15:07 AM Sen. Albritton  
9:16:04 AM S1040  
9:16:27 AM Sen. Brodeur  
9:16:48 AM Am. 521594  
9:17:06 AM Am. 128694  
9:17:18 AM Sen. Brodeur  
9:17:59 AM Sen. Farmer  
9:18:40 AM Sen. Brodeur  
9:19:15 AM Sen. Farmer  
9:19:40 AM Sen. Brodeur  
9:20:00 AM Sen. Farmer  
9:20:14 AM Sen. Brodeur  
9:20:17 AM Sen. Jones  
9:20:39 AM Sen. Brodeur  
9:21:15 AM Olivia Babis, Disability Rights Florida  
9:24:34 AM Kathleen Murphy, Florida PTA (waives in support)  
9:25:22 AM Sen. Brodeur  
9:26:40 AM S1042  
9:26:43 AM Sen. Brodeur  
9:26:53 AM Am. 768172  
9:26:55 AM Am. 569488  
9:27:02 AM Sen. Brodeur  
9:27:17 AM K. Murphy (waives in support)  
9:28:10 AM Martha Greene (waives in support)  
9:28:16 AM Bobby Greene (waives in support)  
9:28:25 AM Laurette Philipsen (waives in support)  
9:28:55 AM S1598  
9:29:19 AM Sen. Garcia  
9:30:56 AM S358  
9:31:21 AM Sen. Rodriguez  
9:32:00 AM Am. 126144  
9:32:08 AM Am. 141836  
9:32:17 AM Sen. Rodriguez

**9:32:54 AM** Corinne Mixon, Florida Mental Health Counselors Association (waives in support)  
**9:33:01 AM** Jim Akin, National Association of Social Workers (waives in support)  
**9:33:45 AM** C. Mixon (waives in support)  
**9:34:01 AM** Sen. Harrell  
**9:34:52 AM** Sen. Farmer  
**9:35:31 AM** Sen. Rodriguez  
**9:36:17 AM** S1452  
**9:36:50 AM** Sen. Jones  
**9:37:22 AM** Sen. Bean  
**9:37:42 AM** Robby Holroyd, Broward Sheriff's Office (waives in support)  
**9:39:00 AM** Sen. Bean



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Children, Families, and Elder Affairs, *Chair*  
Regulated Industries, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Health and  
Human Services  
Health Policy  
Rules

### JOINT COMMITTEE:

Joint Legislative Budget Commission

### SENATOR LAUREN BOOK

32nd District

February 22, 2022

Chair Aaron Bean  
Appropriations Subcommittee on Health and Human Services  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Bean:

I am writing to you to be excused from the Appropriations Subcommittee on Health and Human Services meeting that will be held on February 22, 2022 at 9 AM. I sincerely apologize for any inconvenience this may cause.

Thank you for your consideration. Please feel free to contact me at (850) 487-5032 if you have any questions.

Kindest Regards,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book  
Minority Leader  
Florida Senate, District 32

cc: Tanya Money, Staff Director  
Robin Jackson, Administrative Assistant

#### REPLY TO:

- 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- 228 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore