Tab 1	**CS/SB 52** by **ED, Rodrigues (CO-INTRODUCERS) Baxley**; (Similar to H 00281) Postsecondary Education

684342	PCS	S	AP, AED	02/11 04:11 PM

Tab 2	**CS/SB 64** by **EN, Albritton**; (Similar to CS/H 00263) Reclaimed Water

Tab 3	**CS/SB 96** by **CF, Book (CO-INTRODUCERS) Brodeur**; Child Welfare

Tab 4	**CS/SB 522** by **RI, Diaz**; (Similar to CS/H 00219) Vacation Rentals

Tab 5	**SB 146** by **Brandes**; (Compare to H 00611) Civic Education

Tab 6	**CS/SB 272** by **HP, Baxley**; (Identical to H 01373) Rare Disease Advisory Council

211898	PCS	S	AP, AHS	03/04 08:49 AM

Tab 7	**SJR 340** by **Diaz**; (Similar to H 00547) Supermajority Vote Required to Enact a Single-payor Healthcare System

Tab 8	**CS/SB 348** by **HP, Rodriguez**; (Similar to H 00461) Medicaid

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Stargel, Chair
Senator Bean, Vice Chair

MEETING DATE: Thursday, March 11, 2021
TIME: 11:30 a.m.—2:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Book, Bracy, Brandes, Broxson, Diaz, Farmer, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION

PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301

A proposed committee substitute for the following bill (CS/SB 52) is available:

1 **CS/SB 52**
Education / Rodrigues
(Similar H 281, Compare S 86)

Postsecondary Education; Clarifying fee exemptions for the Department of Children and Families; establishing the Dual Enrollment Scholarship Program; requiring students participating in dual enrollment programs to meet specified minimum eligibility requirements in order for institutions to receive reimbursements; authorizing university boards of trustees to implement a bonus scheme for state university system employees based on awards for work performance or employee recruitment and retention, etc.

ED 01/26/2021 Fav/CS
AED 02/09/2021 Fav/CS
AP 03/11/2021

With subcommittee recommendation - Education

2 **CS/SB 64**
Environment and Natural Resources / Albritton
(Similar CS/H 263)

Reclaimed Water; Requiring certain domestic wastewater utilities to submit to the Department of Environmental Protection by a specified date a plan for eliminating nonbeneficial surface water discharge within a specified timeframe; requiring domestic wastewater utilities applying for permits for new or expanded surface water discharges to prepare a specified plan for eliminating nonbeneficial discharges as part of its permit application; providing that potable reuse is an alternative water supply and that projects relating to such reuse are eligible for alternative water supply funding; requiring counties, municipalities, and special districts to authorize graywater technologies under certain circumstances and to provide incentives for the implementation of such technologies, etc.

EN 02/01/2021 Fav/CS
CA 03/03/2021 Favorable
AP 03/11/2021

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 96** Children, Families, and Elder Affairs / Book	Child Welfare; Transferring existing provisions relating to the central abuse hotline of the Department of Children and Families; providing criminal, civil, and administrative immunity to child protective investigators who report known or suspected animal cruelty; authorizing offices of criminal conflict and civil regional counsel to establish a multidisciplinary legal representation model program to serve parents of children in the dependency system; requiring the department to make available specified training for caregivers on the life skills necessary for children in out-of-home care; revising prohibitions relating to sexual conduct and sexual contact with an animal, etc. CF 03/02/2021 Fav/CS AP 03/11/2021 RC	
4	**CS/SB 522** Regulated Industries / Diaz (Similar CS/H 219, Compare H 1481, S 1988)	Vacation Rentals; Requiring advertising platforms to collect and remit taxes for certain transactions; preempting the regulation of vacation rentals to the state; preempting the regulation of advertising platforms to the state; requiring licenses issued by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to be displayed conspicuously to the public inside the licensed establishment; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; authorizing the department to adopt emergency rules; providing requirements and an expiration for such rules, etc. RI 02/16/2021 Fav/CS AP 03/11/2021 RC	
5	**SB 146** Brandes (Compare H 611)	Civic Education; Requiring the Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum for high school students, beginning with a specified school year; authorizing students to apply the hours they devote to practicum activities to certain community service requirements; requiring school districts accept nonpartisan civic literacy practicum activities and hours in requirements for certain awards; requiring the State Board of Education to designate certain high schools as Freedom Schools, etc. ED 02/03/2021 Favorable AP 03/11/2021	

A proposed committee substitute for the following bill (CS/SB 272) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/SB 272** Health Policy / Baxley (Identical H 1373)	Rare Disease Advisory Council; Creating the advisory council adjunct to the Department of Health; specifying the purpose of the advisory council; defining the term “rare disease”; prescribing duties and responsibilities of the advisory council, etc. HP 02/04/2021 Fav/CS AHS 03/03/2021 Fav/CS AP 03/11/2021	
	With subcommittee recommendation – Health and Human Services		
7	**SJR 340** Diaz (Similar HJR 547)	Supermajority Vote Required to Enact a Single-payor Healthcare System; Proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval, etc. HP 02/04/2021 Favorable AHS 03/03/2021 Favorable AP 03/11/2021 RC	
	With subcommittee recommendation – Health and Human Services		
8	**CS/SB 348** Health Policy / Rodriguez (Similar H 461)	Medicaid; Revising the types of emergency transportation vehicle services provided to Medicare-eligible persons for which Medicaid shall pay deductibles and coinsurance; specifying that such payments must be made according to certain procedure codes, etc. HP 02/04/2021 Fav/CS AHS 03/03/2021 Favorable AP 03/11/2021	
	With subcommittee recommendation – Health and Human Services		
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 52 (684342)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Rodrigues
SUBJECT:	Postsecondary Education
DATE:	March 10, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	**Fav/CS**
2.	Underhill	Elwell	AED	**Recommend: Fav/CS**
3.	Underhill	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 52 contains provisions to help postsecondary institutions provide certain educational and financial benefits and support to students and employees. Specifically, the bill:

- Clarifies that postsecondary tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families or a specified relative or nonrelative, or who was at the time he or she reached 18 years of age.
- Establishes the Dual Enrollment Scholarship Program to reimburse eligible postsecondary institutions for tuition and related costs for dual enrollment courses taken by certain students, and specifies reporting deadlines.
- Authorizes a university board of trustees, subject to approval by the Board of Governors, to target certain employees for bonuses by implementing a bonus scheme based on awards for work performance or employee recruitment and retention.

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost $28.5 million.

The bill takes effect July 1, 2021.

II. Present Situation:

Fee Waivers and Exemptions

All students in workforce education programs, Florida College System (FCS) institutions, and state universities must be charged fees unless a fee waiver or exemption applies.[1] Tuition and fee exemptions can be distinguished from fee waivers or educational benefits. An exemption is "provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees" and may generally include students who are in dual enrollment, apprenticeship programs, welfare transition, and in the custody of a relative, among other categories. In contrast, waivers transpire when students have their fees waived or forgiven by an institution. Examples of waivers include those related to state employees, college employees and their dependents, Purple Heart recipients, and certain classroom teachers.[2]

A student who is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative specified in law,[3] is exempt from the payment of tuition and fees at a state university, FCS institution, or Florida school district that provides workforce education programs. Such exemption includes fees associated with enrollment in applied academics for adult education instruction and remains valid until the student reaches 28 years of age.[4] Such exemptions are outlined by year in the following tables:

State University System DCF Specified Fee Exemptions by Academic Year[5]

	2017-18		2018-19		2019-20	
	Headcount	**Amount**	**Headcount**	**Amount**	**Headcount**	**Amount**
Adopted	1,156	$3,204,829	1,485	$4,076,209	1,704	$4,836,057
Foster Care/State Custody	1,035	$2,911,275	811	$2,444,456	801	$2,477,687
Non-State Custody	127	$365,738	449	$1,118,653	488	$1,255,052
Total	**2,318**	**$6,481,842**	**2,745**	**$7,639,318**	**2,993**	**$8,568,796**

[1] Sections 1009.22, 1009.23, and 1009.24, F.S., respectively.
[2] The Florida College System, *Exemptions and Waivers in The Florida College System* (March 2012), *available at* http://www.fldoe.org/core/fileparse.php/7724/urlt/0072361-fyi2012-02exemptions.pdf at 1.
[3] Section 39.5085, F.S., or s. 39.6225, F.S.
[4] Section 1009.25(1)(c) and (d), F.S.
[5] Florida Board of Governors (BOG) ODA Analysis (Nov. 9, 2020), Email, Troy Miller, Deputy Chief Data Officer, BOG (Nov. 10, 2020) (on file with the Senate Committee on Education).

Florida College System DCF Specified Fee Exemptions by Academic Year[6]

	2017-18		2018-19		2019-20	
	Headcount[7]	**Amount**	**Headcount**	**Amount**	**Headcount**	**Amount**
Adopted from DCF Services	1,459	$2,459,399	1,735	$2,972,262	1,833	$3,207,602
Custody of DCF	2,459	$4,281,744	2,464	$4,280,172	2,325	$4,040,160
Custody of a Relative	283	$501,827	318	$588,870	324	$573,952
Total	**4,201**	**$7,242,970**	**4,517**	**$7,841,304**	**4,482**	**$7,821,714**

It is unclear to what extent all postsecondary institutions apply the tuition and fee exemptions to students who qualify for the exemption and begin postsecondary education before the age of 18.[8]

Dual Enrollment

Students in secondary schools are required to have access to advanced coursework, which is intended to shorten the time necessary for students to complete the requirements associated with conferring a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject.[9]

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.[10] To be eligible for dual enrollment a student must be enrolled in grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law[11] and provides a secondary curriculum pursuant to law.[12] Students who meet the eligibility requirements and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.[13]

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[6] The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2017-2018 Fiscal Year* (2018), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1718ExemptWaiverSS.PDF at 1; The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2018-2019 Fiscal Year* (2019), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1819ExemptWaiverSS.PDF at 1; and The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2019-2020 Fiscal Year* (2020), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1920ExemptWaiveresSS.pdf at 1.

[7] Numbers reflect unduplicated headcount.

[8] Email, Alan F. Abramowitz, Executive Director, Florida Statewide Guardian ad Litem Office (Oct. 1, 2020) (on file with the Senate Committee on Education); *see also DCF Fee Exemptions in the Florida College System, FAQ*, The Florida College System, *available at* http://www.fldoe.org/core/fileparse.php/7480/urlt/0082785-faqsdcfexemption.pdf (last visited Jan. 6, 2021).

[9] Section 1007.27(1), F.S.

[10] Section 1007.271(1), F.S.

[11] Section 1002.42, F.S., provides the following requirements: private schools must comply with statutory database requirements including the type, name, address, and telephone number of the institution; the names of administrative officers; the enrollment by grade or special group; the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and background checks. A private school must comply with requirements regarding retention of records, attendance records and reports, school-entry health examinations, and immunizations, in addition to the annual private school survey.

[12] Section 1007.271(2), F.S.

[13] Section 1007.271(16), F.S. However, s. 1011.62(1)(i), F.S., specifies that the provisions of law which exempt dual enrolled and early admission students from payment for instructional materials and tuition and fees, including laboratory fees, do not apply to students who select the option of enrolling in an eligible independent institution. An eligible independent institution is an independent college or university, which is not-for-profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02. *Id.*

A growing body of research suggests that participation in dual enrollment leads to improved academic outcomes, especially for students from low-income backgrounds and first-generation college students. Research suggests that participation in dual enrollment leads to better grades in high school, increased enrollment in college following high school, higher rates of persistence in college, greater credit accumulation, and increased rates of credential attainment.[14] In addition, research indicates that allowing students in high school to complete even a single college class may significantly increase their chances of attending college and eventually graduating.[15] For example, students who had completed college algebra for dual enrollment had associate degree attainment rates that were 23 percentage points higher and bachelor's degree attainment rates 24 percentage points higher than students with no such experience.[16]

The following table shows the 2019-2020 academic year dual enrollment participation by public and private school and home education program students at FCS institutions, [17] state universities,[18] and for the 2018-2019 academic year students at eligible private colleges and universities.

	FCS Institutions	State Universities	Private Colleges and Universities
Public School	75,778	10,235	6,908
Private School	2,590	539	
Home Education	3,941	204	

Generally, about three times more students take dual enrollment courses at an FCS institution during the fall and spring terms than in the summer term.[19] More than 15 times as many students take dual enrollment courses at a state university in the fall and spring compared to the summer term.[20]

Eligibility Criteria

Student eligibility requirements for initial enrollment in college credit dual enrollment courses include a 3.0 unweighted high school grade point average (GPA) and obtaining at least the minimum score on a common placement test,[21] which is adopted by the State Board of Education

[14] United States Department of Education, *FACT SHEET: Expanding College Access Through the Dual Enrollment Pell Experiment* (May 16, 2016), https://www.ed.gov/news/press-releases/fact-sheet-expanding-college-access-through-dual-enrollment-pell-experiment (last visited Jan. 6, 2021).
[15] Jobs for the Future, *Taking College Courses in High School: A Strategy for College Readiness* (Oct. 2012), *available at* https://jfforg-prod-prime.s3.amazonaws.com/media/documents/TakingCollegeCourses_101712.pdf.
[16] *Id*.
[17] Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).
[18] Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).
[19] Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).
[20] Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).
[21] The Postsecondary Education Readiness Test (PERT) is Florida's customized common placement test. Florida Department of Education, *Common Placement Testing*, http://www.fldoe.org/schools/higher-ed/fl-college-system/common-placement-testing.stml (last visited Jan. 6, 2021). The placement testing requirement for student eligibility for dual enrollment for courses taken through December 31, 2020 was suspended pursuant to DOE emergency order 2020-EO-02. State of Florida

(SBE) and indicates that the student is ready for college-level coursework. For continued enrollment in college credit dual enrollment courses, students must maintain a 3.0 unweighted high school GPA and the minimum postsecondary GPA established by the postsecondary institution. For initial and continued enrollment in career certificate dual enrollment courses, students must have a 2.0 unweighted high school GPA. Exceptions to the required GPA and additional eligibility criteria authorized in law must be included in the dual enrollment articulation agreement.[22]

Dual Enrollment Articulation Agreements

A dual enrollment articulation agreement establishes the guidelines for implementing the program for eligible students.[23] Specifically, Florida law requires:

- Each district school superintendent and each public postsecondary institution president to develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution. District school boards may not refuse to enter into a dual enrollment articulation agreement with a local FCS institution if that institution has the capacity to offer dual enrollment courses.
- Each public postsecondary institution to enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and such student's parent.
- Each public postsecondary institution to enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students.[24]

In addition, district school boards and FCS institutions may enter into dual enrollment articulation agreements with state universities, and school districts may also enter into dual enrollment articulation agreements with eligible independent colleges and universities.[25]

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available free of charge to dual enrollment students from Florida public high schools.[26] Florida law neither prohibits nor requires an FCS institution to provide free instructional materials to a home education student or a student from a private school.[27] Instructional materials purchased by a

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Department of Education, *DOE Order No. 2020-EO-02* (May 13, 2020), *available at* http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf, at 7.

[22] Section 1007.271(3), F.S.

[23] DOE, *Dual Enrollment Frequently Asked Questions*, *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf, at 13.

[24] Section 1007.271, F.S.

[25] *Id*.

[26] Section 1007.271(17), F.S. The 2020 General Appropriations Act provided $10,590,529 to public school districts for the provision of dual enrollment instructional materials. Specific Appropriation 92, ch. 2020-111, L.O.F.

[27] The private school articulation agreement must include a provision concerning the student's responsibilities for providing his or her own instructional materials. Section 1007.271(24)(a), F.S. The 2020 General Appropriations Act provided $550,000 to Florida College System institutions for dual enrollment instructional materials. Specific Appropriation 132, ch. 2020-111, L.O.F.

district school board or FCS institution board of trustees on behalf of dual enrollment students remain the property of the board against which the purchase is charged.[28]

Funding for Dual Enrollment

The dual enrollment articulation agreement between a district school superintendent and a public postsecondary institution president must address specified information including a funding provision that delineates costs incurred by each entity in the following manner:

- School districts are required to pay public postsecondary institutions the standard tuition rate[29] per credit hour from funds provided in the Florida Education Finance Program (FEFP)[30] when dual enrollment course instruction takes place on the postsecondary institution's campus and the course is taken during the fall or spring term.
- When dual enrollment is provided on the high school site by postsecondary institution faculty, the school district must reimburse the costs associated with the postsecondary institution's proportion of salary and benefits to provide the instruction.
- When dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution.[31]

Florida law does not specify a similar funding provision for private schools to pay public postsecondary education institutions for the dual enrollment instruction that such institutions provide to the private school dual enrollment students. However, postsecondary institutions are not prohibited from charging a fee to private schools for the dual enrollment of its students.[32]

Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution must receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a student during the summer term.[33]

Collegiate High School Program

In 2014, the Legislature codified the collegiate high school program and specified related requirements.[34] Florida law requires each FCS institution to work with each district school board in its designated service area[35] to establish one or more collegiate high school programs.[36]

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[28] Section 1007.271(17), F.S.
[29] The standard in-state tuition rate is set by law at $2.33 per contract hour for programs leading to a career certificate or an applied technology diploma. Section 1009.22(3)(c), F.S. The standard tuition for lower-division courses at a FCS institution is $71.98 per credit hour. Section 1009.23(3)(a), F.S. The standard undergraduate tuition rate at a state university is $105.07 per credit hour. Section 1009.24(4)(a), F.S.
[30] The FEFP is the primary mechanism for funding the operating costs of Florida school districts. *See generally* Florida DOE, *2020-21 Funding for Florida School Districts* (2020), *available at* http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf.
[31] Section 1007.271(21)(n), F.S.
[32] The private school articulation agreement must include a provision that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student. Section 1007.271(24)(b)5., F.S.
[33] Section 1007.271(21)(n)2., F.S.
[34] Ch. 14-184, s. 10, Laws of Fla.
[35] Section 1000.21(3), F.S.
[36] Section 1007.273(1), F.S.

Purpose

At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least 1 full school year, to earn Career and Professional Education (CAPE) industry certifications and to successfully complete 30 credit hours through dual enrollment toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.[37]

Program Contract

Each district school board and its local FCS institution must execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. If the FCS institution does not establish a program with a district school board in its designated service area, another FCS institution may execute a contract with that district school board to establish the program.[38]

In addition to executing a contract with the local FCS institution, Florida law authorizes a district school board to execute a contract to establish a collegiate high school program with an eligible state university or an independent college or university.[39]

Florida law specifies the information that must be addressed in the contract, which must be executed by January 1 of each school year for implementation of the program during the next school year.[40]

Student Performance Contract

Each student participating in a collegiate high school program must enter into a student performance contract, which must be signed, by the student, the parent, and a representative of the school district and the applicable FCS institution, state university, or eligible independent college or university.[41] The performance contract must include the schedule of courses, by semester, and industry certifications to be taken by the student, student attendance requirements, and course grade requirements.

Funding for Collegiate High School Programs

The collegiate high school program is funded in accordance with the funding for dual enrollment through the FEFP. The SBE enforces compliance with the law regarding the collegiate high school program by withholding the transfer of funds for the school districts and the FCS institutions.[42]

[37] Section 1007.273(2), F.S.
[38] Section 1007.273(3), F.S.
[39] Section 1007.273(5), F.S. To participate in a collegiate high school program, an independent college or university must be an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. *Id.*
[40] Section 1007.273(3), F.S.
[41] Section 1007.273(4), F.S.
[42] Section 1007.273(6), F.S.

Extra Compensation - Bonus Schemes

In 2011, section 215.425, F.S., was amended to modify the prohibition on extra compensation made to public employees after the service has been rendered or the contract made to authorize specified bonus plans or severance pay.[43]

Current law requires that any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- Base the award of a bonus on work performance;
- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.[44]

III. Effect of Proposed Changes:

Fee Exemptions

The bill amends s. 1009.25, F.S., to clarify that tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative defined in law, or was so at the time he or she reached 18 years of age. Therefore, the bill may reduce confusion in the identification of students under DCF custody who are eligible for a tuition and fee exemption, specifically those students who enroll at a postsecondary institution prior to the age of 18.

Dual Enrollment Scholarship Program

The bill creates s. 1009.30, F.S., to establish the Dual Enrollment Scholarship Program (Program), administered by the Department of Education (DOE) in accordance with rules adopted by the State Board of Education (SBE). The goal of the Program is to support postsecondary institutions in providing dual enrollment.

The bill establishes the following requirements for reimbursements to postsecondary institutions for students participating in dual enrollment:

- Beginning in the 2021 fall term, the Program reimburses eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.
- Beginning in the 2022 summer term, the Program reimburses institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

The bill specifies the following reimbursement rates, which provide:

[43] Chapter 2011-143, L.O.F.
[44] Section 215.425(3), F.S.

- Florida College System institutions the in-state resident tuition rate established in s. 1009.23(3)(a), F.S.
- State University System institutions and independent postsecondary institutions the standard tuition rate established in s. 1009.24(4)(a), F.S.
- All eligible postsecondary institutions instructional materials costs based on a rate specified in the General Appropriations Act (GAA).

The Program requires a student participating in a dual enrollment program to meet minimum eligibility requirements specified in law[45] for the institution to receive reimbursement.

The bill establishes reporting requirements for participating postsecondary institutions, such that:
- Annually by March 15, each participating institution must report to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms.
- Annually by July 15, each participating institution must report to the DOE any eligible public school, private school, or home education program students enrolled during the summer term.
- For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier,[46] the postsecondary institution name, the postsecondary course number, and the postsecondary course name.

The bill specifies that reimbursement is contingent upon an appropriation in the GAA each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the deadlines specified. The bill specifies that dual enrollment courses taken during the following terms shall be reimbursed according to the following deadlines:
- For courses taken during the fall and spring terms, by April 15 of the same year.
- For courses taken during the summer term, by August 15 of the same year, before the beginning of the next academic year.

The bill requires the SBE to adopt rules to implement this section.

The establishment of a dedicated funding source to help defray the costs of dual enrollment for postsecondary institutions and private secondary schools may enhance student access to dual enrollment courses. The Program may also reduce the cost of dual enrollment for private school and home education students through providing additional funds for instructional materials.

Collegiate High School Program (Early College Program)

The bill modifies s. 1007.273, F.S., and changes the name of the collegiate high school program to the early college program. In addition, the bill:

[45] Section 1007.271, F.S.
[46] The bill requires postsecondary institutions to assign unique student identifiers for private school and home school program students. BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education). Public school students are assigned a Florida student identification number by the school district. Section 1008.386, F.S.

- Changes the purpose of the program to remove specified grade levels and credit thresholds to specify that an early college program means a structured high school acceleration program in which a cohort of students is enrolled full-time in postsecondary courses toward an associate degree.
- Requires that early college programs prioritize courses applicable as general education core courses[47] for an associate degree or a baccalaureate degree, and specifies that the early college program contract between a district school board and the local FCS institution. The contract must include a delineation of dual enrollment courses available, including general education core courses.[48]
- Specifies that a charter school may execute a contract directly with the local FCS institution or another postsecondary institution to establish an early college program at a mutually agreed upon location.

Additionally, the bill includes conforming provisions to change the name of the collegiate high school program to the early college program related to K-12 student and parent rights and educational choice,[49] and requirements for a standards high school diploma for students with a disability.[50]

The modifications to the early college program may increase access to such programs by students in charter schools, and may assist students in choosing dual enrollment courses that satisfy associate and baccalaureate degree requirements at public postsecondary institutions.

Bonus for State University System Employees

The bill creates s. 1012.978, F.S., to authorize a university board of trustees to implement a bonus scheme based on awards for work performance or employee recruitment and retention. Therefore, the bill expands the purpose in current law for a bonus scheme to include not only work performance, but also employee recruitment and retention, and allows the university to target certain employees for a bonus.

The bill requires the board of trustees to submit to the Board of Governors (BOG) the bonus scheme, including the evaluation criteria by which a bonus will be awarded, and requires the BOG to approve any such bonus scheme prior to implementation.

The bill takes effect July 1, 2021.

[47] Section 1007.25 and Fla. Admin. Code R. 6A-14.0303.
[48] General education core course options consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Beginning with students initially entering an FCS institution or state university in 2015-2016 and thereafter, each student must complete at least one identified core course in each subject area as part of the general education course requirements. The general education core course options must be adopted in rule by the SBE and in regulation by the Board of Governors. Section 1007.25(3), F.S. See also Rule 6A-10.0303 and Board of Governors Regulation 8.005.
[49] Section 1002.20(6)(a), F.S.
[50] Section 1003.4282(10)(c)2., F.S.

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:

PCS/CS/SB 52 may reduce expenses for private schools no longer required to pay costs associated with dual enrollment students. The financial supports for dual enrollment courses may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost $28.5 million. The estimate is based on tuition and instructional materials costs for the estimated number of private school and home education program students participating in dual enrollment in the fall and spring terms, and all dual enrollment students in the summer term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires each participating institution to report annually by March 15th to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms and by July 15th for summer terms. According to the BOG, it is unclear if all student data will be available by such dates.[51]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1003.4282, 1007.273, and 1009.25.

This bill creates the following sections of the Florida Statutes: 1009.30 and 1012.978.

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 the Appropriations Subcommittee on Education on February 9, 2021:
The committee substitute makes the following changes to the bill:

- Removes from the required institution reporting under the Dual Enrollment Scholarship Program the number of credits earned by the student.
- Changes the name of the "collegiate high school program" to the "early college program" and: (1) provides a definition of the early college program; (2) removes references to industry certifications in the program; and (3) authorizes charter schools to establish an early college program directly with a Florida College System or other institution.
- Conforms provisions to update the name of the "collegiate high school program" to the "early college program."

CS by Education on January 26, 2021:
The committee substitute authorizes appropriate flexibility to universities for bonus award criteria, to expand the criteria for award of a bonus to include not only work performance but also targeted recruitment and retention.

B. Amendments:

None.

[51] BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education).

576-02036-21

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to postsecondary education; amending s. 1007.273, F.S.; renaming collegiate high school programs as early college programs; defining the term "early college program"; requiring early college programs to prioritize certain courses; deleting obsolete language; conforming provisions to changes made by the act; authorizing charter schools to execute contracts with certain institutions to establish an early college program; amending s. 1009.25, F.S.; clarifying fee exemptions for the Department of Children and Families; creating s. 1009.30, F.S.; providing legislative findings; establishing the Dual Enrollment Scholarship Program; providing for the administration of the program; providing for the reimbursement of tuition and costs to eligible postsecondary institutions; requiring students participating in dual enrollment programs to meet specified minimum eligibility requirements in order for institutions to receive reimbursements; requiring participating institutions to annually report specified information to the Department of Education by certain dates; providing a reimbursement schedule for tuition and instructional materials costs; requiring the Department of Education to reimburse institutions by specified dates; providing that reimbursement for dual enrollment courses is

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contingent upon appropriations; providing for the prorating of reimbursements under certain circumstances; requiring the State Board of Education to adopt rules; creating s. 1012.978, F.S.; authorizing state university boards of trustees to implement a bonus scheme for state university system employees based on awards for work performance or employee recruitment and retention; requiring a board of trustees to submit the bonus scheme to the Board of Governors; requiring the Board of Governors to approve such bonus scheme before its implementation; amending ss. 1002.20 and 1003.4282, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 1007.273, Florida Statutes, is amended to read:

1007.273 Early college ~~Collegiate high school~~ program.—

(1) Each Florida College System institution shall work with each district school board in its designated service area to establish one or more early college ~~collegiate high school~~ programs. As used in this section, the term "early college program" means a structured high school acceleration program in which a cohort of students is enrolled full time in postsecondary courses toward an associate degree. The early college program must prioritize courses applicable as general education core courses under s. 1007.25 for an associate degree

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or a baccalaureate degree.

(2) ~~At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least 1 full school year, to earn CAPE industry certifications pursuant to s. 1008.44 and to successfully complete 30 credit hours through the dual enrollment program under s. 1007.271 toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.~~

~~(3)~~ Each district school board and its local Florida College System institution shall execute a contract to establish one or more early college ~~collegiate high school~~ programs at a mutually agreed upon location or locations. ~~Beginning with the 2015-2016 school year,~~ If the institution does not establish a program with a district school board in its designated service area, another Florida College System institution may execute a contract with that district school board to establish the program. The contract must be executed by January 1 of each school year for implementation of the program during the next school year. The contract must:

(a) Identify the grade levels to be included in the early college ~~collegiate high school~~ program ~~which must, at a minimum, include grade 12~~.

(b) Describe the early college ~~collegiate high school~~ program, including the delineation of courses ~~and industry certifications~~ offered, including online course availability; the high school and college credits earned for each postsecondary course completed ~~and industry certification earned~~; student eligibility criteria; and the enrollment process

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and relevant deadlines.

(c) Describe the methods, medium, and process by which students and their parents are annually informed about the availability of the early college ~~collegiate high school~~ program, the return on investment associated with participation in the program, and the information described in paragraphs (a) and (b).

(d) Identify the delivery methods for instruction and the instructors for all courses.

(e) Identify student advising services and progress monitoring mechanisms.

(f) Establish a program review and reporting mechanism regarding student performance outcomes.

(g) Describe the terms of funding arrangements to implement the early college ~~collegiate high school~~ program.

(3)~~(4)~~ Each student participating in an early college ~~a collegiate high school~~ program must enter into a student performance contract which must be signed by the student, the parent, and a representative of the school district and the applicable Florida College System institution, state university, or other institution participating pursuant to subsection (4)~~(5)~~. The performance contract must include the schedule of courses, by semester, ~~and industry certifications to be taken by the student,~~ student attendance requirements, and course grade requirements.

(4)~~(5)~~ In addition to executing a contract with the local Florida College System institution under this section, a district school board may execute a contract to establish an early college ~~a collegiate high school~~ program with a state

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university or an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. Such university or institution must meet the requirements specified under subsections (2) and (3) ~~(3) and (4)~~.

(5) A charter school may execute a contract directly with the local Florida College System institution or another institution as authorized under this section to establish an early college program at a mutually agreed upon location.

(6) The early college ~~collegiate high school~~ program must ~~shall~~ be funded pursuant to ss. 1007.271 and 1011.62. The State Board of Education shall enforce compliance with this section by withholding the transfer of funds for the school districts and the Florida College System institutions in accordance with s. 1008.32.

Section 2. Paragraphs (c) and (d) of subsection (1) of section 1009.25, Florida Statutes, are amended to read:

1009.25 Fee exemptions.—

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

(c) A student who is, or was at the time he or she reached 18 years of age, in the custody of the Department of Children and Families or who, after spending at least 6 months in the

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custody of the department after reaching 16 years of age, was placed in a guardianship by the court. Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.

(d) A student who is, or was at the time he or she reached 18 years of age, in the custody of a relative or nonrelative under s. 39.5085 or s. 39.6225 or who was adopted from the Department of Children and Families after May 5, 1997. Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.

Section 3. Section 1009.30, Florida Statutes, is created to read:

1009.30 Dual Enrollment Scholarship Program.—

(1) The Legislature finds and declares that dual enrollment is an integral part of the education system in this state and should be available for all eligible secondary students without cost to the student. There is established the Dual Enrollment Scholarship Program to support postsecondary institutions in providing dual enrollment.

(2) The Department of Education shall administer the Dual Enrollment Scholarship Program in accordance with rules adopted by the State Board of Education pursuant to subsection (9).

(3)(a) Beginning in the 2021 fall term, the program shall reimburse eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.

(b) Beginning in the 2022 summer term, the program shall reimburse institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

(4) A student participating in a dual enrollment program must meet the minimum eligibility requirements specified in s. 1007.271 in order for the institution to receive a reimbursement.

(5) Annually, by March 15, each participating institution must report to the department any eligible secondary students from private schools or home education programs who were enrolled during the previous fall or spring terms. Annually, by July 15, each participating institution must report to the department any eligible public school, private school, or home education program students who were enrolled during the summer term. For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier, the postsecondary institution name, the postsecondary course number, and the postsecondary course name.

(6)(a) Florida College System institutions shall be reimbursed at the in-state resident tuition rate established in s. 1009.23(3)(a).

(b) State University System institutions and independent postsecondary institutions shall be reimbursed at the standard tuition rate established in s. 1009.24(4)(a).

(c) Institutions shall be reimbursed for instructional materials costs based on a rate specified in the General Appropriations Act.

(7) For dual enrollment courses taken during the fall and spring terms, the department must reimburse institutions by April 15 of the same year. For dual enrollment courses taken during the summer term, the department must reimburse institutions by August 15 of the same year, before the beginning of the next academic year.

(8) Reimbursement for dual enrollment courses is contingent upon an appropriation in the General Appropriations Act each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (6) shall be prorated among the institutions that have reported eligible students to the department by the deadlines specified in subsection (5).

(9) The State Board of Education shall adopt rules to implement this section.

Section 4. Section 1012.978, Florida Statutes, is created to read:

1012.978 Bonuses for state university system employees.—Notwithstanding s. 215.425(3), a university board of trustees may implement a bonus scheme based on awards for work performance or employee recruitment and retention. The board of trustees must submit to the Board of Governors the bonus scheme, including the evaluation criteria by which a bonus will be awarded. The Board of Governors must approve any bonus scheme created under this section before its implementation.

Section 5. Paragraph (a) of subsection (6) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information

regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(6) EDUCATIONAL CHOICE.—

(a) *Public educational school choices.*—Parents of public school students may seek any public educational school choice options that are applicable and available to students throughout the state. These options may include controlled open enrollment, single-gender programs, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), CAPE digital tools, CAPE industry certifications, early college ~~collegiate high school~~ programs, Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public educational choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

Section 6. Paragraph (c) of subsection (10) of section 1003.4282, Florida Statutes, is amended to read:

1003.4282 Requirements for a standard high school diploma.—

(10) STUDENTS WITH DISABILITIES.—Beginning with students entering grade 9 in the 2014-2015 school year, this subsection applies to a student with a disability.

(c) A student with a disability who meets the standard high school diploma requirements in this section may defer the receipt of a standard high school diploma if the student:

1. Has an individual education plan that prescribes special education, transition planning, transition services, or related services through age 21; and

2. Is enrolled in accelerated college credit instruction pursuant to s. 1007.27, industry certification courses that lead to college credit, an early college ~~a collegiate high school~~ program, courses necessary to satisfy the Scholar designation requirements, or a structured work-study, internship, or preapprenticeship program.

The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to implement this subsection, including rules that establish the minimum requirements for students described in this subsection to earn a standard high school diploma. The State Board of Education shall adopt emergency rules pursuant to ss. 120.536(1) and 120.54.

Section 7. This act shall take effect July 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 52
INTRODUCER:	Education Committee and Senators Rodrigues and Baxley
SUBJECT:	Postsecondary Education
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	**Fav/CS**
2.	Underhill	Elwell	AED	**Recommend: Fav/CS**
3.	Underhill	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 52 contains provisions to help postsecondary institutions provide certain educational and financial benefits and support to students and employees. Specifically, the bill:

- Clarifies that postsecondary tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families or a specified relative or nonrelative, or who was at the time he or she reached 18 years of age.
- Establishes the Dual Enrollment Scholarship Program to reimburse eligible postsecondary institutions for tuition and related costs for dual enrollment courses taken by certain students, and specifies reporting deadlines.
- Authorizes a university board of trustees, subject to approval by the Board of Governors, to target certain employees for bonuses by implementing a bonus scheme based on awards for work performance or employee recruitment and retention.

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost $28.5 million.

The bill takes effect July 1, 2021.

II. Present Situation:

Fee Waivers and Exemptions

All students in workforce education programs, Florida College System (FCS) institutions, and state universities must be charged fees unless a fee waiver or exemption applies.[1] Tuition and fee exemptions can be distinguished from fee waivers or educational benefits. An exemption is "provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees" and may generally include students who are in dual enrollment, apprenticeship programs, welfare transition, and in the custody of a relative, among other categories. In contrast, waivers transpire when students have their fees waived or forgiven by an institution. Examples of waivers include those related to state employees, college employees and their dependents, Purple Heart recipients, and certain classroom teachers.[2]

A student who is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative specified in law,[3] is exempt from the payment of tuition and fees at a state university, FCS institution, or Florida school district that provides workforce education programs. Such exemption includes fees associated with enrollment in applied academics for adult education instruction and remains valid until the student reaches 28 years of age.[4] Such exemptions are outlined by year in the following tables:

State University System DCF Specified Fee Exemptions by Academic Year[5]

	2017-18		2018-19		2019-20	
	Headcount	**Amount**	**Headcount**	**Amount**	**Headcount**	**Amount**
Adopted	1,156	$3,204,829	1,485	$4,076,209	1,704	$4,836,057
Foster Care/State Custody	1,035	$2,911,275	811	$2,444,456	801	$2,477,687
Non-State Custody	127	$365,738	449	$1,118,653	488	$1,255,052
Total	**2,318**	**$6,481,842**	**2,745**	**$7,639,318**	**2,993**	**$8,568,796**

[1] Sections 1009.22, 1009.23, and 1009.24, F.S., respectively.
[2] The Florida College System, *Exemptions and Waivers in The Florida College System* (March 2012), *available at* http://www.fldoe.org/core/fileparse.php/7724/urlt/0072361-fyi2012-02exemptions.pdf at 1.
[3] Section 39.5085, F.S., or s. 39.6225, F.S.
[4] Section 1009.25(1)(c) and (d), F.S..
[5] Florida Board of Governors (BOG) ODA Analysis (Nov. 9, 2020), Email, Troy Miller, Deputy Chief Data Officer, BOG (Nov. 10, 2020) (on file with the Senate Committee on Education).

Florida College System DCF Specified Fee Exemptions by Academic Year[6]

	2017-18		2018-19		2019-20	
	Headcount[7]	**Amount**	**Headcount**	**Amount**	**Headcount**	**Amount**
Adopted from DCF Services	1,459	$2,459,399	1,735	$2,972,262	1,833	$3,207,602
Custody of DCF	2,459	$4,281,744	2,464	$4,280,172	2,325	$4,040,160
Custody of a Relative	283	$501,827	318	$588,870	324	$573,952
Total	**4,201**	**$7,242,970**	**4,517**	**$7,841,304**	**4,482**	**$7,821,714**

It is unclear to what extent all postsecondary institutions apply the tuition and fee exemptions to students who qualify for the exemption and begin postsecondary education before the age of 18.[8]

Dual Enrollment

Students in secondary schools are required to have access to advanced coursework, which is intended to shorten the time necessary for students to complete the requirements associated with conferring a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject.[9]

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.[10] To be eligible for dual enrollment a student must be enrolled in grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law[11] and provides a secondary curriculum pursuant to law.[12] Students who meet the eligibility requirements and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.[13]

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[6] The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2017-2018 Fiscal Year* (2018), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1718ExemptWaiverSS.PDF at 1; The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2018-2019 Fiscal Year* (2019), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1819ExemptWaiverSS.PDF at 1; and The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2019-2020 Fiscal Year* (2020), version 1, *available at* http://www.fldoe.org/core/fileparse.php/19874/urlt/1920ExemptWaiveresSS.pdf at 1.

[7] Numbers reflect unduplicated headcount.

[8] Email, Alan F. Abramowitz, Executive Director, Florida Statewide Guardian ad Litem Office (Oct. 1, 2020) (on file with the Senate Committee on Education); *see also DCF Fee Exemptions in the Florida College System, FAQ*, The Florida College System, *available at* http://www.fldoe.org/core/fileparse.php/7480/urlt/0082785-faqsdcfexemption.pdf (last visited Jan. 6, 2021).

[9] Section 1007.27(1), F.S.

[10] Section 1007.271(1), F.S.

[11] Section 1002.42, F.S., provides the following requirements: private schools must comply with statutory database requirements including the type, name, address, and telephone number of the institution; the names of administrative officers; the enrollment by grade or special group; the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and background checks. A private school must comply with requirements regarding retention of records, attendance records and reports, school-entry health examinations, and immunizations, in addition to the annual private school survey.

[12] Section 1007.271(2), F.S.

[13] Section 1007.271(16), F.S. However, s. 1011.62(1)(i), F.S., specifies that the provisions of law which exempt dual enrolled and early admission students from payment for instructional materials and tuition and fees, including laboratory fees, do not apply to students who select the option of enrolling in an eligible independent institution. An eligible independent institution is an independent college or university, which is not-for-profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02. *Id.*

A growing body of research suggests that participation in dual enrollment leads to improved academic outcomes, especially for students from low-income backgrounds and first-generation college students. Research suggests that participation in dual enrollment leads to better grades in high school, increased enrollment in college following high school, higher rates of persistence in college, greater credit accumulation, and increased rates of credential attainment.[14] In addition, research indicates that allowing students in high school to complete even a single college class may significantly increase their chances of attending college and eventually graduating.[15] For example, students who had completed college algebra for dual enrollment had associate degree attainment rates that were 23 percentage points higher and bachelor's degree attainment rates 24 percentage points higher than students with no such experience.[16]

The following table shows the 2019-2020 academic year dual enrollment participation by public and private school and home education program students at FCS institutions, [17] state universities,[18] and for the 2018-2019 academic year students at eligible private colleges and universities.

	FCS Institutions	State Universities	Private Colleges and Universities
Public School	75,778	10,235	6,908
Private School	2,590	539	
Home Education	3,941	204	

Generally, about three times more students take dual enrollment courses at an FCS institution during the fall and spring terms than in the summer term.[19] More than 15 times as many students take dual enrollment courses at a state university in the fall and spring compared to the summer term.[20]

Eligibility Criteria

Student eligibility requirements for initial enrollment in college credit dual enrollment courses include a 3.0 unweighted high school grade point average (GPA) and obtaining at least the minimum score on a common placement test,[21] which is adopted by the State Board of Education

[14] United States Department of Education, *FACT SHEET: Expanding College Access Through the Dual Enrollment Pell Experiment* (May 16, 2016), https://www.ed.gov/news/press-releases/fact-sheet-expanding-college-access-through-dual-enrollment-pell-experiment (last visited Jan. 6, 2021).
[15] Jobs for the Future, *Taking College Courses in High School: A Strategy for College Readiness* (Oct. 2012), *available at* https://jfforg-prod-prime.s3.amazonaws.com/media/documents/TakingCollegeCourses_101712.pdf.
[16] *Id*.
[17] Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).
[18] Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).
[19] Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).
[20] Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).
[21] The Postsecondary Education Readiness Test (PERT) is Florida's customized common placement test. Florida Department of Education, *Common Placement Testing*, http://www.fldoe.org/schools/higher-ed/fl-college-system/common-placement-testing.stml (last visited Jan. 6, 2021). The placement testing requirement for student eligibility for dual enrollment for courses taken through December 31, 2020 was suspended pursuant to DOE emergency order 2020-EO-02. State of Florida

(SBE) and indicates that the student is ready for college-level coursework. For continued enrollment in college credit dual enrollment courses, students must maintain a 3.0 unweighted high school GPA and the minimum postsecondary GPA established by the postsecondary institution. For initial and continued enrollment in career certificate dual enrollment courses, students must have a 2.0 unweighted high school GPA. Exceptions to the required GPA and additional eligibility criteria authorized in law must be included in the dual enrollment articulation agreement.[22]

Dual Enrollment Articulation Agreements

A dual enrollment articulation agreement establishes the guidelines for implementing the program for eligible students.[23] Specifically, Florida law requires:

- Each district school superintendent and each public postsecondary institution president to develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution. District school boards may not refuse to enter into a dual enrollment articulation agreement with a local FCS institution if that institution has the capacity to offer dual enrollment courses.
- Each public postsecondary institution to enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and such student's parent.
- Each public postsecondary institution to enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students.[24]

In addition, district school boards and FCS institutions may enter into dual enrollment articulation agreements with state universities, and school districts may also enter into dual enrollment articulation agreements with eligible independent colleges and universities.[25]

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available free of charge to dual enrollment students from Florida public high schools.[26] Florida law neither prohibits nor requires an FCS institution to provide free instructional materials to a home education student or a student from a private school.[27] Instructional materials purchased by a

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Department of Education, *DOE Order No. 2020-EO-02* (May 13, 2020), *available at* http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf, at 7.

[22] Section 1007.271(3), F.S.

[23] DOE, *Dual Enrollment Frequently Asked Questions*, *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf, at 13.

[24] Section 1007.271, F.S.

[25] *Id*.

[26] Section 1007.271(17), F.S. The 2020 General Appropriations Act provided $10,590,529 to public school districts for the provision of dual enrollment instructional materials. Specific Appropriation 92, ch. 2020-111, L.O.F.

[27] The private school articulation agreement must include a provision concerning the student's responsibilities for providing his or her own instructional materials. Section 1007.271(24)(a), F.S. The 2020 General Appropriations Act provided $550,000 to Florida College System institutions for dual enrollment instructional materials. Specific Appropriation 132, ch. 2020-111, L.O.F.

district school board or FCS institution board of trustees on behalf of dual enrollment students remain the property of the board against which the purchase is charged.[28]

Funding for Dual Enrollment

The dual enrollment articulation agreement between a district school superintendent and a public postsecondary institution president must address specified information including a funding provision that delineates costs incurred by each entity in the following manner:

- School districts are required to pay public postsecondary institutions the standard tuition rate[29] per credit hour from funds provided in the Florida Education Finance Program (FEFP)[30] when dual enrollment course instruction takes place on the postsecondary institution's campus and the course is taken during the fall or spring term.
- When dual enrollment is provided on the high school site by postsecondary institution faculty, the school district must reimburse the costs associated with the postsecondary institution's proportion of salary and benefits to provide the instruction.
- When dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution.[31]

Florida law does not specify a similar funding provision for private schools to pay public postsecondary education institutions for the dual enrollment instruction that such institutions provide to the private school dual enrollment students. However, postsecondary institutions are not prohibited from charging a fee to private schools for the dual enrollment of its students.[32]

Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution must receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a student during the summer term.[33]

Extra Compensation - Bonus Schemes

In 2011, section 215.425, F.S., was amended to modify the prohibition on extra compensation made to public employees after the service has been rendered or the contract made to authorize specified bonus plans or severance pay.[34]

Current law requires that any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- Base the award of a bonus on work performance;

[28] Section 1007.271(17), F.S.
[29] The standard in-state tuition rate is set by law at $2.33 per contract hour for programs leading to a career certificate or an applied technology diploma. Section 1009.22(3)(c), F.S. The standard tuition for lower-division courses at a FCS institution is $71.98 per credit hour. Section 1009.23(3)(a), F.S. The standard undergraduate tuition rate at a state university is $105.07 per credit hour. Section 1009.24(4)(a), F.S.
[30] The FEFP is the primary mechanism for funding the operating costs of Florida school districts. *See generally* Florida DOE, *2020-21 Funding for Florida School Districts* (2020), *available at* http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf.
[31] Section 1007.271(21)(n), F.S.
[32] The private school articulation agreement must include a provision that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student. Section 1007.271(24)(b)5., F.S.
[33] Section 1007.271(21)(n)2., F.S.
[34] Chapter 2011-143, L.O.F.

- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.[35]

III. Effect of Proposed Changes:

Fee Exemptions

The bill amends s. 1009.25, F.S., to clarify that tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative defined in law, or was so at the time he or she reached 18 years of age. Therefore, the bill may reduce confusion in the identification of students under DCF custody who are eligible for a tuition and fee exemption, specifically those students who enroll at a postsecondary institution prior to the age of 18.

Dual Enrollment Scholarship Program

The bill creates s. 1009.30, F.S., to establish the Dual Enrollment Scholarship Program (Program), administered by the Department of Education (DOE) in accordance with rules adopted by the State Board of Education (SBE). The goal of the Program is to support postsecondary institutions in providing dual enrollment.

The bill establishes the following requirements for reimbursements to postsecondary institutions for students participating in dual enrollment:

- Beginning in the 2021 fall term, the Program reimburses eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.
- Beginning in the 2022 summer term, the Program reimburses institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

The bill specifies the following reimbursement rates, which provide:

- Florida College System institutions the in-state resident tuition rate established in s. 1009.23(3)(a), F.S.
- State University System institutions and independent postsecondary institutions the standard tuition rate established in s. 1009.24(4)(a), F.S.
- All eligible postsecondary institutions instructional materials costs based on a rate specified in the General Appropriations Act (GAA).

The Program requires a student participating in a dual enrollment program to meet minimum eligibility requirements specified in law[36] for the institution to receive reimbursement.

[35] Section 215.425(3), F.S.
[36] Section 1007.271, F.S.

The bill establishes reporting requirements for participating postsecondary institutions, such that:

- Annually by March 15, each participating institution must report to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms.
- Annually by July 15, each participating institution must report to the DOE any eligible public school, private school, or home education program students enrolled during the summer term.
- For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier,[37] the postsecondary institution name, the postsecondary course number, the postsecondary course name, and the number of postsecondary course credits earned by the student.

The bill specifies that reimbursement is contingent upon an appropriation in the GAA each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the deadlines specified. The bill specifies that dual enrollment courses taken during the following terms shall be reimbursed according to the following deadlines:

- For courses taken during the fall and spring terms, by April 15 of the same year.
- For courses taken during the summer term, by August 15 of the same year, before the beginning of the next academic year.

The bill requires the SBE to adopt rules to implement this section.

The establishment of a dedicated funding source to help defray the costs of dual enrollment for postsecondary institutions and private secondary schools may enhance student access to dual enrollment courses. The Program may also reduce the cost of dual enrollment for private school and home education students through providing additional funds for instructional materials.

Bonus for State University System Employees

The bill creates s. 1012.978, F.S., to authorize a university board of trustees to implement a bonus scheme based on awards for work performance or employee recruitment and retention. Therefore, the bill expands the purpose in current law for a bonus scheme to include not only work performance, but also employee recruitment and retention, and allows the university to target certain employees for a bonus.

The bill requires the board of trustees to submit to the Board of Governors (BOG) the bonus scheme, including the evaluation criteria by which a bonus will be awarded, and requires the BOG to approve any such bonus scheme prior to implementation.

The bill takes effect July 1, 2021.

[37] The bill requires postsecondary institutions to assign unique student identifiers for private school and home school program students. BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education). Public school students are assigned a Florida student identification number by the school district. Section 1008.386, F.S.

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 52 bill may reduce expenses for private schools no longer required to pay costs associated with dual enrollment students. The financial supports for dual enrollment courses may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost $28.5 million. The estimate is based on tuition and instructional materials costs for the estimated number of private school and home education program students participating in dual enrollment in the fall and spring terms, and all dual enrollment students in the summer term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires each participating institution to report annually by March 15th to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms and by July 15th for summer terms. According to the BOG, it is unclear if all student data will be available by such dates.[38]

VIII. Statutes Affected:

This bill substantially amends section 1009.25 of the Florida Statutes.

This bill creates the following sections of the Florida Statues: 1009.30 and 1012.978.

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 Education on January 26, 2021:
The committee substitute authorizes appropriate flexibility to universities for bonus award criteria, to expand the criteria for award of a bonus to include not only work performance but also targeted recruitment and retention.

B. Amendments:

None.

[38] BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education).

By the Committee on Education; and Senator Rodrigues

581-01285-21 202152c1

A bill to be entitled

An act relating to postsecondary education; amending s. 1009.25, F.S.; clarifying fee exemptions for the Department of Children and Families; creating s. 1009.30, F.S.; providing legislative findings; establishing the Dual Enrollment Scholarship Program; providing for the administration of the program; providing for the reimbursement of tuition and costs to eligible postsecondary institutions; requiring students participating in dual enrollment programs to meet specified minimum eligibility requirements in order for institutions to receive reimbursements; requiring participating institutions to annually report specified information to the Department of Education by certain dates; providing a reimbursement schedule for tuition and instructional materials costs; requiring the Department of Education to reimburse institutions by specified dates; providing that reimbursement for dual enrollment courses is contingent upon appropriations; providing for the prorating of reimbursements under certain circumstances; requiring the State Board of Education to adopt rules; creating s. 1012.978, F.S.; authorizing university boards of trustees to implement a bonus scheme for state university system employees based on awards for work performance or employee recruitment and retention; requiring a board of trustees to submit the bonus scheme to the Board of Governors; requiring the Board of Governors to approve

581-01285-21 202152c1

such bonus scheme before its implementation; providing an effective date.

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

Section 1. Paragraphs (c) and (d) of subsection (1) of section 1009.25, Florida Statutes, are amended to read:

1009.25 Fee exemptions.—

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

(c) A student who is, or was at the time he or she reached 18 years of age, in the custody of the Department of Children and Families or who, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court. Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.

(d) A student who is, or was at the time he or she reached 18 years of age, in the custody of a relative or nonrelative under s. 39.5085 or s. 39.6225 or who was adopted from the Department of Children and Families after May 5, 1997. Such exemption includes fees associated with enrollment in applied academics for adult education instruction. The exemption remains valid until the student reaches 28 years of age.

Section 2. Section 1009.30, Florida Statutes, is created to read:

1009.30 Dual Enrollment Scholarship Program.—

(1) The Legislature finds and declares that dual enrollment is an integral part of the education system in this state and should be available for all eligible secondary students without cost to the student. There is established the Dual Enrollment Scholarship Program to support postsecondary institutions in providing dual enrollment.

(2) The Department of Education shall administer the Dual Enrollment Scholarship Program in accordance with rules adopted by the State Board of Education pursuant to subsection (9).

(3)(a) Beginning in the 2021 fall term, the program shall reimburse eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.

(b) Beginning in the 2022 summer term, the program shall reimburse institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

(4) A student participating in a dual enrollment program must meet the minimum eligibility requirements specified in s. 1007.271 in order for the institution to receive a reimbursement.

(5) Annually, by March 15, each participating institution must report to the department any eligible secondary students from private schools or home education programs who were enrolled during the previous fall or spring terms. Annually, by July 15, each participating institution must report to the

department any eligible public school, private school, or home education program students who were enrolled during the summer term. For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier, the postsecondary institution name, the postsecondary course number, the postsecondary course name, and the number of postsecondary course credits earned by the student.

(6)(a) Florida College System institutions shall be reimbursed at the in-state resident tuition rate established in s. 1009.23(3)(a).

(b) State University System institutions and independent postsecondary institutions shall be reimbursed at the standard tuition rate established in s. 1009.24(4)(a).

(c) Institutions shall be reimbursed for instructional materials costs based on a rate specified in the General Appropriations Act.

(7) For dual enrollment courses taken during the fall and spring terms, the department must reimburse institutions by April 15 of the same year. For dual enrollment courses taken during the summer term, the department must reimburse institutions by August 15 of the same year, before the beginning of the next academic year.

(8) Reimbursement for dual enrollment courses is contingent upon an appropriation in the General Appropriations Act each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts specified in subsection (6) shall be prorated among the institutions that have reported eligible students to the department by the deadlines specified in subsection (5).

(9) The State Board of Education shall adopt rules to implement this section.

Section 3. Section 1012.978, Florida Statutes, is created to read:

1012.978 Bonuses for state university system employees.—Notwithstanding s. 215.425(3), a university board of trustees may implement a bonus scheme based on awards for work performance or employee recruitment and retention. The board of trustees must submit to the Board of Governors the bonus scheme, including the evaluation criteria by which a bonus will be awarded. The Board of Governors must approve any bonus scheme created under this section before its implementation.

Section 4. This act shall take effect July 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 64
INTRODUCER:	Environment and Natural Resources Committee and Senator Albritton
SUBJECT:	Reclaimed Water
DATE:	March 10, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	**Fav/CS**
2.	Paglialonga	Ryon	CA	**Favorable**
3.	Reagan	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 64 creates a timeline and plan to eliminate nonbeneficial surface water discharge within five years. It contains a series of conditions authorizing discharges that are being beneficially used or otherwise regulated, and for specified hardships. The bill requires domestic wastewater utilities that dispose of effluent, reclaimed water or reuse water by surface water discharge to submit a five-year plan to eliminate nonbeneficial surface water discharge to the Department of Environmental Protection (DEP). The plan must be:

- Submitted by November 1, 2021; and
- Implemented by January 1, 2028 (January 1, 2030, for potable reuse projects).

The bill also:

- Specifies that potable reuse is an alternative water supply, for purposes of making reuse projects eligible for alternative water supply funding;
- Incentivizes the development of potable reuse projects;
- Incentivizes residential developments that use graywater technologies; and

Specifies the total dissolved solids allowable in aquifer storage and recovery in certain circumstances.

The DEP will have some insignificant administrative costs relating to rulemaking that the department can handle within existing resources.

II. Present Situation:

Floridians currently use an estimated 6.4 billion gallons of water per day.[1] Between 2020 and 2040, Florida's population is expected to increase by 4.8 million to 26.4 million people, while water demands are expected to grow from one billion gallons per day (bgd) to 7.4 bgd.[2] For some regions of the state, there is enough water to meet future needs through existing sources, but others require additional water to be developed.[3] Alternative water supply projects currently provide an estimated 1.019 bgd with an additional estimated capacity of 1.651 bgd that will be available when all projects are fully completed and implemented.[4]

Water Reuse

Water reuse is an essential component of both wastewater management and water resource management in Florida. Reuse is defined as the deliberate application of reclaimed water for a beneficial purpose.[5] Whereas reclaimed water is defined as water from a domestic wastewater[6] treatment facility that has received at least secondary treatment[7] and basic disinfection[8] for reuse.[9]

Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[10] These facilities may require state and federal permits for discharges to surface waters,[11] although federal requirements for most facilities or activities are incorporated into a state-issued permit.[12] The Department of Environmental Protection (DEP) also regulates the construction and operation of domestic wastewater treatment facilities and establishes disinfection requirements for the reuse of reclaimed water.[13]

Reusing water helps conserve drinking water supplies by replacing drinking quality water for non-drinking water purposes, such as irrigation, industrial cooling, groundwater recharge, and prevention of saltwater intrusion in coastal groundwater aquifers.[14] Water reuse also provides

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[1] Department of Environmental Protection (DEP), *Annual Regional Water Supply Planning Report* (2019), *available at* https://fdep.maps.arcgis.com/apps/MapSeries/index.html?appid=04f84e6ae64c45e292e5b3db82f045e3.
[2] *Id*.
[3] *Id*.
[4] *Id*.
[5] Fla. Admin. Code R. 62-610.200(52).
[6] Section 367.021(5), F.S., defines the term "domestic wastewater" to mean wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.
[7] Fla. Admin. Code R. 62-610.200(54) defines the term "secondary treatment" to mean "wastewater treatment to a level that will achieve the effluent limitations specified in paragraph 62-600.420(1)(a), F.A.C."
[8] Fla. Admin. Code R. 62-600.440(5) provides the requirements for basic disinfection.
[9] Section 373.019(17), F.S.; Fla. Admin. Code R. 62-610.200(48).
[10] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Jan. 21, 2021).
[11] For required state permits, *see* Section 403.087, F.S.; *see also* DEP, *Wastewater Permitting*, available at https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting (last visited Jan. 26, 2021). For federal permits, *see* 33 U.S.C. s. 1342.
[12] Sections 403.061 and 403.087, F.S.
[13] Fla. Admin. Code R. 62-600.
[14] Martinez, Christopher J. and Clark, Mark W., *Reclaimed Water and Florida's Water Reuse Program*, UF/IFAS Agricultural and Biological Engineering Department (rev. 07/2012), *available at* https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.590.5063&rep=rep1&type=pdf.

environmental benefits, including reduced groundwater withdrawals, reduced needs for new drinking water supplies and infrastructure, and improved water quality of the natural environment by reducing the number of nutrients that are discharged directly to surface water and groundwater by wastewater treatment facilities.[15] The use of reclaimed water also provides for the recovery of water that would otherwise be lost to tide and evaporation.

In its rules, the DEP requires the promotion of reuse of reclaimed water, recycling of stormwater for irrigation and other beneficial uses, recycling of industrial wastewater, and encourages local governments to create programs for reuse.[16] Water conservation and the promotion of water reuse have also been established as formal state objectives by the Legislature.[17] State law further provides that the use of reclaimed water provided by wastewater treatment plants permitted and operated under a reuse program by the DEP are considered environmentally acceptable and are not a threat to public health and safety.[18]

Florida tracks its reuse inventory in an annual report compiled by the DEP.[19] In 2019, a total of 476 domestic wastewater treatment facilities reported making reclaimed water available for reuse.[20] Approximately 820 million gallons per day (mgd) of reclaimed water were used for beneficial purposes in 2019,[21] representing approximately 48 percent of the state's total domestic wastewater flow.[22] The total reuse capacity associated with reuse systems was 1,757 mgd,[23] representing approximately 67 percent of the state's total domestic wastewater treatment capacity.[24]

Reclaimed Water as Alternative Water Supply

When traditional water supplies are constrained, alternative water supplies must be developed in addition to water conservation efforts. Alternative water supply can include reclaimed water, brackish groundwater, surface water, and excess surface water captured and stored in reservoirs or aquifer storage and recovery wells.[25]

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[15] *Id*.
[16] Fla. Admin. Code R. 62-40.416.
[17] Sections 403.064(1) and 373.250(1), F.S.
[18] *Id*.
[19] *See* DEP, *2019 Reuse Inventory Report* (2020), *available at* https://floridadep.gov/sites/default/files/2019_Reuse_Inventory_Report.pdf; compiled from reports collected pursuant to chapter 62-610 of the Florida Administrative Code.
[20] The number of treatment facilities providing reuse broken down by water management districts is as follows: Northwest Florida – 62, South Florida – 109, St. Johns River – 143, Suwannee River – 28, and Southwest Florida – 134; DEP, *2019 Reuse Inventory Report*, 2 (2020), *available at* https://floridadep.gov/sites/default/files/2019_Reuse_Inventory_Report.pdf.
[21] This represents an average per capita reuse of 38.66 gallons per day per person. DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Jan. 21, 2021).
[22] *Id*. at 2, 3.
[23] *Id*. at 2.
[24] *Id*.
[25] DEP, *Annual Regional Water Supply Planning Report* (2019), *available at* https://fdep.maps.arcgis.com/apps/MapSeries/index.html?appid=04f84e6ae64c45e292e5b3db82f045e3.

Reclaimed water is a type of alternative water supply as defined in s. 373.019(1), F.S., and is eligible to receive alternative water supply funding.[26] Reclaimed water can be used for many purposes to meet water demand, including:

- Irrigation of golf courses, parks, residential properties, and landscaped areas;
- Urban uses, such as toilet flushing, car washing, and aesthetic purposes;
- Agricultural uses, such as irrigation of food crops, pasture lands, and at nurseries;
- Wetlands creation, restoration, and enhancement;
- Recharging groundwater through rapid infiltration basins, absorption fields, and direct injection;
- Augmentation of surface waters used for drinking water supplies; and
- Industrial uses such as processing and cooling water.[27]

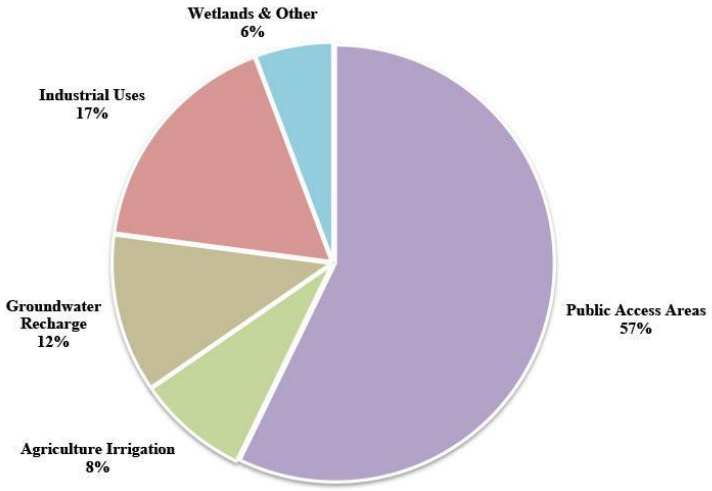
Reclaimed Water Use in Florida

Communities in Florida have been using reclaimed water for landscape irrigation and industrial uses since the early 1970s.[28] Today, Florida is the national leader in water reuse, utilizing 48 percent of the total domestic wastewater in the state for nonpotable uses.[29] Reclaimed water is estimated to have avoided the use of over 158 billion gallons of potable quality water while serving to add more than 94 billion gallons back to available groundwater supplies.[30] Reclaimed water projects make up 35 percent of all water supply projects.[31]

According to the DEP's reuse inventory report, over the past 30 years, Florida has made great strides in the expansion of reclaimed water systems, and reuse is now an integral part of wastewater management, water resource management, and ecosystem management in the state.[32] The chart below shows the percentage of reclaimed water utilization by flow for each reuse type.[33]

[26] Section 373.250(2), F.S.
[27] DEP, *Uses of Reclaimed Water*, https://floridadep.gov/water/domestic-wastewater/content/uses-reclaimed-water (last visited Jan. 21, 2021).
[28] Florida Potable Reuse Commission, *Framework for the Implementation of Potable Reuse in Florida*, xxiii, (Jan. 2020), *available at* https://watereuse.org/wp-content/uploads/2020/01/Framework-for-Potable-Reuse-in-Florida.pdf.
[29] *Id*; Florida Water Environment Association Utility Council, *Evaluation of the Impacts of Eliminating Surface Water Discharges from Domestic Wastewater Facilities in Florida*, 16 (Jan. 2020), *available at* http://fweauc.org/wp-content/uploads/2013/02/Evaluation-of-the-Impacts-of-Eliminating-Surface-Water-Discharges-from-Domestic-Wastewater-Facilities-in-Florida-January-2020.pdf.
[30] DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Jan. 21, 2021).
[31] DEP, *Annual Regional Water Supply Planning Report*, (2019), *available at* https://fdep.maps.arcgis.com/apps/MapSeries/index.html?appid=04f84e6ae64c45e292e5b3db82f045e3.
[32] DEP, *2019 Reuse Inventory Report*, 2 (2020), *available at* https://floridadep.gov/sites/default/files/2019_Reuse_Inventory_Report.pdf; *see also* DEP, *Florida's Reuse Activities*, https://floridadep.gov/water/domestic-wastewater/content/floridas-reuse-activities (last visited Jan. 21, 2021).
[33] *Id*.

Figure 1: Reclaimed Water Utilization by Flow



Note: Agriculture irrigation includes edible crops (e.g., citrus) as well as feed and fodder crops (e.g., spray fields).

Regulation of Reclaimed Water

Both the DEP and the water management districts play a regulatory role in the use of reclaimed water. The DEP regulations focus on water quality and ensure that reclaimed water is appropriately treated for its intended use to protect public health and the environment. Water management districts work with local utilities and water users to maximize the beneficial use of reclaimed water as an alternative water supply. The districts include alternative water supply projects in their regional water supply plans[34] and implement cost-share programs to help communities develop reclaimed water systems.[35]

In its rules, the DEP provides detailed reclaimed water treatment requirements depending upon how the reclaimed water will be used, including groundwater recharge, surface water discharge, or to protect water quality.[36] These rules also require owners of domestic wastewater facilities having permitted capacities of 0.1 million gallons per day and above that provide reclaimed water for reuse to submit annual reuse reports to the DEP. To be reused as reclaimed water, domestic wastewater must meet, at minimum, a treatment standard of secondary treatment, basic disinfection, and pH control.[37] The regulations also include requirements for groundwater monitoring at reuse and land application sites.[38]

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[34] Section 373.036(2), F.S.
[35] DEP, *Annual Regional Water Supply Planning Report* (2019), *available at* https://fdep.maps.arcgis.com/apps/MapSeries/index.html?appid=04f84e6ae64c45e292e5b3db82f045e3; *see also* DEP, *Water Management District Reuse Programs*, https://floridadep.gov/water/domestic-wastewater/content/water-management-district-reuse-programs (last visited Jan. 26, 2021).
[36] Fla. Admin. Code R. 62-610.
[37] Fla. Admin. Code R. 62-600.530, 62-600.440.
[38] Fla. Admin. Code R. 62-601.

The water management districts are responsible for administering water resources at a regional level, including programs to protect the water supply, water quality, and natural systems.[39] The water management districts issue consumptive use permits (CUPs) to manage the use of water. A CUP allows the holder to withdraw a specified amount of water from surface water and groundwater sources for reasonable and beneficial use.[40] CUPs require water conservation to prevent wasteful uses, require the reuse of reclaimed water instead of higher-quality groundwater where appropriate, and set limits on the amount of water that can be withdrawn.[41] The water management districts may not require CUPs for reclaimed water.[42]

The water management districts also implement minimum flows and minimum water levels (MFLs) to balance public water supply needs with protecting the state's natural systems.[43] For water bodies below or that are projected to fall below their MFL, the water management districts must implement a recovery or prevention strategy to ensure the MFL is maintained.[44] Alternative water supply can be used as a recovery strategy when existing water sources are not adequate to supply water for all existing and future reasonable beneficial uses or as a prevention strategy to sustain the water resources and related natural systems.[45]

Potable Reuse

Potable reuse is the process of using treated wastewater for drinking water.[46] It involves the use of reclaimed water to directly or indirectly augment drinking water supplies.[47] Indirect potable reuse is the planned discharge of reclaimed water to ground or surface waters to develop supplement potable water supply. Direct potable reuse introduces advanced treated reclaimed water into a raw water supply immediately upstream of a drinking water treatment facility or directly into a potable water distribution system.[48]

Although regulations currently exist in Florida for using reclaimed water for indirect potable reuse for augmenting surface water, there are no regulations that address using reclaimed water for indirect potable reuse involving groundwater replenishment or direct potable reuse.[49]

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[39] DEP, *Water Management Districts*, https://floridadep.gov/water-policy/water-policy/content/water-management-districts (last visited Jan. 23, 2021).
[40] South Florida Water Management District, *Consumptive Water Use Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/water-use-permits (last visited Jan. 23, 2021).
[41] DEP, *2021 Florida Water Plan*, *available at* https://fdep.maps.arcgis.com/apps/Cascade/index.html?appid=473b768b4af049bf91b2879b83ea961c.
[42] Section 373.250, F.S.
[43] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 23, 2021); *see also* section 373.042(1), F.S. Minimum flows and minimum water levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
[44] *Id*.
[45] DEP, *Annual Regional Water Supply Planning Report*, (2019), *available at* https://fdep.maps.arcgis.com/apps/MapSeries/index.html?appid=04f84e6ae64c45e292e5b3db82f045e3.
[46] U.S. Environmental Protection Agency, *Potable Water Reuse and Drinking Water*, https://www.epa.gov/ground-water-and-drinking-water/potable-water-reuse-and-drinking-water (last visited Jan. 21, 2021).
[47] Florida Potable Reuse Commission (PRC), *Framework for the Implementation of Potable Reuse in Florida*, xxiv, (Jan. 2020), *available at* https://watereuse.org/wp-content/uploads/2020/01/Framework-for-Potable-Reuse-in-Florida.pdf.
[48] *Id*.
[49] *Id*.

The Potable Reuse Commission (PRC) was organized to develop a framework for advancing the implementation of potable reuse in Florida as a water supply alternative to meet future supply needs while also protecting public health and the environment through an engagement process involving stakeholders with technical and scientific expertise.[50] In its report, the PRC identified a number of proposed regulatory changes that would require the Florida Legislature to enact legislation to provide authority and would require the DEP to revise existing rules or adopt new rules to advance potable reuse within the state while ensuring the protection of public health and the environment.

Chapter 2020-150, Laws of Florida, required the DEP to revise its rules based on the recommendations of the PRC's 2020 report. Specifically, the Legislature required the DEP to address contaminants of emerging concern and meet or exceed federal and state drinking water quality standards and other applicable water quality standards in its rule.[51] The law also explicitly deemed reclaimed water as a water source for public supply systems.[52] The DEP is currently in the rulemaking process to revise existing rules to create a framework for potable reuse.[53]

In addition to the recommendations related to drinking water regulations, the PRC recommended:

- Designating reclaimed water as a water supply source;
- Requiring the DEP and the water management districts to enter into a memorandum of agreement to coordinate permitting for indirect potable water projects;
- Continuing the exemption of direct potable reuse from consumptive use permit or water use permit requirements;
- Implementing regulatory recommendations collectively and through Technical Advisory Committees;
- Incentivizing and protecting public investments in potable reuse; and
- Continuing public education and outreach.[54]

Ocean Outfalls

An ocean outfall occurs when a wastewater treatment facility or other facility discharges treated effluent into coastal or ocean waters. There are six domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade counties that discharge or previously discharged approximately 300 mgd of treated domestic wastewater directly into the Atlantic Ocean through ocean outfalls.[55]

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[50] *Id*.
[51] Chapter 2020-150, s. 12, Laws of Fla.
[52] *Id*.
[53] Florida Administrative Register, Notice of Proposed Rule 62-610, Volume 46, Number 242 at 5468 (Dec. 15, 2020), *available at* https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2020/46242/46242doc.pdf; DEP, *Water Reuse News & Rulemaking Information*, https://floridadep.gov/water/domestic-wastewater/content/water-reuse-news-rulemaking-information (last visited Jan. 15, 2021).
[54] PRC, *Framework for the Implementation of Potable Reuse in Florida*, xxvii-xxxi, (Jan. 2020), *available at* https://watereuse.org/wp-content/uploads/2020/01/Framework-for-Potable-Reuse-in-Florida.pdf.
[55] DEP, *Ocean Outfall Study Final Report* ES-1 (Apr. 18, 2006), *available at* https://floridadep.gov/sites/default/files/OceanOutfallStudy_0.pdf.

However, state law prohibits the construction of new ocean outfalls and requires all six ocean outfalls in Florida to cease discharging wastewater by December 31, 2025.[56] Also, wastewater facilities that discharged wastewater through an ocean outfall on July 1, 2008, are required to install a reuse system no later than December 31, 2025.[57] Existing discharges through ocean outfalls must meet advanced waste treatment requirements[58] by December 31, 2018.[59]

Backup Discharges

A backup discharge is a surface water discharge that occurs as part of a functioning reuse system permitted by the DEP and provides reclaimed water for irrigation of public access areas, residential properties, or edible food crops, or industrial cooling, or other acceptable reuse purposes.[60] Backup discharges of reclaimed water that meet advanced waste treatment requirements are presumed to be allowable and are permitted in all waters in the state at a reasonably accessible point where such discharge results in a minimal negative impact unless the discharge is to waters that are subject to additional protections.[61]

Fiscally Constrained Counties and Rural Areas of Opportunity

A fiscally constrained county is a county that is entirely within a rural area of opportunity (RAO) or a county for which the value of a mill will raise no more than $5 million in revenue.[62]

An RAO is a rural community or a region composed of rural communities designated by the Governor that presents a unique economic development opportunity of regional impact or has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster.[63] The three designated RAOs are the:

- Northwest RAO; which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington Counties, and the City of Freeport;
- South Central RAO; which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties, and the Cities of Pahokee, Belle Glade, South Bay, and Immokalee; and
- North Central RAO; which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.[64]

Graywater/Residential Systems/Development Incentives

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink

[56] Section 403.086(10), F.S.; chapter 2008-232, Laws of Fla.
[57] Section 403.086(10)(c), F.S.
[58] Section 403.086(4), F.S.
[59] Section 403.086(10)(b), F.S.
[60] Section 403.086(8)(a), F.S.
[61] Section 403.086(8)(b), F.S.
[62] Section 218.67(1), F.S.
[63] Section 288.0656(2)(d), F.S.
[64] Florida Department of Economic Opportunity, *RAO, available at* http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity (last visited Jan. 8, 2021).

waste.[65] Graywater installations occur in residential and non-residential installations, and the capture, treatment, and reuse of graywater yield usable water that would otherwise be directed to the sewer.[66] Reusing graywater also reduces the use of potable water for non-potable needs and conserves fresh water.[67]

The Florida Building Code specifies that graywater may only be used for flushing toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with the Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.[68] Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, dyed, and storage reservoirs must have drains and overflow pipes, which must be indirectly connected to the sanitary drainage system.[69]

There are barriers to the widespread adoption of residential graywater reuse, including system cost, knowledge and experience of contractors and local officials, homeowner acceptance, and limited permitted uses.[70]

Aquifer Storage and Recovery (ASR)

ASR is the underground injection and storage of water into a subsurface formation to withdraw the water for beneficial purposes later.[71] It refers to the process of recharge, storage, and recovery of water in an aquifer. ASR provides for the storage of large quantities of water for seasonal and long-term storage and ultimate recovery that would otherwise be unavailable due to land limitations, loss to the tide, or evaporation.[72]

ASR facilities have been used in Florida and throughout the United States for about 40 years.[73] ASR systems are currently used to store potable drinking water, partially treated surface water, groundwater, and reclaimed water.[74] Water can be stored and subsequently recovered and distributed for purposes, such as water supply or ecosystem restoration.[75] For ASR, the aquifer acts as an underground reservoir for the recharged water.

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[65] Section 381.0065(2)(e), F.S.
[66] Alliance for Water Efficiency, *Graywater Systems*, https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems (last visited Jan. 8, 2021).
[67] Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension, https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system (last visited Jan. 12, 2021).
[68] 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), *available at* https://codes.iccsafe.org/content/FLPC2020P1.
[69] *Id*.
[70] Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension, https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system (last visited Jan. 12, 2021).
[71] DEP, Office of Water Policy, *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, 83 (December 1, 2015) *available at* https://floridadep.gov/sites/default/files/SB536%20Final%20Report.pdf.
[72] *Id*.
[73] South Florida Water Management District, *Aquifer Storage and Recovery*, https://www.sfwmd.gov/our-work/alternative-water-supply/asr (last visited Jan. 12, 2021).
[74] *Id*.
[75] *Id*.

Through its Aquifer Protection Program, the DEP regulates the disposal of appropriately treated fluids, such as reclaimed water, through underground injection wells while also protecting underground sources of drinking water.[76] The program is aimed at preventing the degradation of the quality of aquifers adjacent to the injection zone.[77] ASR wells are regulated as Class V injection wells, including all wells that inject non-hazardous fluids into or above formations containing underground sources of drinking water.[78]

The DEP rules regulating ASR require that reclaimed water injected into receiving groundwater with 3,000 mg/L or less of total dissolved solids must meet the treatment and disinfection criteria requirements[79] for groundwater recharge projects.[80] If receiving groundwater contains between 1,000 and 3,000 mg/L of total dissolved solids and the applicant for an underground injection control permit provides an affirmative demonstration that the receiving groundwater is not currently used as a source of public water supply and is not reasonably expected to be used for public water supply in the future, certain modifications to the treatment and disinfection requirements are available.[81] Reclaimed water recovered from groundwaters containing 3,000 mg/L or less of total dissolved solids must meet full treatment and disinfection requirements and drinking water standards.[82]

III. Effect of Proposed Changes:

Plan to Eliminate Nonbeneficial Surface Water Discharge

Section 1 amends s. 403.064, F.S., to create a timeline and plan to eliminate nonbeneficial surface water discharge within five years and contains a series of conditions for authorizing discharges that are being beneficially used or are otherwise regulated, or for various hardships (*see discussions on discharge conditions and hardship conditions below*).

The bill requires domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to submit a five-year plan to eliminate nonbeneficial surface water discharge to the Department of Environmental Protection (DEP). The plan must be:

- Submitted by November 1, 2021, and
- Implemented by January 1, 2028 (January 1, 2030, for potable reuse projects).

Domestic wastewater utilities applying for a permit for new or expanded surface water discharge must also submit a discharge elimination plan.

The plan must include:

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[76] Fla. Admin. Code R. 62-528.200(66), defines the term "underground source of drinking water" to mean aquifer. DEP, *Aquifer Protection Program – UIC*, https://floridadep.gov/water/aquifer-protection (last visited Jan. 12, 2021).
[77] DEP, *Aquifer Protection Program -UIC*, https://floridadep.gov/water/aquifer-protection (last visited Jan. 12, 2021); *see* ch. 62-528, F.A.C., for underground injection control permitting requirements.
[78] Fla. Admin. Code R. 62-528.300(1)(e).
[79] Fla. Admin. Code R. 62-610.563. Full treatment and disinfection criteria require meeting all primary and secondary drinking water standards and limits total organic carbon and halogen.
[80] Fla. Admin. Code R. 62-610.466(9)(a).
[81] Fla. Admin. Code R. 62-610.466(9)(b).
[82] Fla. Admin. Code R. 62-610.563(3).

- The average gallons per day of effluent, reclaimed water, or reuse water which will no longer be discharged into surface waters and the date of such elimination;
- The average gallons per day of surface water discharge which will continue in accordance with the requirements for the elimination of ocean outfalls, one of the discharge conditions specified in the bill (*see discussion below*), or one of the hardship conditions (*see discussion below*); and
- The level of treatment which the effluent, reclaimed water, or reuse water will receive before being discharged into surface water by each alternative.

To be approved, the plan must:
- Result in eliminating surface water discharge;
- Result in meeting statutory requirements regarding the discharge of domestic wastewater through ocean outfall; or
- Meet one of the discharge conditions (*see discussion below*) if the plan does not provide complete elimination of surface water discharge.

DISCHARGE CONDITIONS: The DEP will approve a plan even if it does not provide for complete elimination of surface water discharge if:
- The discharge is associated with an indirect potable reuse project;
- The discharge is a permitted wet weather discharge;
- The discharge is into a stormwater management system and is subsequently withdrawn for irrigation purposes;
- The utility operates domestic wastewater treatment facilities with reuse systems that reuse a minimum of 90 percent of a facility's annual average flow, as determined by the DEP using monitoring data for the prior five consecutive years, for reuse purposes authorized by the DEP; or
- The discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of minimum flows and minimum water levels or recovery or prevention strategies for a waterbody.

A plan may include conceptual plans for indirect potable reuse projects or projects that provide direct ecological or public water supply. However, the inclusion of conceptual plans for such projects may not extend the timeline for implementing the plan.

HARDSHIP CONDITIONS: The DEP must also approve the plan if a utility demonstrates that:
- It is technically, economically, or environmentally infeasible for the utility to meet the conditions above within five years after submitting the plan to the DEP;
- Implementing such alternatives would create a severe undue economic hardship on the community served by the utility, as demonstrated by the impact to utility ratepayers, a lack of reasonable return on investment, and the unaffordability of implementing any combination of the alternatives; and
- The plan provides a means to eliminate the discharge to the extent feasible.

If a utility demonstrates hardship conditions, the utility must update its plan annually to demonstrate that it continues to meet the hardship conditions until it can eliminate the discharge. The DEP must review updated plans to verify that a utility continues to meet the hardship

conditions. If the DEP determines that the utility no longer meets hardship conditions, the utility must submit a plan within nine months of receiving notice from the DEP and must fully implement the plan within five years of receiving approval of the plan by the DEP.

The bill provisions also do not apply to domestic wastewater treatment facilities that are located in a:

- Fiscally constrained county;
- Municipality that is entirely within a rural area of opportunity; and
- Municipality with less than $10 million in total revenue, as determined by the municipality's most recent annual financial report submitted to the Department of Financial Services.

The bill requires the DEP to approve a plan within nine months after receiving the plan, including all of the information required under the bill. If a plan is approved, the DEP must incorporate the plan into a utility's operating permit. A utility may modify its plan by an amendment to the permit, but the permit may not be amended such that the permit no longer meets the bill's requirements. The DEP may not extend the time within which a plan must be implemented.

If a plan is not timely submitted by a utility or approved by the DEP, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface discharge after January 1, 2028. A violation subjects a utility to administrative and civil penalties.

The bill requires the DEP to submit a report by December 31, annually to the President of the Senate and the Speaker of the House of Representatives, which provides:

- The average gallons per day of effluent, reclaimed water, or reuse water which will no longer be discharged into surface waters by the utility and the dates of such elimination;
- The average gallons per day of surface water discharge which will continue in accordance with the requirements for the elimination of ocean outfalls, one of the discharge conditions, or one of the hardship conditions; and
- Any modified or new plans submitted by a utility since the last report.

The bill provides that the requirement for a plan to eliminate nonbeneficial surface water discharges does not prohibit the inclusion of a plan for backup discharges and may not exempt a utility from requirements that prohibit the causing of or contributing to violations of water quality standards in surface waters, including groundwater discharges that affect water quality in surface waters.

The bill provides a legislative statement that sufficient water supply is imperative to this state's future and that potable reuse is a source of water that may assist in meeting future demand for water supply.

The bill authorizes the DEP to convene and lead one or more technical advisory groups to coordinate rulemaking and review rules for potable reuse. The technical advisory group must consist of knowledgeable representatives of stakeholders, including, but not limited to, representatives from the:

- Water management districts;
- Wastewater utility industry;
- Water utility industry;
- Environmental community;
- Business community;
- Public health community;
- Agricultural community; and
- Consumers.

The bill specifies that potable reuse is an alternative water supply to make reuse projects eligible for alternative water supply funding. The bill also specifies that potable reuse water may not be excluded from regional water supply planning.

The bill requires the DEP and the water management districts to develop and execute, by December 31, 2023, a memorandum of agreement (MOU) to conduct a coordinated review of all permits associated with the construction and operation of an indirect potable reuse project. The MOU must provide that the review will occur only if requested by a permittee. The bill states that the purpose of the coordinated review is to share information, avoid redundancies, and ensure consistency in the permit to protect public health and the environment.

The bill incentivizes the development of potable reuse projects by private entities through eligibility for expedited permitting, beginning January 1, 2026, and eligibility for priority funding from the Drinking Water State Revolving Fund, under the Water Protection and Sustainability Program, and for water management district cooperative funding.

The bill does not supersede existing requirements relating to the use of reclaimed water.

Graywater Incentives

Section 2 creates s. 403.892, F.S., to provide incentives for the use of graywater technologies.

The bill defines the term "developer" to mean any person, including a governmental agency, undertaking any development.[83] The bill defines "graywater" to mean the part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.[84]

The bill requires a county, a municipality, and a special district to promote the beneficial reuse of water in this state by:

- Authorizing graywater technologies in their respective jurisdictions that meet the requirement for residential use of graywater systems and technologies, the Florida Building Code, and applicable requirements of the Florida Department of Health and have received all applicable regulatory permits or authorizations; and
- Providing density and intensity bonuses to developers and homebuilders to fully offset the capital costs of the technology and installation costs.

[83] Section 380.031, F.S.
[84] Section 381.0065, F.S.

To qualify for the incentives, the bill requires the developer or homebuilder to certify to the applicable governmental entity as part of its application for development approval or amendment of a development order that all of the following conditions are met:

- The proposed or existing development has at least 25 single-family residential homes that are either detached or multifamily dwellings, but the development must not be over five stories in height;
- Each single-family residential home or residence has its own residential graywater system that is dedicated for its use;
- The developer has submitted a manufacturer's warranty or data providing reasonable assurance that the residential graywater system will function as designed and includes an estimate of anticipated potable water savings for each system. A submission from a building code official, government entity, or research institute that has monitored or measured the residential graywater system that is proposed to be installed for such development is acceptable as reasonable assurance;
- The required maintenance of the graywater system is the responsibility of the residential homeowner or manufacturer; and
- An operation and maintenance manual for the system must be supplied to the initial residential property owner, along with a method of contacting the installer or manufacturer and directions to the homeowner that the manual must remain with the residence throughout the life cycle of the system.

The bill provides that if the requirements to qualify for incentives are met, the county or municipality must include the incentives when it approves the development or amendment of a development order. The approval must also provide for the process that the developer or homebuilder will follow to verify that graywater systems have been purchased. Proof of purchase must be provided within 180 days from the issuance of a certificate of occupancy for single-family residential homes that are either detached or multifamily projects under five stories.

Under the bill, the installation of graywater systems in a county or municipality qualifies as a water conservation measure in a public water utility's water conservation plan. The measures' efficiency is commensurate with the amount of potable water savings estimated for each system provided by the developer or homebuilder.

Aquifer Storage and Recovery

Section 3 provides, to further promote the reuse of reclaimed water for irrigation purposes, that the rules that apply when reclaimed water is injected into a receiving groundwater that has 1,000 to 3,000 mg/L total dissolved solids are applicable to reclaimed water aquifer storage and recovery wells injecting into a receiving groundwater that has less than 1,000 mg/L total dissolved solids if the applicant demonstrates that:

- It is injecting into a confined aquifer;
- There are no potable water supply wells within 3,500 feet of the aquifer storage and recovery wells;
- It has implemented institutional controls to prevent the future construction of public supply wells within 3,500 feet of the aquifer storage and recovery wells; and

- The recovered water is being used for irrigation purposes.

The bill specifies that the injection of reclaimed water that meets these requirements is not potable reuse.

The bill specifies that this section may not be construed to exempt the reclaimed water aquifer storage and recovery wells from requirements that prohibit the causing of or contribution to violations of water quality standards in surface water, including groundwater discharges that flow by interflow and affect water quality in surface water.

Declaration of Important State Interest

Section 4 provides a declaratory statement by the Legislature that the act fulfills an important state interest.

Effective Date

Section 5 provides that the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides that no county or municipality shall be bound by any general law requiring the county or municipality to spend funds or take action requiring the expenditure of funds unless the legislature determines that the law fulfills an important state interest and meets one of the exceptions specified in that subsection: provision of funding or a funding mechanism, enactment by a vote of two-thirds of the membership in each house, the expenditure is required to comply with a law that applies to all persons similarly situated, or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement.

The bill's provisions appear to apply to all similarly situated domestic wastewater treatment facilities, and all are required to comply unless the utility is eligible for an exemption. Section 4 of the bill contains a statement that the act fulfills an important state interest.

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:

The total statewide cost of compliance with the requirement to eliminate surface water discharge is indeterminate.

C. Government Sector Impact:

Some of the costs of implementation of the bill will likely be borne by municipal utilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.064 of the Florida Statutes.

This bill creates section 403.892 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 Environment and Natural Resources on February 1, 2021:

- Authorizes utilities to include conceptual plans for potable reuse projects or projects that provide direct ecological or public water supply.

- Provides that the inclusion of conceptual plans for such projects may not extend the timeline for implementing the plan.
- Revises the provisions describing when the rules for the total dissolved solids allowable in aquifer storage and recovery apply to include that the recovered water is used for irrigation purposes.

Provides a statement that injection of reclaimed water meeting certain requirements is not potable reuse.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and Senator Albritton

592-01945-21 202164c1

A bill to be entitled

An act relating to reclaimed water; amending s. 403.064, F.S.; requiring certain domestic wastewater utilities to submit to the Department of Environmental Protection by a specified date a plan for eliminating nonbeneficial surface water discharge within a specified timeframe; providing requirements for the plan; requiring the department to approve plans that meet certain requirements; requiring the department to make a determination regarding a plan within a specified timeframe; requiring the utilities to implement approved plans by specified dates; providing for administrative and civil penalties; requiring certain utilities to submit updated annual plans until certain conditions are met; requiring domestic wastewater utilities applying for permits for new or expanded surface water discharges to prepare a specified plan for eliminating nonbeneficial discharges as part of its permit application; requiring the department to submit an annual report to the Legislature by a specified date; providing applicability; providing construction; authorizing the department to convene and lead one or more technical advisory groups; providing that potable reuse is an alternative water supply and that projects relating to such reuse are eligible for alternative water supply funding; requiring the department and the water management districts to develop and execute, by a specified date, a memorandum of agreement for the

592-01945-21 202164c1

coordinated review of specified permits; providing that potable reuse projects are eligible for certain expedited permitting and priority funding; providing construction; creating s. 403.892, F.S.; defining terms; requiring counties, municipalities, and special districts to authorize graywater technologies under certain circumstances and to provide incentives for the implementation of such technologies; providing requirements for the use of graywater technologies; providing that the installation of residential graywater systems meets certain public utility water conservation measure requirements; providing for the applicability of specified reclaimed water aquifer storage and recovery well requirements; providing a declaration of important state interest; providing an effective date.

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

Section 1. Present subsection (17) of section 403.064, Florida Statutes, is redesignated as subsection (18) and amended, and a new subsection (17) is added to that section, to read:

403.064 Reuse of reclaimed water.—

(17) By November 1, 2021, domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge shall submit to the department for review and approval a plan for eliminating nonbeneficial surface water discharge within 5 years, subject to the requirements of

this section. The plan must include the average gallons per day of effluent, reclaimed water, or reuse water which will no longer be discharged into surface waters and the date of such elimination; the average gallons per day of surface water discharge which will continue in accordance with the alternatives provided for in subparagraphs (a)2. and 3., or, if applicable to the utility, under paragraph (b); and the level of treatment which the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative.

(a) The department shall approve a plan that includes all of the information required under this subsection as meeting the requirements of this section if one or more of the following conditions are met:

1. The plan will result in eliminating the surface water discharge.

2. The plan will result in meeting the requirements of s. 403.086(10).

3. The plan does not provide for a complete elimination of the surface water discharge but does provide an affirmative demonstration that any of the following conditions apply to the remaining discharge:

a. The discharge is associated with an indirect potable reuse project;

b. The discharge is a wet weather discharge that occurs in accordance with an applicable department permit;

c. The discharge is into a stormwater management system and is subsequently withdrawn by a user for irrigation purposes;

d. The utility operates domestic wastewater treatment

facilities with reuse systems that reuse a minimum of 90 percent of a facility's annual average flow, as determined by the department using monitoring data for the prior 5 consecutive years, for reuse purposes authorized by the department; or

e. The discharge provides direct ecological or public water supply benefits, such as rehydrating wetlands or implementing the requirements of minimum flows and minimum water levels or recovery or prevention strategies for a waterbody.

The plan may include conceptual projects under sub-subparagraphs 3.a. and 3.e.; however, such inclusion does not extend the time within which the plan must be implemented.

(b) The department shall also approve a plan if a utility demonstrates that it is technically, economically, or environmentally infeasible for the utility to meet any of the conditions provided in paragraph (a) for the discharge within 5 years after submitting the plan to the department; that implementing such alternatives would create a severe undue economic hardship on the community served by the utility, as demonstrated by the impact to utility ratepayers, a lack of a reasonable return on investment, and the unaffordability of implementing any combination of the alternatives; and that the plan provides a means to eliminate the discharge to the extent feasible.

(c) The department shall approve or deny a plan within 9 months after receiving the plan and, if a plan is approved, must incorporate it in the utility's operating permit issued under s. 403.087. Any applicable environmental and public health protection requirements provided by law or department rule

governing the implementation of the plan must also be incorporated into the permit. A utility may modify the plan by amendment to the permit; however, the plan may not be modified such that the requirements of this subsection are not met, and the department may not extend the time within which a plan will be implemented.

(d) Upon approval of a plan by the department, a utility shall fully implement the approved plan by January 1, 2028; however, if the utility proposes to implement a potable reuse project, provided that the utility has implemented all other components of the plan, the utility has until January 1, 2030, to implement the potable reuse project component of the plan.

(e) If a plan is not timely submitted by a utility or approved by the department, the utility's domestic wastewater treatment facilities may not dispose of effluent, reclaimed water, or reuse water by surface water discharge after January 1, 2028. A violation of this paragraph is subject to administrative and civil penalties pursuant to ss. 403.121, 403.131, and 403.141.

(f) A utility that has had a plan approved by the department pursuant to paragraph (b) shall update the plan annually until the utility is able to meet one or more of the conditions provided in paragraph (a). The updated annual plan must affirmatively demonstrate that the utility continues to be unable to meet any of the conditions provided in paragraph (a) because it is infeasible to do so and a severe undue economic hardship still exists as provided in paragraph (b). The department shall review the updated plans to verify that the utility is unable to meet any of the conditions provided in

paragraph (a) and that the utility continues to meet the conditions of paragraph (b). If the department determines that the utility is able to meet any of the conditions and the utility is no longer eligible for approval under paragraph (b), the utility must submit a plan in accordance with paragraph (a) within 9 months after receiving notice of such a determination from the department, and the utility must fully implement such plan within 5 years after receiving an approval by the department.

(g) A domestic wastewater utility applying for a permit for a new or expanded surface water discharge shall prepare a plan in accordance with this subsection as part of that permit application. The department may not approve a permit for a new or expanded surface water discharge unless the plan meets one or more of the conditions provided in paragraph (a).

(h) By December 31, 2021, and annually thereafter, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives which provides the average gallons per day of effluent, reclaimed water, or reuse water which will no longer be discharged into surface waters by the utility and the dates of such elimination; the average gallons per day of surface water discharges which will continue in accordance with the alternatives provided in subparagraphs (a)2. and 3., and the level of treatment which the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by each alternative and utility; the average gallons per day of effluent, reclaimed water, or reuse water which is proposed to continue to be discharged under paragraph (b) and the level of treatment which

the effluent, reclaimed water, or reuse water will receive before being discharged into a surface water by the utility; and any modified or new plans submitted by a utility since the last report.

(i) This subsection does not apply to any of the following:

1. A domestic wastewater treatment facility that is located in a fiscally constrained county as described in s. 218.67(1).

2. A domestic wastewater treatment facility that is located in a municipality that is entirely within a rural area of opportunity as designated pursuant to s. 288.0656.

3. A domestic wastewater treatment facility that is located in a municipality that has less than $10 million in total revenue, as determined by the municipality's most recent annual financial report submitted to the Department of Financial Services in accordance with s. 218.32.

(j) This subsection does not prohibit the inclusion of a plan for backup discharges pursuant to s. 403.086(8)(a).

(k) This subsection may not be deemed to exempt a utility from requirements that prohibit the causing of or contributing to violations of water quality standards in surface waters, including groundwater discharges that affect water quality in surface waters.

(18)(a) ~~(17)~~ By December 31, 2020, the department shall initiate rule revisions based on the recommendations of the Potable Reuse Commission's 2020 report "Advancing Potable Reuse in Florida: Framework for the Implementation of Potable Reuse in Florida." Rules for potable reuse projects must address contaminants of emerging concern and meet or exceed federal and state drinking water quality standards and other applicable

water quality standards. Reclaimed water is deemed a water source for public water supply systems.

(b) The Legislature recognizes that sufficient water supply is imperative to the future of this state and that potable reuse is a source of water which may assist in meeting future demand for water supply.

(c) The department may convene and lead one or more technical advisory groups to coordinate the rulemaking and review of rules for potable reuse as required under this section. The technical advisory group, which shall assist in the development of such rules, must be composed of knowledgeable representatives of a broad group of interested stakeholders, including, but not limited to, representatives from the water management districts, the wastewater utility industry, the water utility industry, the environmental community, the business community, the public health community, the agricultural community, and the consumers.

(d) Potable reuse is an alternative water supply as defined in s. 373.019, and potable reuse projects are eligible for alternative water supply funding. The use of potable reuse water may not be excluded from regional water supply planning under s. 373.709.

(e) The department and the water management districts shall develop and execute, by December 31, 2023, a memorandum of agreement providing for the procedural requirements of a coordinated review of all permits associated with the construction and operation of an indirect potable reuse project. The memorandum of agreement must provide that the coordinated review will occur only if requested by a permittee. The purpose

of the coordinated review is to share information, avoid the redundancy of information requested from the permittee, and ensure consistency in the permit for the protection of the public health and the environment.

(f) To encourage investment in the development of potable reuse projects by private entities, a potable reuse project developed as a qualifying project pursuant to s. 255.065 is:

1. Beginning January 1, 2026, eligible for expedited permitting under s. 403.973.

2. Consistent with s. 373.707, eligible for priority funding in the same manner as other alternative water supply projects from the Drinking Water State Revolving Fund, under the Water Protection and Sustainability Program, and for water management district cooperative funding.

(g) This subsection is not intended and may not be construed to supersede s. 373.250(3).

Section 2. Section 403.892, Florida Statutes, is created to read:

403.892 Incentives for the use of graywater technologies.—

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

(a) "Developer" has the same meaning as in s. 380.031(2).

(b) "Graywater" has the same meaning as in s. 381.0065(2)(e).

(2) To promote the beneficial reuse of water in this state, a county, municipality, or special district shall:

(a) Authorize the use of residential graywater technologies in their respective jurisdictions which meet the requirements of this section, the Florida Building Code, and applicable requirements of the Florida Department of Health and have

received all applicable regulatory permits or authorizations; and

(b) Provide density or intensity bonuses to the developer or homebuilder to fully offset the capital costs of the technology and installation costs.

(3) To qualify for the incentives, the developer or homebuilder must certify to the applicable government entity as part of its application for development approval or amendment of a development order that all of the following conditions are met:

(a) The proposed or existing development has at least 25 single-family residential homes that are either detached or multifamily dwellings. This paragraph does not apply to multifamily projects over five stories in height.

(b) Each single-family residential home or residence will have its own residential graywater system that is dedicated for its use.

(c) It has submitted a manufacturer's warranty or data providing reasonable assurance that the residential graywater system will function as designed and includes an estimate of anticipated potable water savings for each system. A submission of the manufacturer's warranty or data from a building code official, government entity, or research institute that has monitored or measured the residential graywater system that is proposed to be installed for such development shall be accepted as reasonable assurance and no further information or assurance is needed.

(d) The required maintenance of the graywater system will be the responsibility of the residential homeowner or

manufacturer.

(e) An operation and maintenance manual for the graywater system will be supplied to the initial homeowner of each home. The manual shall provide a method of contacting the installer or manufacturer and shall include directions to the residential homeowner that the manual shall remain with the residence throughout the life cycle of the system.

(4) If the requirements of subsection (3) have been met, the county or municipality must include the incentives provided for in subsection (2) when it approves the development or amendment of a development order. The approval must also provide for the process that the developer or homebuilder will follow to verify that such systems have been purchased. Proof of purchase must be provided within 180 days from the issuance of a certificate of occupancy for single-family residential homes that are either detached or multifamily projects under five stories.

(5) The installation of residential graywater systems in a county or municipality in accordance with this section shall qualify as a water conservation measure in a public water utility's water conservation plan pursuant to s. 373.227. The efficiency of such measures shall be commensurate with the amount of potable water savings estimated for each system provided by the developer or homebuilder pursuant to paragraph (3)(c).

Section 3. To further promote the reuse of reclaimed water for irrigation purposes, the rules that apply when reclaimed water is injected into a receiving groundwater that has 1,000 to 3,000 mg/L total dissolved solids are applicable to reclaimed

water aquifer storage and recovery wells injecting into a receiving groundwater of less than 1,000 mg/L total dissolved solids if the applicant demonstrates that it is injecting into a confined aquifer, that there are no potable water supply wells within 3,500 feet of the aquifer storage and recovery wells, that it has implemented institutional controls to prevent the future construction of potable water supply wells within 3,500 feet of the aquifer storage and recovery wells, and that the recovered water is being used for irrigation purposes. The injection of reclaimed water that meets the requirements of this section is not potable reuse. This section may not be construed to exempt the reclaimed water aquifer storage and recovery wells from requirements that prohibit the causing of or contribution to violations of water quality standards in surface waters, including groundwater discharges that flow by interflow and affect water quality in surface waters.

Section 4. The Legislature determines and declares that this act fulfills an important state interest.

Section 5. This act shall take effect upon becoming a law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 96
INTRODUCER:	Children, Families, and Elder Affairs Committee and Senators Book and Brodeur
SUBJECT:	Child Welfare
DATE:	March 10, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Cox	CF	**Fav/CS**
2.	Sneed	Sadberry	AP	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 96 reorganizes and clarifies reporting requirements and penalties, and adds requirements relating to reporting, data collection and analysis, animal abuse, sexual abuse training and response teams, multidisciplinary legal representation teams, and other provisions.

The bill requires that the central abuse hotline keep statistical reports relating to reports of child abuse and sexual abuse that are reported from or occur in specified educational settings. Further, the bill provides that a person required to report to the hotline is not relieved by notifying his or her supervisor.

If the Department of Education (DOE) determines that any instructional personnel or school administrator knowingly failed to report known or suspected child abuse as required and the Education Practices Commission (EPC) has issued a final order for a previous instance of failure to report by the individual, the bill requires a minimum of a 1 year suspension of the instructional personnel's or school administrator's educator certificate.

The bill requires an immediate onsite investigation to be conducted by a critical incident rapid response team (CIRRT) for all reports to the hotline containing allegations of sexual abuse of a child under certain circumstances. It also requires a representative from a child advocacy center to be included on the multiagency team conducting the investigation. The bill adds members of standing or select legislative committees to be provided access to confidential reports and records in cases of child abuse and neglect within 7 business days of the request.

The bill creates a new section of the Florida Statutes relating to reporting animal cruelty. In recognition of the strong link between child abuse and animal cruelty, the bill requires any person who is required to investigate child abuse, abandonment, or neglect and who knows or has reasonable cause to suspect animal cruelty, to report to his or her supervisor within 72 hours for submission to a local animal control agency.

The bill provides penalties for knowingly and willfully failing to report animal abuse. It also requires training for child protective investigators and animal control officers. The bill includes animal control officers and other agents to the list of persons required to disclose their name to the hotline.

The bill amends current law related to sexual abuse of animals to update terminology, include activities specifically related to children and activities involving the sexual abuse of animals, and increase the penalty for violations from a first degree misdemeanor to a third degree felony. The bill adds the offense of sexual activities involving animals as a Level 6 on the Offense Severity Ranking Chart.

The bill authorizes each Office of Criminal Conflict and Civil Regional Council (OCCCRC) to establish multidisciplinary legal representation of parents and children in the dependency system. It requires the Department of Children and Families (DCF) to collaborate on implementation and provide existing federal matching funding. Information will be reported annually to the Office of Program Policy Analysis (OPPAGA), who must submit an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives.

The bill adds requirements for the DCF related to resources and support for foster parents and relative caregivers, including the establishment of the current Foster Information Center.

The DCF projects that the bill will have a significant negative fiscal impact on state government relating to the expansion of the use of the CIRRT process by requiring deployment for reports of allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of abuse or neglect in the previous 12 months. The DCF[1] estimates the need for an additional 107 FTE positions to conduct the additional CIRRTs required by the bill. The department anticipates the recurring cost for the additional staff to be $10.8 million. Additionally, to the extent that the OCCCRCs establish multidisciplinary legal representation programs, federal matching funds may be earned by the OCCCRCs via the DCF Title IV-E federal grant. See section V. Fiscal Impact Statement

The bill is effective October 1, 2021.

II. Present Situation:

Refer to Section III (Effect of Proposed Changes) for discussion of the relevant portions of current law.

[1] The DCF, *Agency Analysis for SB 96*, p. 9, March 5, 2021 (on file with the Senate Appropriations Subcommittee on Health and Human Services).

III. Effect of Proposed Changes:

Reporting Requirements and Intake Process (Sections 1, 2, 5, and 18)

In 1962, Dr. C. Henry Kempe and his colleagues were among the first to recognize and publicize their findings relating to child abuse and neglect in a paper titled "The Battered-Child Syndrome".[2] This paper, amendments to the Social Security Act of 1935, and two small meetings held by the Children's Bureau (CB) were defining moments in that year which lead to four states implementing reporting laws in 1963 and all states implementing them by 1967.[3]

In 1962, the Social Security Act of 1935 was amended to provide money to expand child welfare services. The federal Child Abuse Prevention and Treatment Act (CAPTA)[4] enacted in 1974 authorized federal funds to improve the state response to physical abuse and neglect, which was most recently reauthorized in 2010[5] and has been amended several times, most recently in 2019.[6,7] CAPTA requires states to submit a plan to receive grant funds which must contain provisions and procedures for an individual to report known and suspected instances of child abuse and neglect, including mandatory reporting laws of such instances.[8] Florida law currently provides for a central abuse hotline and mandatory reporting requirements under s. 39.201, F.S.

Central Abuse Hotline

The DCF is required to operate and maintain a central abuse hotline[9] to receive mandatory reports of known or suspected instances of child abuse,[10] abandonment,[11] or neglect,[12] or

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[2] Kempe, Henry, *The Battered Child Syndrome*, available at https://www.kempe.org/wp-content/uploads/2015/01/The_Battered_Child_Syndrome.pdf; the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect, *History Innovating for 45 Years*, available at https://www.kempe.org/about/history/#:~:text=Innovating%20for%2045%20Years%20In%201962%2C%20Dr.%20C.,awareness%20and%20exposing%20the%20reality%20of%20child%20abuse (all sites last visited March 1, 2021).

[3] Myers, John, *A Short History of Child Protection in America*, September 2008, p. 10, available at https://us.sagepub.com/sites/default/files/upm-binaries/35363_Chapter1.pdf (last visited March 1, 2021).

[4] Pub.L. 93-247.

[5] Pub.L. 111-320.

[6] Pub.L. 115-424; Children's Bureau, *Factsheet: About CAPTA: A Legislative History*, February 2019, p. 1, available at https://www.childwelfare.gov/pubpdfs/about.pdf (last visited March 1, 2021).

[7] 42 U.S.C. ch. 67.

[8] 42 U.S.C. s. 5106a(1)(A) and (b)(2)(B)(i).

[9] Hereinafter cited as "hotline". Fla. Admin. Code R. 65C-30.001, defines "Florida Abuse Hotline" to mean the DCF's central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week.

[10] Section 39.01(2), F.S., defines "abuse" as 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.

[11] Section 39.01(1), F.S., defines "abandoned" or "abandonment" as 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 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. "Establish or maintain a substantial and positive relationship" means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

[12] Section 39.01(50), F.S., states "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

instances when a child does not have a parent, legal custodian or adult relative available to provide supervision and care.[13] The hotline must operate 24 hours a day, 7 days a week, and accept reports in writing, via fax or web-based reporting[14] or web-based chat, or through a single statewide toll-free telephone number.[15] The DCF is required to conduct a study to determine the feasibility of using text and short message service formats to receive reports.[16] The DCF is required to promote awareness of the hotline.[17]

The hotline must operate in a manner that will allow the DCF to:

- Immediately identify prior cases or reports through utilizing a tracking system;
- Monitor and evaluate the effectiveness of the DCF's reporting and investigation program through the development and use of statistical and other information;
- Track critical steps in the investigative process to ensure compliance with all reporting requirements;
- Collect, analyze, and produce statistical reports, including an aggregate report on patterns of child abuse, abandonment, and neglect, including child-on-child sexual abuse;
- Prepare separate reports, as required under s. 39.201(4)(d), F.S., of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution,[18] state university,[19] or nonpublic college, university, or school, as defined in ss. 1000.21 and 1005.02, F.S.;
- Provide resources for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect; and
- Initiate and enter into agreements with other states to gather and share information contained in reports on child maltreatment.[20]

Information received by the hotline may not be used for employment screening except in specified instances.[21] As part of the DCF's quality assurance program, it is required to review hotline reports to analyze when there are three or more unaccepted reports to identify patterns and initiate a case for investigation, if warranted.[22]

impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

[13] Section 39.201(4), F.S.

[14] Section 39.201(2)(j), F.S., requires the DCF to update the web-based reporting form to include fields for specified information and allow a reporter to save and return to a report at a later time.

[15] Section 39.201(4) and (5), F.S.

[16] Section 39.201(2)(k), F.S.

[17] Section 39.201(4), F.S.

[18] Section 1000.21(3), F.S., provides the term "Florida College System institution" except as otherwise specifically provided, includes a list of specified public postsecondary educational institutions in the Florida College System and any branch campuses, centers, or other affiliates of the institution, including, for instance, Eastern Florida State College, which serves Brevard County, and Broward College, which serves Broward County.

[19] Section 1000.21(6), F.S., provides the term "State University", except as otherwise specifically provided, includes a list of specified institutions and any branch campuses, centers, or other affiliates of the institution, including, for instance, The University of Florida, The Florida State University and The Florida Agricultural and Mechanical University.

[20] Section 39.201(4)(a) through (f), F.S.

[21] Section 39.201(6), F.S.

[22] Section 39.201(7), F.S.

Mandatory Reporting

Current law requires an individual to make a report to the hotline if he or she knows or has reasonable cause to suspect that:

- A child has been abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care;
- A child has been abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare; or
- A child is the victim of sexual abuse or the victim of a known or suspected juvenile sexual offender.[23]

Florida law provides for exceptions to reporting requirements in specified circumstances:[24]

- Professionals who are hired or contracted by the DCF to provide treatment or counseling services to a child that are the subject of the abuse, abandonment, or neglect;
- An officer or employee of the judicial branch when the child is currently being investigated, is the subject of an existing dependency case, or the matter has previously been reported to the DCF; or
- An officer or employee of law enforcement when the incident under investigation was reported to law enforcement by the hotline.[25]

Chapter 39, F.S., does not require a reporter to disclose his or her identity to the hotline, but the hotline personnel must receive training in encouraging such disclosure.[26] There is a list of specified reporters, however, which must disclose his or her name.[27] The DCF is required to have technology that allows it to automatically obtain the number from which the reporter calls or faxes the report, or the internet protocol address from which the report is made.[28] Reporter names and numbers are entered into the record of the report, but are held confidential.[29] Hotline counselors must inform reporters of these confidentiality provisions.[30]

Any person required to report or investigate child abuse, abandonment or neglect cases, and has reasonable cause to suspect that a child died as a result of such treatment, must report his or her suspicion to the medical examiner. The examiner must accept the report for investigation and

[23] Section 39.201(1), F.S.
[24] Section 39.201(1)(g), F.S., provides that nothing in ch. 39, F.S., may be construed to remove or reduce any person's reporting requirement, including any employee of a community-based care provider.
[25] Section 39.201(1), F.S.
[26] Section 39.201(2)(h), F.S.
[27] Section 39.201(1)(d), F.S., requires the following occupational categories to disclose their names: physicians, osteopathic physician, medical examiner, chiropractic physician, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons; health or mental health professional not already listed; practitioner who relies solely on spiritual means for healing; school teacher or other school official or personnel; social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; law enforcement officer; or judge.
[28] Section 39.201(2)(h), F.S.
[29] *Id. See also* s. 39.202, F.S., which is discussed in more detail below. Section 39.201(2)(i), F.S., provides that the DCF must record all incoming and outgoing calls to the hotline, and must keep an electronic copy which must only be disclosed to law enforcement, state attorney, or the DCF for purposes of conducting investigations pursuant to s. 39.205, F.S., or s. 39.206, F.S.
[30] *Id.*

report any findings to the designated agencies.[31] Autopsy reports are not subject to confidentiality requirements provided for in s. 39.202, F.S.[32]

Initial Intake Process

A report to the hotline is the first step that must be taken to initiate a safety assessment and an investigation.[33] The type of alleged abuse and whether the allegation is against a parent, legal custodian, caregiver, or other person responsible for the child's welfare will determine the steps that the DCF is required to take.[34]

When allegations are made against a parent, legal custodian, caregiver,[35] or other person responsible for the child's welfare,[36] the hotline counselor must assess whether the report meets the statutory definition of abuse, abandonment, or neglect.[37] If they do, the report is accepted for a protective investigation.[38] All reports made by an emergency room physician must be investigated.[39] At the same time, the DCF makes a determination regarding the timeline for which a protective investigation must be initiated including, in part:

- Immediately if:
  - It appears the child's immediate safety or well-being is endangered;
  - The family may flee or the child will be unavailable for purposes of conducting a child protective investigation; or
  - The facts otherwise so warrant; or
- Within 24 hours in all other child abuse, abandonment, or neglect cases.[40]

Section 39.201(5), F.S., provides that an alleged perpetrator in an institutional investigation may be represented by an attorney or accompanied by another person if specified conditions are met, but the absence of such person must not prevent the DCF from conducting an investigation. If an institution is not operating and the child is unable to be located, the investigation must begin immediately upon the resumption of operations. The DCF must provide all investigative reports relating to the abuse report to any state attorney or law enforcement agency upon request.

[31] Section 39.201(3), F.S.
[32] *Id.*
[33] Section 39.201(4), F.S.
[34] *See* s. 39.201(2)(a) and (b), F.S.
[35] Section 39.01(10), F.S., defines "caregiver" as the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (54).
[36] Section 39.01(54), F.S., defines "other person responsible for a child's welfare" to include the child's legal guardian or foster parent; an employee of any school, public or private child day care center, residential home, institution, facility, or agency; a law enforcement officer employed in any facility, service, or program for children that is operated or contracted by the Department of Juvenile Justice, with exceptions of specified personnel working in their official capacity.
Section 39.201(2)(f), F.S., requires reports of known or suspected institutional child abuse or neglect to be made in the same manner as other reports under s. 39.201, F.S.
[37] Section 39.201(2)(a), F.S.
[38] *Id.*
[39] Section 39.201(2)(l), F.S.
[40] Section 39.201(5), F.S.

There are instances when the DCF is immediately required to refer the report to local law enforcement,[41] and other instances when the DCF is required to provide voluntary community services.[42] The DCF has other specific requirements with respect to reports of the following:

- Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior, including to:
  - Immediately electronically transfer the report to the appropriate county sheriff's office;
  - Conduct an assessment and assist the family with receiving appropriate services;
  - Submit a written report within 48 hours to the county sheriff's office; and
  - Inform the court of the allegations if the child is in the custody or under the protective supervision of the DCF.
- Reports of abuse, abandonment, or neglect which occur out-of-state and the alleged perpetrator and victim child are out-of-state;[43] and
- Reports of a surrendered newborn infant.[44, 45]

Penalties for Failing to Report Child Abuse

Current law provides that a person is subject to penalties for failing to report known or suspected child abuse, abandonment, or neglect, or for willfully preventing another person from making such report.[46] Any person who violates this law commits a third degree felony.[47]

Florida law also provides that a person who is 18 years of age or older and lives in the same house as a child who is known or suspected to be a victim of child abuse, neglect, or aggravated child abuse, and knowingly and willfully fails to report the child abuse, commits a third degree felony, unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist.[48]

Educational entities, including Florida College System institutions, state universities, or nonpublic colleges, universities or schools, and their administrators, are also currently subject to

[41] *See* s. 39.201(2)(b) and (e), F.S., which provides that reports of abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, and reports involving impregnation of a child under 16 years old by a person 21 years of age or older, must be immediately reported to the appropriate county sheriff.
[42] *See* s. 39.201(2)(a), F.S., which permits the hotline to accept a call from a parent or legal custodian seeking assistance which does not meet one of these statutory definitions to prevent a future risk of harm to a child and the DCF may provide voluntary community services if a need for them exists.
[43] Section 39.201(2)(d), F.S., provides that unless the child is currently being evaluated in a medical facility in Florida, the hotline must not accept the report but is required to transfer the information to the appropriate state or country. If the child is being currently evaluated in a medical facility in Florida, the hotline must accept the report or call for an investigation and transfer the information to the appropriate state or country.
[44] Section 383.50, F.S., provides that "newborn infant" means a child who a licensed physician reasonably believes is approximately 7 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.
[45] Section 39.201(2)(g), F.S., provides that the DCF must make and receive reports of surrendered newborn infants, refer the caller to a licensed child-placing agency on a rotating basis, and comply with the requirements under s. 39.395, F.S., including, in part, immediately beginning an investigation if there is evidence of any abuse or neglect beyond the child being left at one of the designated facilities; if there is no other evidence, the report will not be considered abuse, abandonment or neglect under ch. 39, F.S.
[46] Section 39.205(1), F.S.
[47] Section 39.205(1), F.S. A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.
[48] Section 39.205(2), F.S.

penalties for failing to report child abuse, neglect or abandonment.[49] These schools or their administrators who knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of these schools or during an event sponsored by one of these schools, or who knowingly and willfully prevent another person from doing so, are subject to fines of $1 million for each failure.[50] The fines are to be assessed as follows:

- A Florida College System institution subject to a fine shall be assessed by the State Board of Education.
- A state university subject to a fine shall be assessed by the Board of Governors.
- A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.[51]

Education Practices Commissions

Current law provides the Education Practices Commission (EPC) with authority to discipline specified instructional personnel[52] and school administrators[53] in various circumstances.[54] The EPC may, for instance, suspend an educator certificate for up to 5 years which would deny the holder of the certificate the right to teach or be employed in any capacity by a district school board or public school which would require direct contact with students for that time period.[55] There are a number of circumstances that are grounds for suspending an educator certificate.[56]

Florida law is currently silent on whether the EPC must suspend an instructional personnel's or school administrators' educator certificate for failing to report child abuse, abandonment, or neglect as required under s. 39.201, F.S.

Effect of the Bill

The bill reorganizes, clarifies, and relocates, in part, s. 39.201, F.S., as follows:

- Section 39.101, F.S. provides for the following sections relating to the hotline:
  - Operation and maintenance in s. 39.101(1), F.S.;
  - Timelines for initiating an investigation in s. 39.101(2), F.S.;
  - Use of information received by the hotline in s. 39.101(3), F.S.; and

[49] Section 39.205(3), F.S.
[50] *Id.* Current law also provides that any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of such schools or during an event sponsored by such schools are subject to fines of $1 million for each such failure to report. Section 39.205(4), F.S.
[51] Section 39.205(3), F.S.
[52] Section 1012.01(2), F.S., defines "instructional personnel" as any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Instructional personnel include a specified list of personnel of K-12.
[53] Section 1012.01(3)(c), F.S., provides that "school administrators" includes school principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors and assistance principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.
[54] Section 1012.795(1), F.S.
[55] *Id.*
[56] See s. 1012.795(1), F.S., for a list of circumstances.

  - Quality assurance in s. 39.101(4), F.S.
- Section 39.201, F.S., provides for the following sections relating to reporting requirements:
  - Required reporting in s. 39.201(1), F.S.;
  - Exceptions to reporting in s. 39.201(2), F.S.;
  - Additional circumstances relating to reporting in s. 39.201(3), F.S.;
  - Reports of child abuse, neglect or abandonment by a parent or caregiver in s. 39.201(4), F.S.;
  - Reports of sexual abuse of a child, juvenile sexual abuse, or a child who has exhibited inappropriate sexual behavior in s. 39.201(5), F.S.; and
  - Mandatory reports of a child death in s. 39.201(6), F.S.

Operation and Maintenance (Section 1)

The bill removes the DCF's responsibility to determine the feasibility of using text and short message service formats to receive reports.

The bill clarifies in s. 39.101(1)(a), F.S., that mandatory reports of child abuse, abandonment, or neglect must be made "immediately," whereas current law is silent on the time in which the reports must be made.

In addition to incidents that occur at a Florida College System institution or a state university, s. 39.101(3), F.S., adds to the list of schools or school events the DCF must collect and analyze data on, and include in the separate statistical reports of instances of child abuse and sexual abuse, as follows:
- On school premises;
- On school transportation;
- At school-sponsored off-campus events;
- At any school readiness program provider determined to be eligible under s. 1002.88, F.S.;
- At a private prekindergarten provider[57] or a public school prekindergarten provider;[58]
- At a public K-12 school;[59]
- At a private school;[60] or

[57] Section 1002.51(7), F.S., defines "private prekindergarten provider" as a provider other than a public school which is eligible to deliver the school-year prekindergarten program under s. 1002.55, F.S., or the summer prekindergarten program under s. 1002.61, F.S.
[58] Section 1002.51(8), F.S., states "public school prekindergarten provider" includes a traditional public school or a charter school that is eligible to deliver the school-year prekindergarten program under s. 1002.63, F.S., or the summer prekindergarten program under s. 1002.61, F.S.
[59] Section 1000.04(1), F.S., states "public K-12 schools" include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.
[60] Section 1002.01(2), F.S., defines "private school" as a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13), F.S., or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under ch. 1005, F.S. A private

- At any school.[61]

Reporting Requirements (Section 2)

The bill also amends s. 39.201(2)(c), F.S., relating to reports of juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior and relocates the law to a new s. 39.201(5), F.S., and requires the DCF to comply with the following new requirements:

- Provide services in the least restrictive environment possible and include child advocacy center services pursuant to s. 39.3035, F.S.,[62] and sexual abuse treatment programs developed and coordinated by the Children's Medical Services Program pursuant to s. 39.303, F.S.;
- Conduct a protective investigation for allegations of childhood sexual abuse or juvenile sexual abuse which occur on or at the schools or school events listed in the newly created s. 39.101(3)(f)2., F.S.,[63] and requires that the investigation include an interview with the child's parent or legal guardian;
- Notify the DOE, the law enforcement agency having jurisdiction over the municipality or county in which the school is located and, as appropriate, the superintendent of the school district where the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten provider; and
- Prepare a written report to the law enforcement agency within 3 working days after making the oral report. Any criminal investigation must be coordinated with the DCF's child protective investigation, whenever possible. Any interested person who has relevant information relating to the abuse may forward a statement to the DCF.

Section 39.201(1)(b)2.h., F.S., is created to require an animal control officer as defined in s. 828.27, F.S., or agent appointed under s. 828.03, F.S., to disclose his or her name when he or she makes a report to the hotline.

The Florida Administrative Code will have to be amended to define the role and responsibilities of the hotline, and rules regarding child protective investigators[64] will need to be amended to reflect new rules, definitions, and provisions contained in the proposed bill.

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school may be a parochial, religious, denominational, for-profit, or nonprofit school, but does not include home education programs conducted in accordance with s. 1002.41, F.S. *Id.*

[61] Section 1005.02(16), F.S., defines "school" as any nonpublic postsecondary noncollegiate educational institution, association, corporation, person, partnership, or organization of any type which: (a) offers to provide or provides any complete, or substantially complete, postsecondary program of instruction through the student's personal attendance; in the presence of an instructor; in a classroom, clinical, or other practicum setting; or through correspondence or other distance education; (b) represents, directly or by implication, that the instruction will qualify the student for employment in an occupation for which a degree is not required in order to practice in this state; (c) receives remuneration from the student or any other source based on the enrollment of a student or the number of students enrolled; or (d) offers to award or awards a diploma, regardless of whether it conducts instruction or receives remuneration.

[62] See below for further discussion on this section of the Florida Statutes.

[63] SB 7000 (2020) included a provision in s. 39.201(1)(a)3.c., F.S., that is identical to the provision created in s. 39.201(3)(f)2., F.S., of this bill. The DCF reported in its agency analysis dated October 17, 2019 that the provision of s. 39.201(1)(a)3.c. codifies the current practice of conducting investigations of child-on-child sexual reports that occur at specified events or on school grounds. The DCF, *Agency Analysis for SB 7000*, p. 4, October 17, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as the "The DCF SB 7000 (2020) Analysis").

[64] Fla. Admin. Code R. 65C-30.001 defines a "child protective investigator" as a child welfare professional who is responsible for investigating alleged child maltreatment and conducting assessments regarding the safety of children.

Penalties (Sections 5 and 18)

The bill amends s. 39.205(4), F.S., to clarify that nothing in that section may be construed to remove or reduce the requirement of any faculty, staff, or other employee of the following institutions, to directly report a known or suspected case of child abuse, abandonment, neglect or the sexual abuse of a child[65] to the hotline:

- School readiness program provider determined to be eligible under s. 1002.88, F.S.;
- Private prekindergarten provider or a public school prekindergarten provider;
- Public K-12 school;
- Home education program or private school;
- Florida College System institution or a state university;
- College; or
- School.

The bill also provides that any school personnel reporting child abuse to their supervisor does not relieve them of the responsibility to directly report to the hotline.

The bill amends s. 1012.795, F.S., requiring the EPC to suspend for not less than one year the educator certificate of instructional personnel or school administrator if the DCF finds that he or she knowingly failed to report child abuse pursuant to s. 39.201, F.S., and the EPC has issued a final order in accordance with ch. 120, F.S., for a previous instance of failure to report by the individual.

Institutional Child Abuse, Abandonment, or Neglect (Section 7)

Florida law provides that the DCF must conduct a child protective investigation of any reported institutional child abuse, abandonment, or neglect.[66] Upon receipt of such report, the DCF must initiate an investigation within the time provided in s. 39.201(5), F.S., and must notify the state attorney, law enforcement agency, and licensing agency that must conduct a joint investigation, unless independent investigations are more feasible.[67]

The DCF must give each agency who is conducting a joint investigation full access to the information it has gathered, and provide an oral and written report to the state attorney.[68] The

[65] Section 39.01(77), F.S., defines "sexual abuse of a child" for purposes of finding a child to be dependent as one or more of the following acts: (a) any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen; (b) any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person; (c) any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose; or (d) the intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator with specified exceptions; (f) the intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose; or (g) the sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, or the act of allowing, encouraging, or forcing a child to engage in specified acts.
[66] Section 39.302(1), F.S.
[67] *Id.*
[68] *Id.*

state attorney must also provide the DCF with a copy of its report and conclusion on whether prosecution is justified and appropriate within 15 days after the investigation is completed.[69]

If the person who is the subject of the report constitutes a continued threat of harm to the welfare of children by continued contact with them, the DCF may restrict his or her access by the least restrictive means necessary to ensure the children's safety. Such restriction may be effective for no more than 90 days without a judicial review.[70] The subject may petition the court for a judicial review and the court would be required to make specified findings.[71] Upon completion of its protective investigation, the DCF may motion the court to continue the restrictive action against the subject to ensure the children's safety.[72]

Effect of the Bill

The bill amends s. 39.302, F.S., with respect to institutional investigations to provide:

- The alleged perpetrator may be represented by an attorney or accompanied by another person if specified conditions are met;
- The absence of such person does not prevent the DCF from proceeding with other aspects of the investigation;
- If the institution is not operational and the child is unable to be located, the investigation must commence immediately upon the institution reopening; and
- The DCF must provide copies of all investigative reports to a state attorney or law enforcement agency upon request.

Critical Incident Rapid Response Team (Section 3)

The investigative process required by critical incident rapid response teams (CIRRT) was created by the Legislature in 2014,[73] with the purpose of identifying root causes to rapidly determine the need to change policies and practices related to child protection and improving Florida's child welfare system.[74] The CIRRT must immediately investigate certain child deaths or other serious incidents.[75] CIRRT reviews take into consideration the family's entire child welfare history, with specific attention to the most recent child welfare involvement and events surrounding the fatality, including the most recent verified incident of abuse or neglect. The DCF secretary has the discretion to direct an immediate investigation for other cases involving death or serious injury to a child.[76]

Florida law outlines the duties and composition of the teams which require cooperative agreements with other entities and organizations to facilitate their work.[77] The DCF secretary is required to develop guidelines and provide training to the CIRRT, and direct them to conduct a

[69] Section 39.302(1), F.S.
[70] Section 39.302(2)(b), F.S.
[71] *Id.*
[72] *Id.*
[73] Chapter 2014-224, Laws of Fla.
[74] Section 39.2015(1), F.S.
[75] *Id.*
[76] *Id.*
[77] Section 39.2015(7), F.S.

root-cause analysis for each incident.[78] In addition, the secretary is directed to appoint an advisory committee to conduct an independent review of the CIRRT reports and submit quarterly reports to the secretary, who is required to provide the reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives.[79]

The CIRRT reports must be published on the DCF website.[80] In 2021, the CIRRT has begun investigations of four deaths of children who have verified prior reports of the child or family in the past 12 months.[81] Of the four investigations, a 1 ½ year old child's cause of death was determined to be drowning but the report is pending.[82] The other three investigations are ongoing.[83]

Effect of the Bill

The bill amends s. 39.2015, F.S., requiring the CIRRT to investigate allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months, including any child who is in the custody of or under the supervision of the DCF. The bill also amends the composition of the CIRRT to include a representative from a child advocacy center pursuant to s. 39.3035, F.S., who has specialized training in sexual abuse, or permits a combination of such specialists, if deemed appropriate.

Confidentiality of Reports and Records (Section 4)

Except as otherwise provided in ch. 39, F.S., the DCF must keep confidential all records relating to any reports of child abuse, abandonment, or neglect, including any report made to the hotline and all records generated as a result of such report.[84] The DCF and any entity granted access to such records are exempt[85] from the public disclosure requirements in s. 119.07(1), F.S.[86]

Section 39.202(2), F.S., provides that copies of reports and records, except for the reporter's name and other identifying information, may be disclosed, to the following entities or individuals if the following conditions are met:

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[78] Section 39.2015(10), F.S.
[79] Section 39.2015(11), F.S.
[80] Section 39.2015(9), F.S.
[81] The DCF, *Total Child Fatalities with a Critical Incident Rapid Response Team Response in 2021: 4*, available at https://www.myflfamilies.com/childfatality/cirrtresults.shtml?minage=0&maxage=18&year=2021&cause=&prior12=&verified (last visited March 1, 2021).
[82] *Id.*
[83] *Id.*
[84] Section 39.202(1), F.S.
[85] When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).
[86] *Id.*

- Employees, authorized agents, or contract providers of the DCF, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out certain functions;
- Criminal justice agencies of appropriate jurisdictions;
- The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred;
- The parent or legal custodian of any child and their attorneys, including any attorney representing a child in civil or criminal proceedings;
- Any person alleged to have caused the child's abuse, abandonment, or neglect; and
- Any appropriate official of the DCF or the Agency for Persons with Disabilities who is responsible for carrying out certain functions.

The DCF may not release the name or identifying information of a person who reports child abuse, abandonment, or neglect, except to employees of the specified agencies, without written consent of the person reporting.[87] The court, state attorney, or the DCF are permitted to subpoena the reporter when deemed necessary provided the fact that such person made the report is not disclosed.[88] Any person who reports child abuse or neglect may request at the time of the report to receive notice of the result of the protective investigation, and any person listed in s. 39.201(1), F.S., who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation which shall be mailed to the reporter within 10 days after the investigation is completed.[89]

Chapter 39, F.S., is silent on whether the Florida Legislature or their committee members may have access to the confidential reports and records. Section 11.143(2), F.S., however, provides that each committee has the right and authority to inspect and investigate, in part, the books, records, papers, documents, data, and operation of any public agency in Florida, including confidential information, to carry out its duty.

Effect of the Bill

The bill amends s. 39.202(2)(u), F.S., to include members of standing or select legislative committees as persons who are entitled to have access to the confidential reports and records, except for reporter name and identifying information unless permitted, to carry out their duties as provided for in s. 11.143(2), F.S. Access to the records must be granted within 7 business days upon request of the member.

Animal Cruelty and Child Abuse (Sections 6 and 13-17)

Recent studies suggest a link between animal[90] abuse and harm to other persons.[91] Statistics support a connection between animal cruelty and violence against other humans:

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[87] Section 39.202(5), F.S.
[88] *Id.*
[89] *Id.*
[90] Section 828.27(1)(a), F.S., defines "animal" as any living dumb creature.
[91] *See* Animal Legal Defense Fund, *The Link Between Cruelty to Animals and Violence Toward Humans*, available at https://aldf.org/article/the-link-between-cruelty-to-animals-and-violence-toward-humans-2/ (hereinafter cited as "The ALDF Article") (last visited March 1, 2021).

- Animal abusers are five times as likely to harm humans;[92]
- Sixty percent of families under investigation for child abuse, and 88 percent for physical child abuse, reported animal cruelty;[93] and
- Children who abuse animals are 2-3 times more likely to have been abused themselves.[94]

While some researchers disagree,[95] the National School Safety Council, the U.S. Department of Education, the American Psychological Association, and the National Crime Prevention Council agree that animal cruelty is a warning sign for at-risk youth. A number of studies have drawn links between the abuse of animals and violent incidents in schools.[96]

Animal Control Ordinances

Government municipalities have the authority to enact ordinances relating to animal control or cruelty within certain specified restrictions or criteria that must be met.[97] If a person violates such duly enacted ordinance, a citation[98] may be issued by an officer,[99] including an animal control officer.

"Animal control officer" means any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty[100] and to issue citations.[101] Animal control officers are required to complete a 40-hour minimum standards training course, which must cover specified topics, and 4 hours of post-certification every 2 years thereafter.[102] Animal control officers are not currently required to receive training on child abuse, abandonment, or neglect.

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[92] The ALDF Article.
[93] The National Sheriffs' Association, *Animal Cruelty and child Abuse*, available at https://www.sheriffs.org/Animal-Cruelty-and-Child-Abuse (last visited February 28, 2021).
[94] Lardeiri, A., U.S. News and World Report, *Juvenile Animal Abusers More Likely to Have Been Abused Themselves*, available at https://www.usnews.com/news/national-news/articles/2018-07-16/juvenile-animal-abusers-more-likely-to-have-been-abused-themselves (last visited February 28, 2021).
[95] Psychology Today, *Animal Cruelty Does Not Predict Who Will Be A School Shooter*, February 21, 2018, available at https://www.psychologytoday.com/us/blog/animals-and-us/201802/animal-cruelty-does-not-predict-who-will-be-school-shooter (last visited March 1, 2021).
[96] The Humane Society of the United States *Animal cruelty and human violence FAQ*, available at https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq (last visited March 1, 2021).
[97] Section 828.27(2), F.S.
[98] Section 828.27(1)(f), F.S., defines "citation" as a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge.
[99] Section 828.27(1)(e), F.S., defines "officer" as any law enforcement officer defined in s. 943.10, F.S., or any animal control officer. Section 943.10(1), F.S., defines "law enforcement officer" to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws.
[100] Section 828.27(1)(d), F.S., defines "cruelty" means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.
[101] Section 828.27(1)(b), F.S.
[102] Section 828.27(4)(a), F.S.

Cross-Reporting

A study reported in 1983 found that there are parallels between the potential origins of violence to children and to animals.[103] In a sample of pet-owning child-abusers, 88 percent of the families where child abuse had occurred also abused the animals.[104] A six-year "gold standard" study conducted in 11 cities found that pet abuse is one of four predictors of domestic violence.[105] More than 50 percent of women entering domestic violence shelters reported that their partners abused or killed a family pet.[106]

Several states have adopted cross-reporting laws that require officials investigating child abuse to report animal abuse and officials investigating animal abuse to report child abuse.[107] At least 28 states have counseling provisions in their laws relating to animal cruelty. Four of these states require a person convicted of animal cruelty to participate in psychological counseling and six of them mandate counseling for juveniles convicted of animal cruelty.[108]

Florida law is silent on cross-reporting of known or suspected child abuse, abandonment, or neglect and instances of animal cruelty.

Sexual Activities Involving Animals

Approximately 46 states have criminal laws that prohibit sexual conduct with animals.[109] Hawaii, New Mexico, West Virginia, and Wyoming do not have state laws against sexual assault of animals.[110] A study of incidents from 1975 to 2015 found that 31.6 percent of animal sex offenders also sexually offended adults and children.[111] Of these offenders, 52.9 percent had a

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[103] DeViney, E., Dickert, J., & Lockwood, R (1983), *The Care of Pets within Child Abusing Families*, International Journal for the Study of Animal Problems, 4(4), 321-329, 328, available at https://www.wellbeingintlstudiesrepository.org/cgi/viewcontent.cgi?article=1014&=&context=acwp_awap&=&sei-redir=1&referer=https%253A%252F%252Fwww.bing.com%252Fsearch%253Fq%253DDeViney%252C%252BE.%252C%252BDickert%252C%252BJ.%252C%252B%252526%252BLockwood%252C%252BR%252B%25281983%2529%252B%2525E2%252580%25259CThe%252Bcare%252Bof%252Bpets%252Bwithin%252Bchild%252Babusing%252Bfamilies.%2525E2%252580%25259D%252BInternational%252BJournal%252Bfor%252Bthe%252BStudy%252Bof%252BAnimal%252BProblems%2526src%253DIE-SearchBox%2526FORM%253DIENAE2#search=%22DeViney%2C%20E.%2C%20Dickert%2C%20J.%2C%20%26%20Lockwood%2C%20R%20%281983%29%20%E2%80%9CThe%20care%20pets%20within%20child%20abusing%20families.%E2%80%9D%20International%20Journal%20Study%20Animal%20Problems%22 (last visited March 1, 2021).

[104] *Id.* at 327.

[105] The Humane Society of the United States, *Animal Cruelty and Human Violence FAQ*, available at https://www.humanesociety.org/resources/animal-cruelty-and-human-violence-faq (last visited March 1, 2021) (hereinafter cited as "Animal Cruelty and Human Violence").

[106] *Id.*

[107] American Veterinary Medical Association, *Cross-reporting of Animal and Child Abuse*, April 2018, available at https://www.avma.org/advocacy/state-local-issues/cross-reporting-animal-and-child-abuse (last visited March 1, 2021).

[108] Animal Cruelty and Human Violence.

[109] Michigan State University, Animal Legal & Historical Center, *Table of State Animal Sexual Assault Laws*,

[110] Animal Legal Defense Fund, *Laws Against the Sexual Assault of Animals*, available at https://aldf.org/project/sexual-assault-of-animals/ (last visited March 1, 2021).

[111] The Journal of the American Academy of Psychiatry and the Law, *Arrest and Prosecution of Animal Sex Abuse (Bestiality) Offenders in the United States, 1975 – 2015*, May 2019, available at http://jaapl.org/content/early/2019/05/16/JAAPL.003836-19 (last visited March 1, 2021).

prior conviction involving human sexual abuse, animal abuse, interpersonal violence, substances or property offenses.[112]

Section 828.126(2), F.S., provides that a person may not knowingly:

- Engage in any sexual conduct or sexual contact with an animal;
- Cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;
- Permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or
- Organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

"Sexual conduct" is defined as any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.[113]

"Sexual contact" is defined as any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ of anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.[114]

A person who violates s. 828.126(2), F.S., commits a first degree misdemeanor.[115]
Section 828.126, F.S., does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.[116] Animal husbandry is not defined under s. 828.126, F.S.

[112] *Id.*
[113] Section 828.126(1)(a), F.S.
[114] Section 828.126(1)(b), F.S.
[115] A first degree misdemeanor is punishable by up to one year in imprisonment or a $1,000 fine as provided for in s. 775.082, F.S, or s. 775.083, F.S.
[116] Section 828.126(4), F.S.

Sexual Performance by a Child

A person is also guilty of a second degree felony[117] if he or she, knowing the character and content, promotes[118] a sexual performance[119] by a child, who is younger than 18 years old, and produces, directs, or promotes a performance[120] that includes any sexual conduct.[121]

"Sexual conduct" means the actual or simulated[122] sexual intercourse, deviate sexual intercourse,[123] sexual bestiality, masturbation, or sadomasochistic abuse;[124] actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery[125] or simulates that sexual battery is being or will be committed.[126] "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.[127]

A person who possesses with intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which includes any sexual conduct by a child is guilty of a second degree felony.[128] Possession of three or more copies of such materials is prima facie evidence of an intent to promote.[129]

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[117] A second degree felony is punishable by up to 15 years in imprisonment or a $10,000 fine as provided for in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
[118] Section 827.071(1)(d), F.S., provides that "promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer to agree to do the same.
[119] Section 827.071(1)(i), F.S., defines "sexual performance" as any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.
[120] Section 827.071(1)(c), F.S., defines "performance" as any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.
[121] Section 827.071(3), F.S.
[122] Section 827.071(1)(j), F.S., defines "simulated" as any performance or part thereof which includes sexual conduct by a child of less than 18 years old.
[123] Section 827.071(1)(a), F.S., defines "deviate sexual intercourse" as sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.
[124] Section 827.071(1)(e), F.S., defines "sadomasochistic abuse" as flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.
[125] Section 827.071(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.
[126] Section 827.071(1)(h), F.S. A mother's breastfeeding of her baby does not under any circumstances constitute "sexual conduct." *Id.*
[127] Section 827.071(1)(g), F.S.
[128] Section 827.071(4), F.S.
[129] *Id.*

Any person who knowingly possesses, controls, or intentionally views[130, 131] a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation,[132] which he or she knows to include any sexual conduct by a child commits a third degree felony.[133]

These criminal provisions do not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation[134] and do not prohibit prosecution for such conduct under other laws of Florida, including laws with greater penalties.[135]

Criminal Punishment Code

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.[136] Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[137] Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.[138] Absent mitigation,[139] the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.

Except as otherwise provided by law, the statutory maximum sentence for an offense committed, which is classified as a:

- Capital felony is:
  - Death, if the proceeding held according to the procedure set forth in s. 921.141, F.S., results in a determination that it is appropriate for the person to be punished by death; or
  - Life imprisonment without the possibility of parole.
- Life felony is a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

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[130] Each of these acts of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. Section 827.01(5)(a), F.S.

[131] Section 827.071(1)(b) defines "intentionally view" as deliberately, purposefully, and voluntarily view. Proof of intentionally viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time. *Id.*

[132] Each child engaging in sexual conduct in each of these mediums is a separate offense. Section 827.01(5)(a), F.S.

[133] Section 827.071(5)(a), F.S.

[134] Section 827.071(5)(b), F.S.

[135] Section 827.071(6), F.S.

[136] Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

[137] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

[138] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

[139] The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

- First degree felony is:
  - 30 years; or
  - Imprisonment for a term of years not exceeding life imprisonment when specifically provided by statute.
- Second degree felony is 15 years.
- Third degree felony is 5 years.[140]

The promotion of a sexual performance by a child punishable under s. 827.071(3), F.S., is a level 6 offense. Possession with intent to promote materials which contain sexual conduct by a child punishable under s. 827.071(4), F.S., and materials possessed, controlled or intentionally viewed which contain a child engaging in sexual conduct punishable under s. 827.071(5), F.S., are level 5 offenses.[141]

Effect of the Bill

Cross-Reporting (Sections 6, 13, and 16)

The bill also provides legislative findings in the newly created s. 39.208, F.S., and in an unnumbered section of law that recognizes that animal cruelty is a type of interpersonal violence which frequently co-occurs with child abuse and other forms of family violence, and that early detection of animal cruelty provides:

- An important tool to safeguard children from abuse and neglect;
- Needed support to families; and
- Protection of animals.

The bill provides that the Legislature finds training of protective investigators and animal care and control personnel should include information on the link between the welfare of animals in the family and child safety and protection. The Legislature intends to require reporting and cross-reporting and collaborative training between these personnel.

The bill creates s. 39.208, F.S., establishing new cross-reporting requirements where child protective investigators are required to report known or suspected animal cruelty, and animal control officers are required to report known or suspected child abuse, abandonment, or neglect, of any child who is without parental or caregiver supervision.

Child protective investigators are required to report known or suspected incidents of animal cruelty within 72 hours to his or her supervisor for submission to a local animal control agency. The report must include:

- A description of the animal and animal cruelty;
- The name and address of the animal's owner or keeper, if available; and
- Any other available information that might assist in determining the cause of the animal cruelty and the manner in which it occurred.

A child protective investigator who makes a report is presumed to be acting in good faith and, if he or she cooperates in an investigation, is immune from civil or criminal liability or

[140] *See* s. 775.082, F.S.
[141] Section 921.0022(3), F.S.

administrative penalty or sanction. A protective investigator who knowingly and willfully fails to report known or suspected animal cruelty as provided under a new s. 39.208, F.S., commits a second degree misdemeanor.[142]

The bill also requires animal control officers to immediately report any known or suspected child abuse, abandonment, or neglect immediately. An animal control officer who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect as provided under s. 39.208, F.S., is subject to the penalties imposed in s. 39.205, F.S.

The bill requires the DCF, in consultation with the Florida Animal Control Association (FACA), to develop or adapt existing training materials to provide a 1-hour training for all child protective investigators and animal control officers on child abuse, abandonment, or neglect or animal cruelty, and the interconnectedness of such abuse or neglect. The DCF must include in the training to child protective investigators information on how to identity harm to and neglect of animals, and the relationship of such activities to child welfare case practice. Training provided to animal control officers must advise them of the mandatory duty to report under ss. 39.208(3) and 39.201, F.S., and the criminal penalties for failing to report as provided for in s. 39.205, F.S.

Animal control officers are required to complete the 1-hour training course, and they must be given the opportunity to complete it during normal work hours.[143]

The bill requires the DCF to adopt rules to implement this section.

The DCF reports that investigators have reported suspected incidents of animal abuse, neglect, or cruelty or abandonment of an animal to the local animal control officer.[144] It also reports that as of October 17, 2019, it did not have a training module developed in conjunction with the FACA which educates on child abuse and animal cruelty.[145]

Sexual Activities Involving Animals (Sections 15 and 17)

The bill deletes the definition of "sexual conduct" under s. 828.126(1)(a), F.S. The definition is replaced with a definition of "animal husbandry" which includes the day-to-day care of, selective breeding of, and the raising of livestock that is commonly defined as domesticated animals or animals raised for agricultural purposes and that is located on land used for bona fide agricultural purposes as defined in s. 193.431(3)(b), F.S.

The definition of "sexual contact" under this section is amended to be the definition of "sexual contact with an animal" and means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

- Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;
- The fondling of the sex organ or anus of an animal; or

[142] A second degree misdemeanor is punishable by up to 60 days imprisonment or $500 fine under s. 775.082, F.S., or s. 775.083, F.S.
[143] Section 828.27(4)(a)2., F.S.
[144] The DCF SB 7000 (2020) Analysis at p. 3.
[145] *Id.*

- The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person.

The bill amends s. 828.126(2)(d), F.S., relating to an offense of sexual activities involving animals to read that a person may not "knowingly organize, promote, conduct, aid, abet, participate in as an observer, or advertise, offer, solicit or accept an offer of an animal for purposes of sexual contact with such animal, or perform any service in the furtherance of an act involving any sexual contact with an animal." The words underlined have been added and the words "for a commercial or recreational purpose" have been deleted.

The bill also includes another act which gives rise to a criminal violation under s. 828.126, F.S., namely, to knowingly film, distribute, or possess pornographic images of a person and an animal engaged in any of the activities prohibited as described above.

In addition to these penalties, the bill provides that the court must issue an order prohibiting for up to five years from the date of conviction, regardless of whether adjudication is withheld, a person convicted of having sexual contact with an animal from:
- Harboring, owning, possessing, or exercising control over any animal;
- Residing in any household where animals are present; and
- Engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment where animals are present.

The bill adds an exception to the criminal conduct for artificial insemination of an animal for reproductive purposes.

The bill reclassifies the offense from a first degree misdemeanor to a third degree felony. The bill amends s. 921.0022, F.S., making the offense of sexual activities involving animals a level 6 on the Offense Severity Ranking Chart.

Sexual Performance by a Child (Section 14)

The bill amends the definition of "sexual bestiality" to a definition of "sexual contact with an animal." The definition of "sexual contact with an animal" is amended to have the same meaning as in s. 828.126, F.S., when an adult encourages or forces such act to be committed between a child and an animal. The reference to "sexual bestiality" under the definition of "sexual conduct" is amended to "sexual contact with an animal."

Multidisciplinary Legal Representation (Section 9)

Multidisciplinary legal representation models (MLRM) have been adopted in states around the country, including The Vermont Parent Representation Center, the Center for Family Representation, the Bronx Defenders, and the Detroit Center for Family Advocacy.[146] While the

[146] The Children's Bureau Express, *Collaborating to Build Multidisciplinary, Family-Centered, Strengths-Based Courts,* May 2020, available at

traditional legal practice in the United States is to have a solo attorney represent a client, the MLRM promotes a team of individuals, including social workers and parent advocates.[147] A study by the Bronx Defenders that examined more than 28,000 New York dependency cases between 2007 and 2014 found that full implementation of the MLRM would have saved an estimated $40 million per year for the foster care system.[148] This same study suggests that representation that utilized the multidisciplinary model were able to safely reunify children with their families 43 percent more often in their first year than solo practitioners, and 25 percent more often in the second year.[149]

The OCCCRC Fourth District of Florida currently has a Social Services Unit (SSU) it employs to enhance the legal representation to indigent parents in dependency cases.[150] The SSU includes a forensic social worker or forensic family advocate who are on the legal team to engage parents and guide them through the reunification process.[151] The OCCCRC reports the SSU assist clients with tasks such as providing information about and interacting with providers, and describes the SSU's inclusion in the legal team as beneficial.[152]

Family First Prevention Services Act

In 2018, Congress enacted the Family First Prevention Services Act (FFPSA) aimed at providing financial assistance with a focus on prevention services and limiting funds for residential group care.[153] Title IV-E federal funding is now available for legal representation and advocacy for eligible children in foster care and their parents.[154] The FFPSA:

- Includes an option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Provides that eligible candidates include children who can remain safely in the home with the provision of services; children in foster care who are parents; or parents or caregivers who require services to prevent a child's entry into foster care;
- Requires states to prepare a prevention plan for the child to safely remain at a home with services; and

https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=216&sectionid=17&articleid=5558 (last visited March 1, 2021) (hereinafter cited as "CBE Building Multidisciplinary Teams").

[147] *See Id.* Children's Bureau Express, *New Study Shows Providing Parents with Multidisciplinary Legal Representation in Child Welfare Cases furthers Everyone's Interests*, July/August 2019, available at https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=208&sectionid=2&articleid=5378 (last visited March 1, 2021) (hereinafter cited as "CBE New Study").

[148] NYU Law, *Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds*, May 7, 2009, available at Providing Parents with the Right Kind of Legal Representation in Child Welfare Cases Significantly Reduces the Time Children Stay in Foster Care, New Study Finds | NYU School of Law (last visited March 1, 2021) (hereinafter cited as "NYU Article").

[149] *Id.*

[150] The OCCCRC Fourth District of Florida, *Social Services Unit*, available at http://www.rc-4.com/social-services.shtml (last visited March 1, 2021).

[151] *Id.*

[152] *Id.*

[153] The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml (last visited March 1, 2021).

[154] U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf (last visited March 1, 2021).

- Requires services to be trauma-informed and pre-approved on the Health and Human Services website.[155]

Effect of the Bill

The bill creates s. 39.4092, F.S., to provide each OCCCRC with permission to establish a MLRM program and follow program requirements for serving families in dependency cases. The bill provides the following legislative findings:

- MLRM is effective in reducing safety risks to children and providing families with better outcomes;
- Addressing challenges faced by parents, such as mental illness or substance abuse disorders, in an manner that achieves stability often falls within the core functions of the practice of social work;
- Social work professionals have a unique skill set, including client assessment and clinical knowledge, which allows them to interact and engage with clients in meaningful and unique ways, and can quickly connect families facing crises with the appropriate resources;
- Parent-peer specialists who assist parents with successfully navigating the child welfare system are a great benefit to the dependency system;
- Current federal provisions authorize the reimbursement of half the cost of attorneys for parents and children in eligible cases; and
- It is necessary to encourage and facilitate the use of MLRMs to improve outcomes and provide the best opportunities for families who are involved in the dependency system to be successful in creating safe and stable homes for their children.

The bill provides that the DCF must collaborate with the OCCCRC regional counsel to implement a MLRM program and provide funding with available matching federal funds to eligible families involved in the dependency system. The bill provides a MLRM program must, at minimum:

- Include a team that consists of a lawyer, a forensic social worker, and a parent-peer specialist, which is defined as a person who has:
  - Previously had his or her child removed and placed into out-of-home care;
  - Been successfully reunified with the child for more than two years; and
  - Received specialized training;
- Engage in cost-sharing agreements to maximize financial resources and enable access to federal funding;
- Provide specialized training for team members;
- Collect uniform data on each child whose parent is served by the program and ensure that reporting of data is conducted through the child's FSFN identification number,[156] if applicable;

[155] The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf (last visited March 1, 2021).
[156] The FSFN system is Florida's implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System and the National Child Abuse and Neglect Data System. Both systems are made publicly available on the Children's Bureau's Child Welfare Outcomes Report Data website.

- Develop consistent operational program policies and procedures throughout the region;
- Obtain agreements with universities relating to approved placements for social work students to ensure the placement of social workers in the program; and
- Execute conflict of interest agreements with each team member.

The bill requires each OCCCRC that establishes a MLRM program to provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA). The report must include data on all of the families served by the MLRM program and all of the following details:

- Reasons for the original involvement of the family in the dependency system.
- Length of time it takes to achieve a permanency goal for the children whose parents are served by the program.
- Frequency of each type of permanency goal achieved by the parents that are served by the program.
- Rate of re-abuse or re-removal of children whose parents are served by the program.
- Any other relevant factors that tend to show the impact that MLRM programs have on outcomes for children in the dependency system, provided each participating OCCCRC agrees to use uniform factors and data collection methods.

The bill provides that the first report must be submitted by October 1, 2022, and annually thereafter, to the OPPAGA, which must compile the results of such reports and compare the reported outcomes from the MLRM to known outcomes of children in the dependency system who are not served by the MLRM program. The OPPAGA must submit a report by December 1, 2022, and annually thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill authorizes the OCCCRC to adopt rules to administer this section.

Child Advocacy Centers (Section 8)

Child advocacy centers must meet specified criteria to become eligible for membership in the Florida Network of Children's Advocacy Centers, Inc. (FNCAC),[157] a statewide nonprofit membership organization.[158] In addition, child advocacy center staff must be trained and meet background screening requirements in accordance with s. 39.001(1), F.S.,[159] which the FNCAC is responsible for ensuring compliance.[160] State and federal funding of these centers is contingent on them meeting the eligibility criteria and the staff receiving the necessary training and screening. Florida law provides for how such funds will be distributed to the centers.[161] Child advocacy centers submit annual reports to the FNCAC, which then compiles the reports and

See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx (last visited March 1, 2021).
[157] Section 39.3035(1), F.S.
[158] FNCAC, *About Us*, available at https://www.fncac.org/about-us (last visited March 1, 2021) (hereinafter cited as "FNCAC About Us").
[159] Employees must complete a level 2 background screening pursuant to ch. 435, F.S.
[160] Section 39.3035(2), F.S.
[161] Section 39.3035(3)(a) and (b), F.S.

submits a final report to the President of the Senate and the Speaker of the House of Representatives in August of each year.[162]

The FNCAC is an Accredited State Chapter of the National Children's Alliance and represents all local children's advocacy centers in Florida.[163] It reports that there are 27 children's advocacy centers that serve 85 percent of the children and families in Florida.[164] The map below illustrates the counties serviced by the centers.[165]

Florida Children Advocacy Centers provide the following services, including, but not limited to:

- Forensic interviews;
- Crisis intervention and support services;
- Medical evaluations;
- Multidisciplinary review of cases;
- Evidenced-based prevention and intervention programs; and
- Professional training and community education.[166]

In 2018, the Florida Children Advocacy Centers served over 34,000 children who were victims of child abuse and neglect and provided the following services:

[162] Section 39.3035(3)(c), F.S.
[163] FNCAC, About Us.
[164] *Id.*
[165] FNCAC, *County Coverage Map*, available at https://www.fncac.org/county-coverage-map (last visited March 1, 2021).
[166] FNCAC, *What is a CAC*, available at https://www.fncac.org/what-cac (last visited March 1, 2021).

- 20,259 received therapy services;
- 17,297 received crisis intervention services;
- 11,120 medical evaluations; and
- 10,675 forensic/specialized interviews.[167]

An analysis conducted by the National Children's Advocacy Center in Huntsville, Alabama in 2015 suggests that the children's advocacy center model saves approximately $1,000 per case in services during the course of a child abuse investigation.[168]

Effect of the Bill

The bill amends s. 39.3035, F.S., to clarify that the functions of child advocacy centers include facilities that offer multidisciplinary services in a community-based and child-focused environment to victims of child abuse or neglect. The bill also provides that children served by such centers may have experienced various types of abuse or neglect, such as sexual abuse or severe physical pain, and suggests that the centers bring together protective investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a collaborated response to victims and their families.

Parenting Partnerships (Sections 10-12)

Section 409.1415, F.S., provides for parenting partnerships among caregivers and birth or legal parents when children are in out-of-home care to provide quality support and encourage reunification.[169] The DCF and community-based care lead agencies[170] (lead agencies) are required to support parenting partnerships when it is safe and in the child's best interest by taking specified steps to facilitate, develop plans, and support contact between caregivers and birth or legal parents.[171] Section 409.1415(2)(b), F.S., requires the DCF, lead agencies, caregivers, and birth or legal parents to work cooperatively and comply with specified requirements including, in part:

- They must interact professionally with one another;
- They must develop a case plan together;
- Under s. 409.1415(2)(b)6., F.S., the DCF and lead agencies must provide a caregiver with the services and support they need; and
- Under s. 409.1415(2)(b)15., F.S., a caregiver must ensure that a child in his or her custody between 13 and 17 years old learns independent living skills.[172]

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[167] FNCAC, *Impact of Children's Advocacy Centers on Child Abuse and Neglect*, available at https://www.fncac.org/impact-childrens-advocacy-centers-child-abuse-and-neglect (last visited February 26, 2021).
[168] *Id.*
[169] Section 409.1415(1), F.S.
[170] The DCF operates a community-based care child welfare system that outsources foster care and related services to agencies with an increased local community ownership to enhance accountability, resource development, and system performance. The DCF contracts with community-based care lead agencies to provide direct or indirect child welfare services. The DCF, *Community-Based Care*, available at https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml (last visited March 1, 2011).
[171] Section 409.1415(2)(a), F.S.
[172] Section 409.1415(2)(b), F.S.

The Foster Parent information Center (FPIC) helps individuals become foster parents.[173] The FPIC provides information, answers questions, and connects potential foster parents with local resources.[174] Any person who wishes to be a foster parent must meet specified conditions with which the FPIC will assist.[175]

Foster Parent Support

Section 409.1453, F.S. requires the DCF in collaboration with the Florida Foster and Adoptive Parent Association (FAPA)[176] and the Quality Parenting Initiative (QPI)[177] to design training for caregivers on life skills necessary for youth in out-of-home care.

Section 409.1753, F.S., provides that the DCF must ensure that, within each district, each foster parent is provided with a telephone number to call during normal working hours when immediate assistance is required and the caseworker is unavailable. This number must be staffed by individuals who have the knowledge and authority necessary to assist foster parents.[178]

Effect of the Bill

The bill amends s. 409.1415(2)(b)6., F.S., to specify that the services and support that must be provided to a caregiver are provided for in a new subsection created in s. 409.1415(3), F.S., which provides:

- The DCF must establish a Foster Parent Information Center to facilitate contact between former and current foster parents, known as foster parent advocates, to current and prospective foster parents to provide information and services, including but not limited to:
  - Assisting with the application and approval process, including timelines for each, preparing to transition a child into the home, and providing prospective foster parents with information with resources available in the community;
  - Accessing available resources and services, including those available from the Florida Foster and Adoptive Parent Association;
  - Providing information specific to a foster parent's individual needs; and

[173] The DCF, *Foster Care, How Do I Become a Foster Parent?*, available at https://www.myflfamilies.com/service-programs/foster-care/how-do-I.shtml (last visited March 1, 2021).
[174] *Id.*
[175] *Id.*
[176] The FAPA is a membership organization for foster, adoptive, and other caregivers in Florida. Its aim is, in part, to educate caregivers and parents, and promote a spirit of cooperation of all entities involved in the child welfare system. FAPA provides support and resources to caregivers to help develop healthy families. The DCF, *Foster Care*, available at https://www.myflfamilies.com/service-programs/foster-care/support-fostering.shtml. Florida FAPA, *About Florida FAPA*, available at http://floridafapa.org/about-us/ (all sites last visited March 1, 2021).
[177] The QPI is a national movement for foster care change which focuses on creating a system that gives parents the tools to provide excellent parenting every day. The QPI system requires the support and involvement of birth families, relative caregivers, foster families, young people, and others in the child welfare system. It consists of a network of states, including Florida, as well as counties and private agencies that are committed to ensuring all children in care have excellent parenting and lasting relationships so they can thrive and grow. Florida implemented this program as a pilot in 2008. The QPI, *What is QPI*, January 2021, available at https://www.qpi4kids.org/what-is-qpi/; The QPI Florida, *No Place Like Home*, October 22, 2010, available at http://centerforchildwelfare.fmhi.usf.edu/qpi1/docs/ReviewOfQPI2011.pdf. The DCF, *Independent Living, The Quality Parenting Initiative, Frequently Asked Questions*, available at https://www.myflfamilies.com/service-programs/independent-living/myfuturemychoice-fp-faqs.shtml (all sites last visited March 1, 2021).
[178] Section 409.1753, F.S.

- Providing immediate assistance when necessary.[179]

- The lead agencies must provide a caregiver with the resources and support that are available and discuss whether the caregiver meets any eligibility criteria. If the caregiver is unable to access resources, the lead agencies must assist the caregiver in initiating access to the following resources:
  - Providing referrals to kinship navigation services;
  - Assisting with linkages to community resources and completion of program applications;
  - Scheduling appointments, and
  - Initiating contact with community service providers.[180]

Section 11 of the bill repeals s. 409.1453, F.S, that requires the DCF's to provide caregivers with life skills training, and relocates it to s. 409.1415(2)(b)15., F.S., with slightly modified language but substantially the same law.

Section 12 of the bill repeals Section 409.1753, F.S., that requires the DCF to provide foster parents with a telephone number for immediate assistance, and relocates it to this new subsection in s. 409.1415(3)(b)2., F.S.

Conforming Sections (Sections 19-22)

The bill amends ss. 39.301, 119.071, 322.09, and 934.03., F.S., conforming references to the changes made by this act.

The bill is effective October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

[179] Section 409.1415(3)(a), F.S.
[180] Section 409.1415(3)(b)1., F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides that an instructional personnel or school administrator who fails to comply with the mandatory reporting requirements of s. 39.201, F.S., under specified instances must have his or her certificate suspended. To the extent that this occurs, he or she may experience a loss of income due to his or her educator certificate being suspended for at least one year.[181]

The bill also adds a representative from a child advocacy center to the CIRRT. The representative should have special training in sexual abuse, or the CIRRT may include another specialist with similar training. This may result in a fiscal impact to the child advocacy centers.

C. Government Sector Impact:

The bill substantially expands the use of the critical incident rapid response team (CIRRT) process by requiring the DCF to deploy a CIRRT for every report of allegations of sexual abuse of a child if the child or another child in his or her family was the subject of a verified report of abuse or neglect in the previous 12 months. According to the DCF[182], the department estimates that it will need 107 FTE positions (84 coordinators, 20 supervisors, and 3 managers) to conduct additional CIRRTs. The DCF projects that the revised criteria will require an estimated 4,033 additional investigations annually. This would also require a streamlining of the current CIRRT process within the department. The DCF anticipates the recurring cost for the additional staff to be $10,826,283. Federal matching funds may be earned, but it is likely that the majority of the staff costs will need to be paid from the General Revenue Fund.

The bill also authorizes the OCCCRC to implement a multidisciplinary legal representation model program. The program will enable the DCF to draw federal Title IV-E funds on behalf of the OCCCRC and the JAC to conduct the program. Budget authority will be needed for DCF to "pass through" the federal reimbursement funding to these agencies[183]. Additional trust fund budget authority may be requested in the Fiscal Year 2021-22 Legislative Budget, if the program is initiated in the OCCCRC or the JAC.

The bill requires the DCF to collaborate with FACA to develop training for child protective investigators and animal control officers. In a similar bill last year, the DCF

[181] The Department of Education, *Agency Analysis for SB 7000 (2020)*, p. 4, October 29, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs). SB 7000 (2020) had a provision which resulted in the teaching certificate for an instructional teacher or administrator being suspended or revoked in certain instances.
[182] The DCF, *Agency Analysis for SB 96*, p. 9, March 5, 2021 (on file with the Senate Appropriations Subcommittee on Health and Human Services).
[183] The DCF SB 96 Analysis at p. 4.

stated that the training would result in a one-time cost approximately $35,000 to develop.[184]

The bill increases the penalty for the offense of sexual activities involving animals to a third degree felony. The Criminal Justice Impact Conference with the Office of Economic and Demographic Research has not yet met to review the bill's impact on the state's prison population. To the extent that this results in additional persons being convicted and sentenced to prison, the bill will likely result in a positive insignificant prison bed impact (i.e. an increase of 10 or fewer beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.201, 39.2015, 39.202, 39.205, 39.301, 39.302, 39.3035, 119.071, 322.09, 409.1415, 827.071, 828.126, 828.27, 921.0022, 943.03, 1012.795, and 1012.796.

This bill creates the following sections of the Florida Statutes: 39.101, 39.208, and 39.4092.

This bill repeals the following sections of the Florida Statutes: 409.1453 and 409.1753.

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 March 2, 2021:
The committee substitute makes a technical change to the effective date.

B. Amendments:

None.

[184] The DCF SB7000 (2020) Analysis at p. 7–8.

By the Committee on Children, Families, and Elder Affairs; and Senator Book

586-02354-21 202196c1

A bill to be entitled

An act relating to child welfare; creating s. 39.101, F.S.; transferring existing provisions relating to the central abuse hotline of the Department of Children and Families; providing additional requirements relating to the hotline; revising requirements for certain statistical reports that the department is required to collect and analyze; amending s. 39.201, F.S.; revising when a person is required to report to the central abuse hotline; requiring animal control officers and certain agents to provide their names to hotline staff; requiring central abuse hotline counselors to advise reporters of certain information; requiring counselors to receive specified periodic training; revising requirements relating to reports of abuse involving impregnation of children; providing requirements for the department when handling reports of child abuse, neglect, or abandonment by a parent or caregiver and reports of child-on-child sexual abuse; amending s. 39.2015, F.S.; specifying serious incidents for which the department is required to provide an immediate multiagency investigation; requiring an immediate onsite investigation by a critical incident rapid response team when reports are received by the department containing allegations of the sexual abuse of certain children; revising membership of multiagency teams; amending s. 39.202, F.S.; expanding the authorization of access to certain confidential records to include members of standing or

586-02354-21 202196c1

select legislative committees, upon request, within a specified timeframe; amending s. 39.205, F.S.; providing construction; specifying that certain persons are not relieved from the duty to report by notifying a supervisor; creating s. 39.208, F.S.; providing legislative findings and intent; providing responsibilities for child protective investigators relating to animal cruelty; providing criminal, civil, and administrative immunity to child protective investigators who report known or suspected animal cruelty; providing responsibilities for animal control officers relating to child abuse, abandonment, and neglect; providing criminal penalties; requiring the department to develop training in consultation with the Florida Animal Control Association which relates to child and animal cruelty; providing requirements for such training; requiring the department to adopt rules; amending s. 39.302, F.S.; conforming cross-references; authorizing certain persons to be represented by an attorney or accompanied by another person under certain circumstances during institutional investigations; providing requirements relating to institutional investigations; amending s. 39.3035, F.S.; providing a description of child advocacy centers; creating s. 39.4092, F.S.; providing legislative findings; authorizing offices of criminal conflict and civil regional counsel to establish a multidisciplinary legal representation model program to serve parents of children in the dependency system;

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

requiring the department to collaborate with the office to implement a program and provide funding; specifying program requirements; defining the term "parent-peer specialist"; requiring each region that establishes a multidisciplinary legal representation model program to submit an annual report by a certain date to the Office of Program Policy Analysis and Government Accountability; requiring the office to compile the reports and include such information in a specified report sent to the Governor and the Legislature by a specified date; authorizing the office of criminal conflict and civil regional counsel to adopt rules; amending s. 409.1415, F.S.; requiring the department to make available specified training for caregivers on the life skills necessary for children in out-of-home care; requiring the department to establish the Foster Information Center for specified purposes; requiring community-based care lead agencies to provide certain information and resources to kinship caregivers and to provide specified assistance to such caregivers; requiring lead agencies to provide caregivers with a certain telephone number; repealing s. 409.1453, F.S., relating to the design and dissemination of training for foster care caregivers; repealing s. 409.1753, F.S.; relating to duties of the department relating to foster care; providing legislative intent; amending s. 827.071, F.S.; renaming the term "sexual bestiality" as "sexual contact with an animal" and redefining the

term; amending s. 828.126, F.S.; revising and defining terms; revising prohibitions relating to sexual conduct and sexual contact with an animal; revising criminal penalties; requiring a court to issue certain orders; revising applicability; amending s. 828.27, F.S.; requiring county and municipal animal control officers to complete specified training; requiring that animal control officers be provided with opportunities to attend such training during normal work hours; amending s. 921.0022, F.S.; assigning an offense severity ranking for sexual activities involving animals; amending s. 1012.795, F.S.; requiring the Education Practices Commission to suspend the educator certificate of instructional personnel and school administrators for failing to report known or suspected child abuse under certain circumstances; amending ss. 39.301, 119.071, 322.09, and 934.03, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 39.101, Florida Statutes, is created to read:

39.101 Central abuse hotline.—The central abuse hotline is the first step in the safety assessment and investigation process.

(1) ESTABLISHMENT AND OPERATION.—

(a) The department shall operate and maintain a central

abuse hotline capable of receiving all reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. The hotline must accept reports 24 hours a day, 7 days a week, and such reports must be made in accordance with s. 39.201. The central abuse hotline must be capable of accepting reports made in accordance with s. 39.201 in writing, through a single statewide toll-free telephone number, or through electronic reporting. Any person may use any of these methods to make a report to the central abuse hotline.

(b) The central abuse hotline must be operated in such a manner as to enable the department to:

1. Accept reports for investigation when there is a reasonable cause to suspect that a child has been or is being abused or neglected or has been abandoned.

2. Determine whether the allegations made by the reporter require an immediate or a 24-hour response priority in accordance with subsection (2).

3. Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through the use of the department's automated tracking system.

4. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

5. When appropriate, refer calls that do not allege the abuse, neglect, or abandonment of a child to other organizations that may better resolve the reporter's concerns.

6. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subjected to abuse, abandonment, or neglect.

7. Initiate and enter into agreements with other states for the purposes of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

8. Promote public awareness of the central abuse hotline through community-based partner organizations and public service campaigns.

(2) TIMELINES FOR INITIATING INVESTIGATION.—Upon receiving a report to the central abuse hotline, the department must determine the timeframe in which to initiate an investigation pursuant to chapter 39. An investigation must be commenced:

(a) Immediately, regardless of the time of day or night, if it appears that:

1. The immediate safety or well-being of a child is endangered;

2. The family may flee or the child may be unavailable for purposes of conducting a child protective investigation; or

3. The facts reported to the central abuse hotline otherwise so warrant.

(b) Within 24 hours after receipt of a report that does not involve the criteria specified in paragraph (a).

(3) COLLECTION OF INFORMATION AND DATA.—The department shall:

(a)1. Voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment and

maintain an electronic copy of each report made to the hotline, whether through a call or the electronic system.

2. Make the recording or electronic copy of the report made to the central abuse hotline a part of the record. Notwithstanding s. 39.202, the recording must be released in full only to law enforcement agencies and state attorneys for the purposes of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purposes of investigating and seeking administrative penalties pursuant to s. 39.206.

This paragraph does not prohibit hotline staff from using the recordings or the electronic reports for quality assurance or training purposes.

(b)1. Secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol address from which the report is received.

2. Enter the number or Internet protocol address into the report of abuse, abandonment, or neglect for it to become a part of the record of the report.

3. Maintain the confidentiality of such information in the same manner as given to the identity of the reporter pursuant to s. 39.202.

(c)1. Update the web form used for reporting child abuse, abandonment, or neglect to include qualifying questions in order to obtain necessary information required to assess need and the timelines necessary for initiating an investigation under subsection (2).

2. Make the report available in its entirety to the counselors as needed to update the Florida Safe Families Network or other similar systems.

(d) Monitor and evaluate the effectiveness of the reporting and investigating of suspected child abuse, abandonment, or neglect through the development and analysis of statistical and other information.

(e) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, abandonment, and neglect.

(f)1. Collect and analyze child-on-child sexual abuse reports and include such information in the aggregate statistical reports.

2. Collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or which occurred:

a. On school premises;

b. On school transportation;

c. At school-sponsored off-campus events;

d. At any school readiness program provider determined to be eligible under s. 1002.88;

e. At a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51;

f. At a public K-12 school as described in s. 1000.04;

g. At a private school as defined in s. 1002.01;

h. At a Florida College System institution or a state university, as those terms are defined in s. 1000.21; or

i. At any school, as defined in s. 1005.02.

(4) USE OF INFORMATION RECEIVED BY HOTLINE.—

(a) Information received by the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) or (h) or s. 402.302(15).

(b) Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

(c) Information in the central abuse hotline also may be used by the Department of Education for purposes of educator certification discipline and review pursuant to s. 39.202(2)(q).

(5) QUALITY ASSURANCE.—On an ongoing basis, the department's quality assurance program shall review screened-out reports involving three or more unaccepted reports on a single child, when jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency of the reports or the variety of the sources of the reports. A component of the quality assurance program must analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened-out calls. The Assistant Secretary for Child Welfare may refer a case for investigation when it is determined, as a result of such review, that an investigation may be warranted.

Section 2. Section 39.201, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.201, F.S., for present text.)

39.201 Required reports of child abuse, abandonment,

neglect, and juvenile sexual abuse; required reports of death; reports involving a child who has exhibited inappropriate sexual behavior.—

(1) REQUIRED REPORTING.—

(a)1. A person is required to report immediately to the central abuse hotline established in s. 39.101, by a call to the toll-free number or by electronic report, if he or she knows, or has reasonable cause to suspect, that any of the following has occurred:

a. Child abuse, neglect, or abandonment by a parent or caregiver, which includes, but is not limited to, when a child is abused, neglected, or abandoned by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or when a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

b. Child abuse by a noncaregiver, which includes, but is not limited to, when a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare. Such reports must be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

2. Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or of juvenile sexual abuse shall report such knowledge or suspicion to the department. This includes any alleged incident involving a child who is in the custody of or under the protective supervision of the department.

Such reports may be made on the single statewide toll-free telephone number or by fax, web-based chat, or web-based report.

(b)1. A person from the general public may make a report to the central abuse hotline anonymously if he or she chooses to do so.

2. A person making a report to the central abuse hotline under this section who is part of any of the following occupational categories is required to provide his or her name to the central abuse hotline staff:

a. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

b. Health professional or mental health professional other than a category listed in sub-subparagraph a.;

c. Practitioner who relies solely on spiritual means for healing;

d. School teacher or other school official or personnel;

e. Social worker, day care center worker, or other professional child care worker, foster care worker, residential worker, or institutional worker;

f. Law enforcement officer;

g. Judge; or

h. Animal control officer as defined in s. 828.27 or agent appointed under s. 828.03.

(c) Central abuse hotline counselors shall advise persons who are making a report to the central abuse hotline that, while their names must be entered into the record of the report, the names of reporters are held confidential and exempt as provided in s. 39.202. Counselors must receive periodic training in

encouraging all reporters to provide their names when making a report.

(2) EXCEPTIONS TO REPORTING.—

(a) An additional report of child abuse, abandonment, or neglect does not have to be made by:

1. A professional who is hired by or who enters into a contract with the department for the purpose of treating or counseling any person as a result of a report of child abuse, abandonment, or neglect if such person was the subject of the referral for treatment.

2. An officer or employee of the judicial branch when the child is currently being investigated by the department, when there is an existing dependency case, or when the matter has previously been reported to the department, if there is reasonable cause to believe that the information is already known to the department. This subparagraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

3. An officer or employee of a law enforcement agency when the incident under investigation by the law enforcement agency was reported to law enforcement by the central abuse hotline through the electronic transfer of the report or call. The department's central abuse hotline is not required to electronically transfer calls and reports received pursuant to paragraph (1)(b) to the county sheriff's office if the matter was initially reported to the department by the county sheriff's office or by another law enforcement agency. This subparagraph applies only when the information related to the alleged child abuse has been provided to the officer or employee of a law

enforcement agency or central abuse hotline employee in the course of carrying out his or her official duties.

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

(3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

(a) *Abuse occurring out of state.*—

1. Except as provided in subparagraph 2., the central abuse hotline is prohibited from taking a report of known or suspected child abuse, abandonment, or neglect when the report is related to abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim do not live in this state.

2. If the child is currently being evaluated in a medical facility in this state, the central abuse hotline must accept the report or call for investigation and must transfer the information on the report or call to the appropriate state or country.

3. If the child is not currently being evaluated in a medical facility in this state, the central abuse hotline must transfer the information on the report or call to the appropriate state or county.

(b) *Abuse reports received from emergency room physicians.*—The department must initiate an investigation when it receives a

report from an emergency room physician.

(c) *Abuse involving impregnation of a child.*—A report must be immediately electronically transferred to the appropriate county sheriff's office or other appropriate law enforcement agency by the central abuse hotline if the report is of an instance of known or suspected child abuse involving impregnation of a child younger than 16 years of age by a person 21 years of age or older solely under s. 827.04(3). If the report is of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of subsection (1) do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(d) *Institutional child abuse or neglect.*—Reports involving known or suspected institutional child abuse or neglect, as defined in s. 39.01, must be made and received in the same manner as all other reports made pursuant to this section.

(e) *Surrendered newborn infants.*—

1. The department must receive reports involving surrendered newborn infants as described in s. 383.50.

2.a. A report may not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

b. If the report involving a surrendered newborn infant does not include indications of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire

station, the department must provide to the caller making the report the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place surrendered newborn infants.

3. If the report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report must be considered as a report of abuse, neglect, or abandonment and, notwithstanding chapter 383, is subject to the requirements of s. 39.395 and all other relevant provisions of this chapter.

(4) REPORTS OF CHILD ABUSE, NEGLECT, OR ABANDONMENT BY A PARENT OR CAREGIVER.—

(a)1. Upon receiving a report made to the department's central abuse hotline, personnel of the department shall determine if the received report meets the statutory definition of child abuse, abandonment, or neglect.

2. Any report meeting one of these definitions must be accepted for protective investigation pursuant to part III of this chapter.

(b)1. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child.

2. The department must refer the parent or legal custodian for appropriate voluntary community services if it is determined by personnel of the department that a need for community

services exists.

(5) REPORTS OF SEXUAL ABUSE OF A CHILD, JUVENILE SEXUAL ABUSE, OR A CHILD WHO HAS EXHIBITED INAPPROPRIATE SEXUAL BEHAVIOR.—

(a) Reports involving sexual abuse of a child or juvenile sexual abuse shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or by fax, web-based chat, or web-based report. This includes any alleged incident involving a child who is in the custody of or under the protective supervision of the department.

(b)1. Within 48 hours after receiving a report required under subparagraph (1)(a)2. made to the department's central abuse hotline, personnel of the department shall conduct an assessment, assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office.

2. Reports involving a child who has exhibited inappropriate sexual behavior must be made and received by the department. The central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307 and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

(c) The services identified in the assessment should be provided in the least restrictive environment possible and must include, but need not be limited to, child advocacy center

services pursuant to s. 39.3035 and sexual abuse treatment programs developed and coordinated by the Children's Medical Services Program in the Department of Health pursuant to s. 39.303.

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

(e)1. In addition to conducting an assessment and assisting the family in receiving appropriate services, the department shall conduct a child protective investigation under subparagraph (1)(a)2. which occurs on school premises; on school transportation; at school-sponsored off-campus events; at a public or private school readiness or prekindergarten program; at a public K-12 school; or at a private school. The protective investigation must include an interview with the child's parent or legal guardian.

2. Further, the department shall notify the Department of Education; the law enforcement agency having jurisdiction over the municipality or county in which the school is located; and, as appropriate, the superintendent of the school district where the school is located, the administrative officer of the private school, or the owner of the private school readiness or prekindergarten provider.

3. The department shall make a full written report to the law enforcement agency within 3 working days after making the oral report. Whenever possible, any criminal investigation must

be coordinated with the department's child protective investigation. Any interested person who has information regarding such abuse may forward a statement to the department.

(6) MANDATORY REPORTS OF A CHILD DEATH.—Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

Section 3. Present subsections (3) through (11) of section 39.2015, Florida Statutes, are redesignated as subsections (4) through (12), respectively, a new subsection (3) is added to that section, and subsection (1) and present subsection (3) of that section are amended, to read:

39.2015 Critical incident rapid response team.—

(1) As part of the department's quality assurance program, the department shall provide an immediate multiagency investigation of certain child deaths or other serious incidents, including, but not limited to, allegations of sexual abuse of a child as described in this chapter. The purpose of such investigation is to identify root causes and rapidly determine the need to change policies and practices related to child protection and child welfare.

(3) An immediate onsite investigation conducted by a

critical incident rapid response team is required for all reports received by the department containing allegations of sexual abuse of a child as described in this chapter if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months. This includes any alleged incident involving a child who is in the custody of or under the protective supervision of the department.

(4) ~~(3)~~ Each investigation shall be conducted by a multiagency team of at least five professionals with expertise in child protection, child welfare, and organizational management. The team may consist of employees of the department, community-based care lead agencies, Children's Medical Services, and community-based care provider organizations; faculty from the institute consisting of public and private universities offering degrees in social work established pursuant to s. 1004.615; or any other person with the required expertise. The team shall include, at a minimum, a Child Protection Team medical director, a representative from a child advocacy center pursuant to s. 39.3035 who has specialized training in sexual abuse, or a combination of such specialists if deemed appropriate. The majority of the team must reside in judicial circuits outside the location of the incident. The secretary shall appoint a team leader for each group assigned to an investigation.

Section 4. Paragraph (t) of subsection (2) of section 39.202, Florida Statutes, is amended, and paragraph (u) is added to that subsection, to read:

39.202 Confidentiality of reports and records in cases of

child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01 ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(u) Members of standing or select legislative committees, as provided under s. 11.143(2), within 7 business days, upon request of the member.

Section 5. Subsections (1), (3), and (4) of section 39.205, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.—

(1) A person ~~who is required to report known or suspected child abuse, abandonment, or neglect and~~ who knowingly and willfully fails to report known or suspected child abuse, abandonment, or neglect ~~do so~~, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083,

or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators ~~knowingly and willfully~~, upon receiving information from faculty, staff, or other institution employees, knowingly and willfully fail to report to the central abuse hotline pursuant to this chapter known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of $1 million for each such failure.

(a) A Florida College System institution subject to a fine shall be assessed by the State Board of Education.

(b) A state university subject to a fine shall be assessed by the Board of Governors.

(c) A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report to the central abuse hotline pursuant to this chapter known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or

school~~,~~ or during an event or function sponsored by the university, college, or school, shall be subject to fines of $1 million for each such failure, assessed in the same manner as specified in subsection (3).

(11) This section may not be construed to remove or reduce the requirement of any person, including any employee of a school readiness program provider determined to be eligible under s. 1002.88; a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51; a public K-12 school as described in s. 1000.04; a home education program or a private school, as those terms are defined in s. 1002.01; a Florida College System institution or a state university, as those terms are defined in s. 1000.21; a college as defined in s. 1005.02; or a school as defined in s. 1005.02, to directly report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline pursuant to this chapter. A person required to report to the central abuse hotline is not relieved of the obligation by notifying his or her supervisor.

Section 6. Section 39.208, Florida Statutes, is created to read:

39.208 Cross-reporting child abuse, abandonment, or neglect and animal cruelty.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature recognizes that animal cruelty of any kind is a type of interpersonal violence that often co-occurs with child abuse and other forms of family violence, including elder abuse and domestic violence. Early identification of animal cruelty is an important tool in safeguarding children

from abuse and neglect, providing needed support to families, and protecting animals.

(b) The Legislature finds that education and training for child protective investigators and animal care and control personnel should include information on the link between the welfare of animals in the family and child safety and protection.

(c) Therefore, it is the intent of the Legislature to require reporting and cross-reporting protocols and collaborative training between child protective services and animal control services personnel to help protect the safety and well-being of children, their families, and their animals.

(2) RESPONSIBILITIES OF CHILD PROTECTIVE INVESTIGATORS.—

(a) Any person who is required to investigate child abuse, abandonment, or neglect under this chapter and who, while acting in his or her professional capacity or within the scope of employment, knows or has reasonable cause to suspect that animal cruelty has occurred at the same address shall report such knowledge or suspicion within 72 hours to his or her supervisor for submission to a local animal control agency. The report must include all of the following information:

1. A description of the animal and of the known or suspected animal cruelty.

2. The name and address of the animal's owner or keeper, if that information is available to the child protective investigator.

3. Any other information available to the child protective investigator which might assist an animal control officer or law enforcement officer in establishing the cause of the animal

cruelty and the manner in which it occurred.

(b) A child protective investigator who makes a report under this section is presumed to have acted in good faith. An investigator acting in good faith who makes a report under this section or who cooperates in an investigation of suspected animal cruelty is immune from any civil or criminal liability or administrative penalty or sanction that might otherwise be incurred in connection with making the report or otherwise cooperating.

(3) RESPONSIBILITIES OF ANIMAL CONTROL OFFICERS.—Any person who is required to investigate animal cruelty under chapter 828 and who, while acting in his or her professional capacity or within the scope of employment, knows or has reasonable cause to suspect that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child is in need of supervision and care and does not have a parent, a legal custodian, or a responsible adult relative immediately known and available to provide supervision and care to that child shall immediately report such knowledge or suspicion to the department's central abuse hotline.

(4) PENALTIES.—

(a) A child protective investigator who is required to report known or suspected animal cruelty under subsection (2) and who knowingly and willfully fails to do so commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) An animal control officer who observes, in the course of his or her duties, known or suspected abuse, neglect, or

abandonment of a child, who is required to report known or suspected abuse, neglect, or abandonment of a child under subsection (3), and who knowingly and willfully fails to report an incident of known or suspected abuse, abandonment, or neglect, as required by s. 39.201, is subject to the penalties imposed in s. 39.205.

(5) TRAINING.—The department, in consultation with the Florida Animal Control Association, shall develop or adapt and use already available training materials in a 1-hour training for all child protective investigators and animal control officers on the accurate and timely identification and reporting of child abuse, abandonment, or neglect or animal cruelty and the interconnectedness of such abuse and neglect. The department shall incorporate into the required training for child protective investigators information on the identification of harm to and neglect of animals and the relationship of such activities to child welfare case practice. The 1-hour training developed for animal control officers must include a component that advises such officers of the mandatory duty to report any known or suspected child abuse, abandonment, or neglect under this section and s. 39.201 and the criminal penalties associated with a violation of failing to report known or suspected child abuse, abandonment, or neglect which is punishable in accordance with s. 39.205.

(6) RULEMAKING.—The department shall adopt rules to implement this section.

Section 7. Subsections (1) and (2) of section 39.302, Florida Statutes, are amended to read:

39.302 Protective investigations of institutional child

abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(37) or (54), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.101(2) ~~s. 39.201(5)~~ and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the

state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(2)(a) If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation. The department or its agent shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse, abandonment, or neglect has occurred. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse, abandonment, or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

(b) In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own

expense, or may be accompanied by another person, if the attorney or the person executes an affidavit of understanding with the department and agrees to comply with the confidentiality requirements under s. 39.202. The absence of an attorney or an accompanying person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operational and the child cannot otherwise be located, the investigation must commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to such state attorney or agency.

(c) ~~(b)~~ Upon completion of the department's child protective investigation, the department may make application to the circuit court for continued restrictive action against any person necessary to safeguard the physical health, mental health, and welfare of the children in care.

Section 8. Present subsections (1), (2), and (3) of section 39.3035, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, a new subsection (1) is added to that section, and present subsection (3) is amended, to read:

39.3035 Child advocacy centers; standards; state funding.—

(1) Child advocacy centers are facilities that offer multidisciplinary services in a community-based, child-focused environment to children who are alleged to be victims of abuse or neglect. The children served by such centers may have experienced a variety of types of abuse or neglect, including, but not limited to, sexual abuse or severe physical abuse. The

centers bring together, often in one location, child protective investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a coordinated, comprehensive response to victims and their caregivers.

(4) ~~(3)~~ A child advocacy center within this state may not receive the funds generated pursuant to s. 938.10, state or federal funds administered by a state agency, or any other funds appropriated by the Legislature unless all of the standards of subsection (2) ~~(1)~~ are met and the screening requirement of subsection (3) ~~(2)~~ is met. The Florida Network of Children's Advocacy Centers, Inc., shall be responsible for tracking and documenting compliance with subsections (2) and (3) ~~(1) and (2)~~ for any of the funds it administers to member child advocacy centers.

(a) Funds for the specific purpose of funding children's advocacy centers shall be appropriated to the Department of Children and Families from funds collected from the additional court cost imposed in cases of certain crimes against minors under s. 938.10. Funds shall be disbursed to the Florida Network of Children's Advocacy Centers, Inc., as established under this section, for the purpose of providing community-based services that augment, but do not duplicate, services provided by state agencies.

(b) The board of directors of the Florida Network of Children's Advocacy Centers, Inc., shall retain 10 percent of all revenues collected to be used to match local contributions, at a rate not to exceed an equal match, in communities establishing children's advocacy centers. The board of directors may use up to 5 percent of the remaining funds to support the

activities of the network office and must develop funding criteria and an allocation methodology that ensures an equitable distribution of remaining funds among network participants. The criteria and methodologies must take into account factors that include, but need not be limited to, the center's accreditation status with respect to the National Children's Alliance, the number of clients served, and the population of the area being served by the children's advocacy center.

(c) At the end of each fiscal year, each children's advocacy center receiving revenue as provided in this section must provide a report to the board of directors of the Florida Network of Children's Advocacy Centers, Inc., which reflects center expenditures, all sources of revenue received, and outputs that have been standardized and agreed upon by network members and the board of directors, such as the number of clients served, client demographic information, and number and types of services provided. The Florida Network of Children's Advocacy Centers, Inc., must compile reports from the centers and provide a report to the President of the Senate and the Speaker of the House of Representatives in August of each year.

Section 9. Section 39.4092, Florida Statutes, is created to read:

39.4092 Multidisciplinary legal representation model program for parents of children in the dependency system.—

(1) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that the use of a specialized team that includes a lawyer, a social worker, and a parent-peer specialist, also known as a multidisciplinary legal representation model, in dependency judicial matters is

effective in reducing safety risks to children and providing families with better outcomes, such as significantly reducing the time such children spend in out-of-home care and achieving permanency more quickly.

(b) The Legislature finds that parents in dependency court often suffer from multiple challenges, such as mental illness, substance use disorder, domestic violence and other trauma, unstable housing, and unemployment. Such issues are often a contributing factor to children experiencing instability or safety risks. While these issues may result in legal involvement or require legal representation, addressing such underlying challenges in a manner that achieves stability often falls within the core functions of the practice of social work.

(c) The Legislature also finds that social work professionals have a unique skill set, including client assessment and clinical knowledge of family dynamics. This unique skill set allows these professionals to interact and engage with clients in meaningful and unique ways that are distinct from the ways in which the clients interact with attorneys or other professional staff involved with dependency matters. Additionally, social work professionals are skilled at quickly connecting families facing such crises to resources that can address the specific underlying challenges.

(d) The Legislature finds that there is a great benefit to using parent-peer specialists in the dependency system, which allows parents who have successfully navigated the dependency system and have been successfully reunified with their children to be paired with parents whose children are currently involved in the dependency system. By working with someone who has

personally lived the experience of overcoming great personal crisis, parents currently involved in the dependency system have a greater ability to address the underlying challenges that resulted in the instability and safety risk to the children, provide a safe and stable home environment, and be successfully reunified.

(e) The Legislature further finds that current federal provisions authorize the reimbursement of half the cost of attorneys for parents and children in eligible cases, whereas such funds were formerly restricted to foster care administrative costs.

(f) The Legislature finds it is necessary to encourage and facilitate the use of a multidisciplinary legal representation model for parents and their children in order to improve outcomes for those families involved in the dependency system and provide the families who find themselves in a crisis the best opportunity to be successful in creating safe and stable homes for their children.

(2) ESTABLISHMENT.—Each office of criminal conflict and civil regional counsel established under s. 27.511 may establish a multidisciplinary legal representation model program to serve families who are in the dependency system. The department shall collaborate with the office of criminal conflict and civil regional counsel to implement a program and provide funding with available federal matching resources for such multidisciplinary legal representation model programs for eligible families involved in the dependency system.

(3) PROGRAM REQUIREMENTS.—Any multidisciplinary legal representation model program established must, at a minimum:

(a) Use a team that consists of a lawyer, a forensic social worker, and a parent-peer specialist. For purposes of this section, a "parent-peer specialist" means a person who has:

1. Previously had his or her child involved in the dependency system and removed from his or her care to be placed in out-of-home care;

2. Been successfully reunified with the child for more than 2 years; and

3. Received specialized training to become a parent-peer specialist.

(b) Provide any necessary cost-sharing agreements to maximize financial resources and enable access to available federal Title IV-E matching funding.

(c) Provide specialized training and support for attorneys, social workers, and parent-peer specialists involved in the model program.

(d) Collect uniform data on each child whose parent is served by the program and ensure that reporting of data is conducted through the child's unique FINS/fin identification number, if applicable.

(e) Develop consistent operational program policies and procedures throughout each region that establishes the model program.

(f) Obtain agreements with universities relating to approved placements for social work students to ensure the placement of social workers in the program.

(g) Execute conflict of interest agreements with each team member.

(4) REPORTING.—

(a) Each regional office of the office of criminal conflict and civil regional counsel which establishes a multidisciplinary legal representation model program that meets the requirements of this section must provide an annual report to the Office of Program Policy Analysis and Government Accountability. The annual report must use the uniform data collected on each unique child whose parents are served by the program and must detail, at a minimum, all of the following:

1. Reasons for the original involvement of the family in the dependency system.

2. Length of time it takes to achieve a permanency goal for the children whose parents are served by the program.

3. Frequency of each type of permanency goal achieved by parents that are served by the program.

4. Rate of re-abuse or re-removal of children whose parents are served by the program.

5. Any other relevant factors that tend to show the impact of the use of such multidisciplinary legal representation model programs on the outcomes for children in the dependency system, provided each region that has established such a program agrees to uniform additional factors and how to collect data on such additional factors in the annual report.

(b) By October 1, 2022, and annually thereafter, the annual report from each regional counsel office must be submitted to the Office of Program Policy Analysis and Government Accountability, which shall compile the results of such reports and compare the reported outcomes from the multidisciplinary legal representation model program to known outcomes of children in the dependency system whose parents are not served by a

multidisciplinary legal representation model program. By December 1, 2022, and annually thereafter, the Office of Program Policy Analysis and Government Accountability must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) RULEMAKING.—The office of criminal conflict and civil regional counsel may adopt rules to administer this section.

Section 10. Section 409.1415, Florida Statutes, is amended to read:

409.1415 Parenting partnerships for children in out-of-home care; resources.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that reunification is the most common outcome for children in out-of-home care and that caregivers are one of the most important resources to help children reunify with their families.

(b) The Legislature further finds that the most successful caregivers understand that their role goes beyond supporting the children in their care to supporting the children's families, as a whole, and that children and their families benefit when caregivers and birth or legal parents are supported by an agency culture that encourages a meaningful partnership between them and provides quality support.

(c) Therefore, in keeping with national trends, it is the intent of the Legislature to bring caregivers and birth or legal parents together in order to build strong relationships that lead to more successful reunifications and more stability for children being fostered in out-of-home care.

(2) PARENTING PARTNERSHIPS.—

(a) In order to ensure that children in out-of-home care achieve legal permanency as soon as possible, to reduce the likelihood that they will reenter care or that other children in the family are abused or neglected or enter out-of-home care, and to ensure that families are fully prepared to resume custody of their children, the department and community-based care lead agencies shall develop and support relationships between caregivers and birth or legal parents of children in out-of-home care, to the extent that it is safe and in the child's best interest, by:

1. Facilitating telephone communication between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

2. Facilitating and attending an in-person meeting between the caregiver and the birth or legal parent as soon as possible after the child is placed in the home of the caregiver.

3. Developing and supporting a plan for the birth or legal parent to participate in medical appointments, educational and extracurricular activities, and other events involving the child.

4. Facilitating participation by the caregiver in visitation between the birth or legal parent and the child.

5. Involving the caregiver in planning meetings with the birth or legal parent.

6. Developing and implementing effective transition plans for the child's return home or placement in any other living environment.

7. Supporting continued contact between the caregiver and the child after the child returns home or moves to another

permanent living arrangement.

(b) To ensure that a child in out-of-home care receives support for healthy development which gives the child the best possible opportunity for success, caregivers, birth or legal parents, the department, and the community-based care lead agency shall work cooperatively in a respectful partnership by adhering to the following requirements:

1. All members of the partnership must interact and communicate professionally with one another, must share all relevant information promptly, and must respect the confidentiality of all information related to the child and his or her family.

2. The caregiver; the birth or legal parent; the child, if appropriate; the department; and the community-based care lead agency must participate in developing a case plan for the child and the birth or legal parent. All members of the team must work together to implement the case plan. The caregiver must have the opportunity to participate in all team meetings or court hearings related to the child's care and future plans. The department and community-based care lead agency must support and facilitate caregiver participation through timely notification of such meetings and hearings and provide alternative methods for participation for a caregiver who cannot be physically present at a meeting or hearing.

3. A caregiver must strive to provide, and the department and community-based care lead agency must support, excellent parenting, which includes:

a. A loving commitment to the child and the child's safety and well-being.

b. Appropriate supervision and positive methods of discipline.

c. Encouragement of the child's strengths.

d. Respect for the child's individuality and likes and dislikes.

e. Providing opportunities to develop the child's interests and skills.

f. Being aware of the impact of trauma on behavior.

g. Facilitating equal participation of the child in family life.

h. Involving the child within his or her community.

i. A commitment to enable the child to lead a normal life.

4. A child in out-of-home care must be placed with a caregiver who has the ability to care for the child, is willing to accept responsibility for providing care, and is willing and able to learn about and be respectful of the child's culture, religion, and ethnicity; special physical or psychological needs; circumstances unique to the child; and family relationships. The department, the community-based care lead agency, and other agencies must provide a caregiver with all available information necessary to assist the caregiver in determining whether he or she is able to appropriately care for a particular child.

5. A caregiver must have access to and take advantage of all training that he or she needs to improve his or her skills in parenting a child who has experienced trauma due to neglect, abuse, or separation from home; to meet the child's special needs; and to work effectively with child welfare agencies, the courts, the schools, and other community and governmental

agencies.

6. The department and community-based care lead agency must provide a caregiver with the services and support they need to enable them to provide quality care for the child pursuant to subsection (3).

7. Once a caregiver accepts the responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

a. The caregiver is clearly unable to safely or legally care for the child;

b. The child and the birth or legal parent are reunified;

c. The child is being placed in a legally permanent home in accordance with a case plan or court order; or

d. The removal is demonstrably in the best interests of the child.

8. If a child must leave the caregiver's home for one of the reasons stated in subparagraph 7., and in the absence of an unforeseeable emergency, the transition must be accomplished according to a plan that involves cooperation and sharing of information among all persons involved, respects the child's developmental stage and psychological needs, ensures the child has all of his or her belongings, allows for a gradual transition from the caregiver's home, and, if possible, allows for continued contact with the caregiver after the child leaves.

9. When the case plan for a child includes reunification, the caregiver, the department, and the community-based care lead agency must work together to assist the birth or legal parent in improving his or her ability to care for and protect the child and to provide continuity for the child.

10. A caregiver must respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, and must assist the child in maintaining allowable visitation and other forms of communication. The department and community-based care lead agency must provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.

11. A caregiver must work in partnership with the department and community-based care lead agency to obtain and maintain records that are important to the child's well-being, including, but not limited to, child resource records, medical records, school records, photographs, and records of special events and achievements.

12. A caregiver must advocate for a child in his or her care with the child welfare system, the court, and community agencies, including schools, child care providers, health and mental health providers, and employers. The department and community-based care lead agency must support a caregiver in advocating for a child and may not retaliate against the caregiver as a result of this advocacy.

13. A caregiver must be as fully involved in the child's medical, psychological, and dental care as he or she would be for his or her biological child. The department and community-based care lead agency must support and facilitate such participation. The caregiver, the department, and the community-based care lead agency must share information with each other about the child's health and well-being.

14. A caregiver must support a child's school success,

including, when possible, maintaining school stability by participating in school activities and meetings. The department and community-based care lead agency must facilitate this participation and be informed of the child's progress and needs.

15. A caregiver must ensure that a child in his or her care who is between 13 and 17 years of age learns and masters independent living skills. The department shall make available the training for caregivers developed in collaboration with the Florida Foster and Adoptive Parent Association and the Quality Parenting Initiative on the life skills necessary for children in out-of-home care.

16. The case manager and case manager supervisor must mediate disagreements that occur between a caregiver and the birth or legal parent.

(c) An employee of a residential group home must meet the background screening requirements under s. 39.0138 and the level 2 screening standards for screening under chapter 435. An employee of a residential group home who works directly with a child as a caregiver must meet, at a minimum, the same education, training, background, and other screening requirements as caregivers in family foster homes licensed as level II under s. 409.175(5).

(3) RESOURCES AND SUPPORT FOR CAREGIVERS.—

(a) *Foster parents.*—The department shall establish the Foster Information Center to connect current and former foster parents, known as foster parent advocates, to prospective and current foster parents in order to provide information and services, including, but not limited to:

1. Navigating the application and approval process,

including timelines for each, preparing for transitioning from approval for placement to accepting a child into the home, and learning about and connecting with any available resources in the prospective foster parent's community.

2. Accessing available resources and services, including those from the Florida Foster and Adoptive Parent Association, for any current foster parents who need additional assistance.

3. Providing information specific to a foster parent's individual needs.

4. Providing immediate assistance when needed.

(b) *Kinship caregivers.*—

1. A community-based care lead agency shall provide a caregiver with resources and supports that are available and discuss whether the caregiver meets any eligibility criteria. If the caregiver is unable to access resources and supports beneficial to the well-being of the child, the community-based care lead agency or case management agency must assist the caregiver in initiating access to resources by:

a. Providing referrals to kinship navigation services.

b. Assisting with linkages to community resources and completion of program applications.

c. Scheduling appointments.

d. Initiating contact with community service providers.

2. The community-based care lead agency shall provide each caregiver with a telephone number to call during normal working hours whenever immediate assistance is needed and the child's caseworker is unavailable. The telephone number must be staffed and answered by individuals possessing the knowledge and authority necessary to assist caregivers.

(4) ~~(3)~~ RULEMAKING.—The department shall adopt rules necessary to administer this section.

Section 11. Section 409.1453, Florida Statutes, is repealed.

Section 12. Section 409.1753, Florida Statutes, is repealed.

Section 13. The Legislature recognizes that animal cruelty of any kind is a type of interpersonal violence and often co-occurs with child abuse and other forms of family violence, including elder abuse and domestic violence, and that early identification of animal cruelty, including animal sexual abuse, serves the purpose of providing an important tool to safeguard children from abuse and neglect, to provide needed support to families, and to protect animals.

Section 14. Section 827.071, Florida Statutes, is amended to read:

827.071 Sexual performance by a child; penalties.—

(1) As used in this section, the following definitions shall apply:

(a) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) "Intentionally view" means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.

(c) "Performance" means any play, motion picture,

photograph, or dance or any other visual representation exhibited before an audience.

(d) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(e) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(f) "Sexual battery" means 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.

(g) "Sexual contact with an animal" has the same meaning as in s. 828.126 when an adult encourages or forces such act to be committed between a child and an animal ~~bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other~~.

(h) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual contact with an animal ~~bestiality~~, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or

simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(i) "Sexual performance" means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(j) "Simulated" means the explicit depiction of conduct set forth in paragraph (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or

in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes sexual conduct by more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this

state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

Section 15. Section 828.126, Florida Statutes, is amended to read:

828.126 Sexual activities involving animals.—

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

(a) "Animal husbandry" includes the day-to-day care of, selective breeding of, and the raising of livestock that is commonly defined as domesticated animals or animals raised for agricultural purposes and that is located on land used for bona fide agricultural purposes as defined in s. 193.461(3)(b)

~~"Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person~~.

(b) "Sexual contact with an animal" means any act committed between a person and an animal for the purpose of sexual gratification, abuse, or financial gain which involves:

1. Contact between the sex organ or anus of one and the mouth, sex organ, or anus of the other;

2. The fondling of the sex organ or anus of an animal; or

3. The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person ~~contact, however slight, between the mouth, sex organ, or anus of a person and~~

~~the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person~~.

(2) A person may not:

(a) Knowingly engage in any ~~sexual conduct or~~ sexual contact with an animal;

(b) Knowingly cause, aid, or abet another person to engage in any ~~sexual conduct or~~ sexual contact with an animal;

(c) Knowingly permit any ~~sexual conduct or~~ sexual contact with an animal to be conducted on any premises under his or her charge or control; or

(d) Knowingly organize, promote, conduct, ~~advertise,~~ aid, abet, participate in as an observer, or advertise, offer, solicit, or accept an offer of an animal for the purpose of sexual contact with such animal, or perform any service in the furtherance of an act involving any ~~sexual conduct or~~ sexual contact with an animal ~~for a commercial or recreational purpose~~.

(e) Knowingly film, distribute, or possess pornographic images of a person and an animal engaged in any of the activities prohibited by this section.

(3) A person who violates this section commits a felony of the third ~~misdemeanor of the first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(4) In addition to other penalties prescribed by law, the court shall issue an order prohibiting a person convicted under this section from harboring, owning, possessing, or exercising control over any animal; from residing in any household where

animals are present; and from engaging in an occupation, whether paid or unpaid, or participating in a volunteer position at any establishment where animals are present. The order may be effective for up to 5 years from the date of the conviction regardless of whether adjudication is withheld.

(5)~~(4)~~ This section does not apply to accepted animal husbandry practices, accepted conformation judging practices, ~~or~~ accepted veterinary medical practices, or artificial insemination of an animal for reproductive purposes.

Section 16. Paragraph (a) of subsection (4) of section 828.27, Florida Statutes, is amended to read:

828.27 Local animal control or cruelty ordinances; penalty.—

(4)(a)1. County-employed animal control officers must, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course. Such course must include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such course shall be issued a certificate indicating that he or she has received a passing grade.

2. County-employed and municipally employed animal control officers must successfully complete the 1-hour training course developed by the Department of Children and Families and the Florida Animal Control Association pursuant to s. 39.208(5). Animal control officers must be provided with opportunities to attend the training during their normal work hours.

3.~~2.~~ Any animal control officer who is authorized before January 1, 1990, by a county or municipality to issue citations is not required to complete the minimum standards training course.

4.~~3.~~ In order to maintain valid certification, every 2 years each certified animal control officer must complete 4 hours of postcertification continuing education training. Such training may include, but is not limited to, training for: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations.

Section 17. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services

		requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic

		battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.

784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or

		vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.

810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).

817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.

827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of

			contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)		3rd	Firearm or weapon introduced into county detention facility.

Section 18. Paragraph (c) is added to subsection (6) of 1012.795, Florida Statutes, to read:

1012.795 Education Practices Commission; authority to discipline.—

(6)

(c) If the Department of Education determines that any instructional personnel or school administrator, as defined in s. 1012.01(2) or (3), respectively, has knowingly failed to report known or suspected child abuse as required pursuant to s. 39.201, and the Education Practices Commission has issued a final order for a previous instance of failure to report by the individual, the Education Practices Commission shall, at a minimum, suspend the educator certificate of the instructional personnel or school administrator for a period of not less than 1 year.

Section 19. Subsection (6) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(6) Upon commencing an investigation under this part, if a report was received from a reporter under s. 39.201(1)(a)2. ~~s. 39.201(1)(b)~~, the protective investigator must provide his or her contact information to the reporter within 24 hours after being assigned to the investigation. The investigator must also advise the reporter that he or she may provide a written summary of the report made to the central abuse hotline to the investigator which shall become a part of the electronic child welfare case file.

Section 20. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of

abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state

regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the

spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or

other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II,

juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current

or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties

result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) ~~s. 39.3035(1)~~ and fulfills the screening requirement of s. 39.3035(3) ~~s. 39.3035(2)~~, and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such

personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party that is authorized to receive the information. Upon receipt of the written request, the custodial agency shall release the specified information to the party authorized to receive such information.

5. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

6. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 21. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence

or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01 ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 22. Paragraph (g) of subsection (2) of section 934.03, Florida Statutes, is amended to read:

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(2)

(g) It is lawful under this section and ss. 934.04-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.102, a public utility, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers;

2. An agency operating an emergency telephone number "911" system established pursuant to s. 365.171; or

3. The central abuse hotline operated pursuant to s. 39.101 ~~s. 39.201~~

to intercept and record incoming wire communications; however, such employee may intercept and record incoming wire communications on designated "911" telephone numbers and published nonemergency telephone numbers staffed by trained dispatchers at public safety answering points only. It is also lawful for such employee to intercept and record outgoing wire communications to the numbers from which such incoming wire communications were placed when necessary to obtain information required to provide the emergency services being requested. For the purpose of this paragraph, the term "public utility" has the same meaning as provided in s. 366.02 and includes a person, partnership, association, or corporation now or hereafter owning or operating equipment or facilities in the state for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

Section 23. This act shall take effect October 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 522
INTRODUCER:	Regulated Industries Committee and Senator Diaz
SUBJECT:	Vacation Rentals
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.	Davis	Sadberry	AP	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 522 preempts all regulation of vacation rentals to the state, including the inspection and licensing of vacation rentals. A vacation rental is a unit in a condominium or cooperative, or a single, two, three, or four family house that is rented to guests more than three times a year for periods of less than 30 days or one calendar month, whichever is shorter, or held out as regularly rented to guests. Vacation rentals are licensed by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR).

The bill adds "licensing" to the list of regulations of public lodging establishments and public food service establishments that are now expressly preempted to the state. It provides that a local law, ordinance, or regulation may not require local inspection or licensing of the public lodging or public food service establishments.

Under the bill, a local government may regulate activities that arise when a property is used as a vacation rental, provided the regulation applies uniformly to all residential properties. The bill maintains current law that local governments may not prohibit vacation rentals or regulate the duration or frequency of vacation rentals. The bill maintains the current "grandfathered" status for local laws, ordinances, or regulations adopted on or before June 1, 2011, and provides that a local government may amend a grandfathered regulation to be less restrictive.

The bill revises the "grandfathered" status for local laws, ordinances, or regulations for a jurisdiction within an area of critical state concern designation. Under the bill, jurisdictions in an

area of critical state concern could continue to regulate and inspect vacation rentals, prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals, if the laws, ordinances, or regulations were adopted before June 1, 2011.

The bill also preempts the regulation of advertising platforms to the state. An advertising platform is a person who electronically advertises a vacation rental to rent for transient occupancy, maintains a marketplace, and a reservation or payment system.

The bill requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to include the property's vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers on the vacation rental's advertisement, and attest that, to the best of their knowledge, those numbers are current, valid, and accurate. The vacation rental property owner or operator must display this tax and licensure information inside the vacation rental property.

The bill requires an advertising platform to display the vacation rental license number and the Florida sales tax registration and tourist development tax account numbers of each property that advertises on its platform. The advertising platform must verify the validity of the vacation rental's license number before it publishes the advertisement and must perform ongoing checks every calendar quarter thereafter. To facilitate this verification, the division must maintain vacation rental license information in a readily accessible electronic format. The advertising platform must remove from public view any advertisement or listing that fails to display a valid vacation rental license number.

Under the bill, advertising platforms must provide to the division on a quarterly basis information that assists the division with identification and verification of the vacation rental property's compliance with the bill's requirements.

Advertising platforms are required by the bill to collect and remit any taxes imposed under chapters 125, 205, and 212, Florida Statutes, that result from payment for the rental of a vacation rental property on its platform. The bill allows platforms to exclude service fees from the taxable basis if the platforms do not own, operate, or manage the vacation rental. It allows the division to take enforcement action for noncompliance.

Additionally, the bill:

- Requires advertising platforms to adopt anti-discrimination policies and to inform users of the public lodging discrimination prohibition found in section 509.092, Florida Statutes;
- Allows Department of Revenue to adopt emergency rules for six months which may be renewed until permanent rules are adopted; and
- Provides that its terms do not supersede any current or future declaration or covenant for condominium, cooperative, or homeowners' associations.

The DBPR has estimated it will need three full-time positions and $370,185 from the Hotel and Restaurant Trust Fund in order to process the estimated increase in licenses, complaints, and compliance cases. It is anticipated there will be an indeterminate increase in license fees and fines to the trust fund and an increase in sales tax collections. In addition, the bill will have an indeterminate negative fiscal impact on the Florida Department of Law Enforcement.

There may be a decrease of an indeterminate amount on revenues to local governments relating to the preemption from regulating vacation rentals and advertising platform; however, there may be an increase in local tourist development taxes relating to the additional projected licenses. The Revenue Estimating Conference determined that the provisions of the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

The bill takes effect upon becoming a law. However, the provisions relating to the regulation of advertising platforms take effect January 1, 2022.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[1] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A "transient public lodging establishment" is defined in s. 509.013(4)(a)1., F.S., as:

> …any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

A "nontransient public lodging establishment" is defined in s. 509.013(4)(a)2., F.S., as:

> …any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings *which is rented to guests for periods of at least 30 days or 1 calendar month*, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of "public lodging establishment":

> 1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;

[1] Section 509.013(4)(a), F.S.

> 2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
> 3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
> 4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
> 5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;
> 6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
> 7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;
> 8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
> 9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.[2]

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

> …any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

[2] Section 509.242(1), F.S.

The DBPR licenses vacation rentals as condominiums, dwellings, or timeshare projects.[3] The division may issue a vacation rental license for "a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively."[4] The division does not license or regulate the rental of individual rooms within a dwelling unit based on the roominghouse and boardinghouse exclusion from the definition of public lodging establishment in s. 509.013(4)(b)9., F.S.[5]

The 48,226 public lodging establishments licensed by the division are distributed as follows:[6]

- Hotels – 2,191 licenses;
- Motels – 2,497 licenses;
- Nontransient apartments – 18,571 licenses;
- Transient apartments – 942 licenses;
- Bed and Breakfast Inns – 269 licenses;
- Vacation rental condominiums – 9,031 licenses;
- Vacation rental dwellings – 17,934 licenses; and
- Vacation rental timeshare projects – 27 licenses.

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but must inspect transient and nontransient apartments at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request to the division.[7] The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2019-2020, the division received 1,391 consumer complaints regarding vacation rentals. In response to the complaints, the division's inspection confirmed a violation for 38 of the complaints.[8]

The division's inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other

[3] Fla. Admin. Code R. 61C-1.002(4)(a)1.
[4] The division further classifies a vacation rental license as a single, group, or collective license. *See* Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses or units per license.
[5] Department of Business and Professional Regulation, *2021 Agency Legislative Bill Analysis for SB 522*, at 2 (Feb. 8, 2021) (on file with the Senate Committee on Regulated Industries).
[6] Department of Business and Professional Regulation, *HR400A-Sum Public Food and Lodging Statewide Account Summary*, (Oct. 1, 2020) *available at* http://www.myfloridalicense.com/dbpr/hr/reports/statistics/documents/licensecount1.pdf (last visited Feb. 5, 2021).
[7] Section 509.032(2)(a), F.S.
[8] Department of Business and Professional Regulation, *Division of Hotels and Restaurants Annual Report for FY 2019-2020* at page 21, *available at* http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2019_20.pdf (last visited Feb. 5, 2021).

general safety and regulatory matters.[9] The division must notify the local fire safety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,[10] which relates to a public lodging establishment.[11]

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.[12]

Preemption

Section 509.032(7)(a), F.S., provides that "the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state."

Current law does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.[13]

Section 509.032(7)(b), F.S., prohibits local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.[14]

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or

[9] *See* ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. *See also* Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at: https://www.flrules.org/Gateway/reference.asp?No=Ref-07062 (last visited Feb. 5, 2021).

[10] Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

[11] Section 509.032(2)(d), F.S.

[12] *See* ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, *available at* http://www.myfloridalicense.com/dbpr/hr/forms/documents/application_packet_for_vacation_rental_license.pdf (last visited Feb. 5, 2021).

[13] Section 509.032(7)(a), F.S.

[14] *See* s. 163.3164(43), F.S., which provides that the state land planning agency is the Department of Economic Opportunity.

- Regulated vacation rentals based solely on their classification, use, or occupancy.[15]

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.[16]

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.[17] Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited "restrict[ing] the use of vacation rentals" and which prohibited regulating vacation rentals "based solely on their classification, use, or occupancy."[18]

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.[19] According to the opinion, "due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their neighborhood." Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, in s. 509.032(7)(b), F.S. The Attorney General concluded that the county's local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

The Attorney General also issued an opinion on November 13, 2014, to the City of Wilton Manors, concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.[20]

In addition, the Attorney General issued an advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed ordinance regarding vacation rentals.[21] The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney

[15] Chapter 2011-119, Laws of Fla.
[16] *Id.*
[17] Chapter 2014-71, Laws of Fla. (codified in s. 509.032(7)(b), F.S.).
[18] *Id.*
[19] Florida Attorney General, *Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding Vacation Rental Operation-Local Ordinances,* Oct. 22, 2013, (on file with the Senate Committee on Regulated Industries).
[20] Op. Att'y Gen. Fla. 2014-09, *Vacation Rentals - Municipalities - Land Use* (November 13, 2014), *available at* http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E (last visited Feb. 7, 2021).
[21] Op. Att'y Gen. Fla. 2016-12, *Municipalities - Vacation Rentals – Zoning,* Oct. 5, 2016 (on file with the Senate Committee on Regulated Industries).

General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.[22]

The Attorney General also opined that amending an ordinance that was enacted prior to June 1, 2011 will not invalidate the grandfather protection for the parts of the ordinance that are reenacted.[23] The new provisions would be preempted by state law if they revise an ordinance in a manner that would regulate the duration or frequency of rental of vacation rentals, even when the new regulation would be considered "less restrictive" than the prior local law.

Public Lodging Non-Discrimination Law

Section 509.092, F.S., prohibits an operator of a public lodging establishment from denying service or offering lesser quality accommodations to a person based upon his or her race, creed, color, sex, pregnancy, physical disability, or national origin. An aggrieved person may file a complaint pursuant to s. 760.11, F.S., of the Florida Civil Rights Act. Such complaints are mediated, investigated, and determined by the Florida Commission on Human Relations.[24]

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of one or more specified sex offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.[25] The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. Generally, the sexual predator or offender must register with the sheriff 48 hours after being released from prison or otherwise establishing residence in Florida. The laws span several different chapters and numerous statutes[26] and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Florida Department of Corrections (FDC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;[27]
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.[28]

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[22] *Id.*

[23] Op. Att'y Gen. Fla. 2019-07, *Vacation rentals, municipalities, grandfather provisions* (August 16, 2019) *available at* http://www.myfloridalegal.com/ago.nsf/Opinions/933B3706FADB00CA85258458006F4CFA (last visited Feb. 17, 2021).

[24] See Florida Commission on Human Relations, *Public Accommodations*, https://fchr.myflorida.com/public-accommodations (last visited Feb. 7, 2021).

[25] Sections 775.21 and 943.0435, F.S.

[26] Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

[27] Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

[28] Sections 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification requirements in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.[29]

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.[30] Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the FDC's control or custody, under the FDC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel.

A sexual predator or offender must register at the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence.[31]

The FDLE, through its agency website, provides a searchable database that includes some of this information.[32] Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

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their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

[29] Sections 943.0435(1)(h), 985.4815(1)(h), 944.606(1)(f), and 944.607(1)(f), F.S., address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

[30] All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register under s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (in the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). *See* ss. 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (in the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

[31] Sections 775.21(6)(e)1.a. and 943.0435(2)(a)1., F.S., providing registration requirements for sexual predators and offenders, respectively.

[32] The FDLE is the central repository for registration information, and also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *See* http://offender.fdle.state.fl.us/offender/Search.jsp (last visited on Jan. 26, 2021).

Residence Definitions

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.[33]

"Permanent residence" means a place where the person abides, lodges, or resides for three or more consecutive days.[34]

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of three or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.[35]

"Transient residence" means a county where a person lives, remains, or is located for a period of three or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.[36]

III. Effect of Proposed Changes:

Preemptions

The bill amends s. 509.032(7), F.S., to preempt all regulation of vacation rentals and advertising platforms to the state, and specifically prohibits local laws, ordinances, or regulations that require the inspection or licensure of public lodging establishments, including vacation rentals.

The bill allows a local government to regulate activities that arise when a property is used as a vacation rental if the regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental or as a long-term rental under ch. 83, F.S. However, a local government may not prohibit vacation rentals or regulate the duration or frequency of rentals. Any local law, ordinance, or regulation adopted on or before June 1, 2011, is not affected by this preemption, and any such regulation may be amended without affecting its grandfathered status if the amendment makes the local law, ordinance, or regulation less restrictive with regard to its prohibition of, or duration or frequency regulation of, vacation rentals.

Local governments in areas of critical state concern may regulate activities that arise in vacation rentals, including licensing, regulating the duration or frequency of rentals and prohibiting rentals if the local law, ordinance, or regulation was adopted before June 1, 2011, otherwise these jurisdictions would be subject to the restrictions noted above. A law, ordinance, or regulation adopted before June 1, 2011 may also be amended to be less restrictive.

[33] Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.
[34] Section 775.21(2)(k), F.S.
[35] Section 775.21(2)(n), F.S.
[36] Section 775.21(2)(o), F.S

Definition of "Advertising Platform"

The bill creates s. 509.013(17), F.S., to define the term "advertising platform." Under the bill, an advertising platform:

- Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;
- Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and
- Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Requirements for Operators of Vacation Rentals

The bill amends s. 509.241, F.S., to require the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental license number, the applicable Florida sales tax registration, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be paid for each rental of the property as a vacation rental property.

Requirements for Advertising Platforms

Effective January 1, 2022, the bill creates s. 509.243, F.S., to provide requirements, including a quarterly reporting, and tax collection and remittance requirements, for an advertising platform.

Advertising and Reporting Requirements

Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
  - Include the vacation rental license number and the applicable Florida sales tax registration, and merchant business tax receipt or tourist development tax account numbers in the vacation rental's advertisement; and
  - Attest to the best of their knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.
- Verify and display the vacation rental property's license number, the verification must occur before the platform publishes the rental property's advertisement, and re-occur on a quarterly basis.
- Display the vacation rental property's applicable tax numbers.
- Provide to the Division of Hotels and Restaurants (division) on a quarterly basis, by file transfer protocol or electronic data exchange file:
  - The uniform resource locator (URL) for the Internet address of the vacation rental advertisement; and

    - Unless otherwise stated in the advertisement at the provided URL, the physical address of the vacation rental, including the unit designation, the vacation rental license number, and applicable tax numbers.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

The division must maintain vacation rental license information in a readily accessible electronic format.

The bill provides processes for the division to issue a cease and desist order for any person who violates ch. 509, F.S. The bill authorizes the division to seek an injunction or a writ of mandamus to enforce a cease and desist order. If the Department of Business and Professional Regulation is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.

Tax Collection and Reporting Requirements

The bill creates s. 509.243(4), F.S., to require advertising platforms to collect and remit taxes due under ss. 125.0104,[37] 125.0108,[38] 205.044,[39] 212.03,[40] 212.0305,[41] and 212.055, F.S.,[42] resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

The bill also amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:
- Provide that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
- Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
- Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.

The bill also amends s. 509.013, F.S., to define the term "merchant business taxes" as the tax imposed under s. 205.044, F.S. The bill includes the merchant business tax numbers as one of the tax account number vacation rental owners or operators must include in their advertisement on an advertising platform and as one of the taxes advertising platforms must collect and remit.

[37] Section 125.0104, F.S., relates to the local option tourist development tax.
[38] Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.
[39] Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.
[40] Section 212.03, F.S., relates to the transient rentals tax.
[41] Section 212.0305, F.S., relates to convention development taxes.
[42] Section 212.055, F.S., relates to discretionary sales taxes.

The bill authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This emergency rulemaking authority expires on January 1, 2023.

Sexual Predators and Offenders Registration

The bill amends s. 775.21, F.S., to redefine the term "temporary residence" in the context of sexual predator or offender registration requirements, to mean lodging in a vacation rental for 24 hours or more. Under current law, a sexual offender or predator must register at the local sheriff's office no later than by 5:00 p.m., 48 hours after establishing a temporary residence in a vacation rental.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium, cooperative documents, or declaration of covenants or declaration for a homeowners' association.

Effective Date

The bill takes effect upon becoming a law. However, the provisions of s. 509.243, F.S., relating to advertising platforms, take effect January 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not affect current fees for a vacation rental license.

The Department of Business and Professional Regulation (DBPR) anticipates an indeterminate increase in its collection of vacation rental license fees because vacation rentals currently operating without a license would require a license number to post an advertisement on an advertising platform. The department also anticipates an indeterminate increase in fines collected due to noncompliance.[43]

Local governments may see an increase in local tourist development taxes.

The Revenue Estimating Conference determined that the provisions of the bill that require advertising platforms to collect and remit state and local sales taxes have no fiscal impact.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

A local government may have an indeterminate decrease of revenue if the local government currently requires a vacation rental license or registration fee. Under the bill, a local government may not require a vacation rental to register or obtain such a license.

The DBPR estimates a cost of $370,185 ($194,042 recurring) to the Hotel and Restaurant Trust Fund and a need of three full-time positions and seven OPS employees in order to process an estimated increase in licenses, complaints, and compliance cases.[44]

According to the Florida Department of Law Enforcement (FDLE), amending the definition of "temporary residence" to include a vacation rental where a person lodges for 24 hours or more will lead to a "substantial increase" in the number of sexual predators and offenders required to complete a registration, although the FDLE was unable to estimate the number of sexual predators or offenders subject to the revised definition.[45] The increase of registrations could potentially impact the workload associated with the Florida Sexual Offender and Predator Registry and require programmatic changes to FDLE's technology systems. Therefore, this bill will have an indeterminate negative fiscal impact on the FDLE.

[43] *See* note 5, *supra* at page 7.
[44] *Id.* at pages 5 and 8.
[45] Florida Department of Law Enforcement, *2021 Agency Legislative Bill Analysis for CS/SB 522,* at 3 (Feb. 25, 2021) (on file with the Senate Subcommittee on Agriculture, Environment, and General Government).

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 159.27, 212.03, 212.08, 316.1955, 404.056, 477.0135, 509.221, 509.013, 509.032, 509.241, 509.243, 553.5041, 705.17, 705.185, 717.1355, 775.21, and 877.24.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries on February 16, 2021:
The committee substitute:

- Amends s. 212.03(3), F.S., to include the tax collection and remittance requirements for advertising platforms within ch. 212, F.S., and to:
  - Clarify that the taxes an advertising platform must collect and remit are based on the total rental amount charged by the owner or operator for use of the vacation rental.
  - Exclude service fees from the calculation of taxes remitted by an advertising platform to the Department of Revenue (DOR), unless the advertising platform owns, is related to, operates, or manages the vacation rental.
  - Require the DOR and other jurisdictions to allow advertising platforms to register, collect, and remit such taxes.
- Includes "merchant business taxes" under s. 205.044, F.S., within the types of taxes an advertising platform must remit.
- Revises the exemption in s. 509.032(7)(c), F.S., for local laws, ordinances, or regulations of a jurisdiction within an area of critical state concern to permit such jurisdictions to regulate and inspect vacation rentals, prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals, if the laws, ordinances, or regulations were adopted before June 1, 2011.
- Redefines the term "temporary residence" in the context of sexual predator or offender registration requirements, to mean lodging in a vacation rental for 24 hours or more.
- Authorizes the DOR to adopt emergency rules, which are effective for six months and may be renewed until permanent rules are adopted. This provision expires on January 1, 2023.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Diaz

A bill to be entitled

An act relating to vacation rentals; amending s. 212.03, F.S.; requiring advertising platforms to collect and remit taxes for certain transactions; reordering and amending s. 509.013, F.S.; defining the terms "advertising platform" and "merchant business tax receipt"; amending s. 509.032, F.S.; conforming a cross-reference; preempting the regulation of vacation rentals to the state; providing exceptions; preempting the regulation of advertising platforms to the state; amending s. 509.241, F.S.; requiring licenses issued by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to be displayed conspicuously to the public inside the licensed establishment; requiring the operator of certain vacation rentals to also display its vacation rental license number and applicable merchant business tax receipt or tax account numbers; creating s. 509.243, F.S.; requiring advertising platforms to require that persons placing advertisements for vacation rentals include certain information in the advertisements and attest to certain information; requiring advertising platforms to display and verify such information; requiring the division to maintain certain information in a readily accessible electronic format; requiring advertising platforms to quarterly provide the division with certain information regarding vacation rentals in this state listed on the platforms; requiring advertising platforms to remove

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an advertisement or listing under certain conditions and within a specified timeframe; requiring advertising platforms to collect and remit taxes for certain transactions; authorizing the division to issue and deliver a notice to cease and desist for certain violations; providing that such notice does not constitute agency action for which certain hearings may be sought; authorizing the division to file certain proceedings; authorizing the division to seek certain remedies for the purpose of enforcing a cease and desist notice; authorizing the division to collect attorney fees and costs under certain circumstances; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; amending s. 775.21, F.S.; revising the definition of the term "temporary residence"; amending ss. 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 705.17, 705.185, 717.1355, and 877.24, F.S.; conforming cross-references to changes made by the act; providing applicability; authorizing the department to adopt emergency rules; providing requirements and an expiration for such rules; providing for the expiration of such rulemaking authority; providing effective dates.

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

Section 1. Effective January 1, 2022, subsection (2) of

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

section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(2)(a) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(b) If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013, to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit taxes as provided in this paragraph.

1. An advertising platform, as defined in s. 509.013, which owns, operates, or manages a vacation rental or which is related

within the meaning of ss. 1504, 267(b), or 707(b) of the Internal Revenue Code of 1986 to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental.

2. An advertising platform to which subparagraph 1. does not apply shall collect and remit all taxes due from the owner, operator, or manager under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental. Of the total amount paid by the lessee or rentee, the amount retained by the advertising platform for reservation or payment service is not taxable under this section or ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

In order to facilitate the remittance of such taxes, the department and counties that have elected to self-administer the taxes imposed under chapter 125 must allow advertising platforms to register, collect, and remit such taxes.

Section 2. Section 509.013, Florida Statutes, is reordered and amended to read:

509.013 Definitions.—As used in this chapter, the term:

(1) "Advertising platform" means a person who:

(a) Provides an online application, software, a website, or a system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and

(c) Provides a reservation or payment system that

facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

(3) ~~(1)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(9) ~~(2)~~ "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4) ~~(3)~~ "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

(11)(a) ~~(4)(a)~~ "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever

is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(10)(a) ~~(5)(a)~~ "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before ~~prior to~~ being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is

inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or

watercraft which is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2) ~~(6)~~ "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(12) ~~(7)~~ "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated

under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(13) ~~(8)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(14) ~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(15) ~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

(17) ~~(11)~~ "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(18) ~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(16) ~~(13)~~ "Transient" means a guest in transient occupancy.

(7) ~~(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will

be the sole residence of the guest.

(8) ~~(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(6) ~~(16)~~ "Nontransient" means a guest in nontransient occupancy.

(5) "Merchant business tax receipt" means a business tax receipt or registration issued by a municipality that imposes a tax under s. 205.044 on transient occupancy.

Section 3. Paragraph (c) of subsection (3) and subsection (7) of section 509.032, Florida Statutes, are amended to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food

service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013 ~~s. 509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than $105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than $1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments, including vacation rentals, and public food service establishments, including, but not limited to, sanitation standards, licensing, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is expressly preempted to the state. A local law, ordinance, or regulation

may not allow or require the local inspection or licensing of public lodging establishments, including vacation rentals, or public food service establishments. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b) A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental if the law, ordinance, or regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242, the property is used as a long-term rental subject to chapter 83, or the property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit ~~vacation~~ rentals or regulate the duration or frequency of ~~rental of vacation~~ rentals. The prohibitions set forth in this paragraph do ~~This paragraph does~~ not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when such law, ordinance, or regulation is being amended to be less restrictive with regard to a prohibition, duration, or frequency regulation.

(c) Paragraph (b) and the provisions of paragraph (a) relating to the licensing of vacation rentals do ~~does~~ not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, in any jurisdiction within ~~exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved~~

~~by the state land planning agency pursuant to~~ an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code. Any such local law, ordinance, or regulation may be amended so long as the amendment is not more restrictive than the existing law, ordinance, or regulation.

(d) The regulation of advertising platforms is preempted to the state and advertising platforms shall be regulated under this chapter ~~designation~~.

Section 4. Effective January 1, 2022, subsection (3) of section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(3) DISPLAY OF LICENSE.—Any license issued by the division must ~~shall~~ be conspicuously displayed to the public inside ~~in~~ the ~~office or lobby of the~~ licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be paid for each rental of the property as a vacation rental.

Section 5. Effective January 1, 2022, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1)(a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which such taxes must be paid before the advertisement may be listed; and

2. Attest to the best of their knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.

(b) An advertising platform must display the vacation rental license number, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax number. The advertising platform must verify that the vacation rental license number provided by the owner or operator is valid and applies to the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

(c) The division shall maintain vacation rental license information in a readily accessible electronic format that is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

(2) An advertising platform must provide to the division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rentals located in this state which are advertised on its platform, along with the following information for each vacation rental:

(a) The uniform resource locator for the Internet address of the vacation rental advertisement.

(b) Unless otherwise stated in the vacation rental advertisement at the Internet address provided pursuant to paragraph (a), the physical address of the vacation rental, including any unit designation, the vacation rental license number provided by the owner or operator, the applicable Florida sales tax registration number, and the applicable merchant business tax receipt or tourist development tax account number under which taxes will be remitted for the rentals commenced through the advertisement.

(3) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

(4) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(5) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not

constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(6) Advertising platforms must adopt an antidiscrimination policy to help prevent discrimination among their users and must inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092.

Section 6. Paragraph (n) of subsection (2) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

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

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. The term also includes a vacation rental, as defined in s. 509.242, where a person lodges for 24 hours or more.

Section 7. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(12) "Public lodging or restaurant facility" means property used for any public lodging establishment as defined in s. 509.242 or public food service establishment as defined in s. 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or necessary to, another facility qualifying under this part.

Section 8. Paragraph (jj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as

required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jj) *Complimentary meals.*—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s. 509.013 ~~s. 509.013(4)(a)~~ which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Section 9. Paragraph (b) of subsection (4) of section 316.1955, Florida Statutes, is amended to read:

316.1955 Enforcement of parking requirements for persons who have disabilities.—

(4)

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person

who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

Section 10. Subsection (5) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification shall be provided on at least one document, form, or application executed at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification shall contain the following language:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013 ~~s. 509.013(12)~~, provided that such occupancy is 45 days or less in duration.

Section 11. Subsection (6) of section 477.0135, Florida

Statutes, is amended to read:

477.0135 Exemptions.—

(6) A license is not required of any individual providing makeup or special effects services in a theme park or entertainment complex to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects services to the general public. The term "theme park or entertainment complex" has the same meaning as in s. 509.013 ~~s. 509.013(9)~~.

Section 12. Paragraph (b) of subsection (2) of section 509.221, Florida Statutes, is amended to read:

509.221 Sanitary regulations.—

(2)

(b) Within a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to be in the same building as the public food service establishment, so long as they are reasonably accessible.

Section 13. Paragraph (b) of subsection (5) of section 553.5041, Florida Statutes, is amended to read:

553.5041 Parking spaces for persons who have disabilities.—

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located to conform to ss. 502 and 503 of the standards.

(b) If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single

lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

Section 14. Subsection (2) of section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—

(2) Sections 705.1015-705.106 do not apply to any personal property lost or abandoned on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~s. 509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with s. 705.185.

Section 15. Section 705.185, Florida Statutes, is amended to read:

705.185 Disposal of personal property lost or abandoned on the premises of certain facilities.—When any lost or abandoned personal property is found on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~s. 509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with this section, any lost or abandoned property must be delivered to such owner or operator, who must take charge of the property and make a record of the date such property was found.

If the property is not claimed by its owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or other disposal as the charitable institution deems appropriate. The rightful owner of the property may reclaim the property from the owner or operator of the premises at any time before the disposal or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises. A charitable institution that accepts an electronic device, as defined in s. 815.03(9), access to which is not secured by a password or other personal identification technology, shall make a reasonable effort to delete all personal data from the electronic device before its sale or disposal.

Section 16. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

Section 17. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not

apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~.

Section 18. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative document adopted pursuant to chapter 719, Florida Statutes, or declaration or declaration of covenant adopted pursuant to chapter 720, Florida Statutes.

Section 19. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing s. 212.03, Florida Statutes, including establishing procedures to facilitate the remittance of taxes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2024.

Section 20. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 146
INTRODUCER:	Senator Brandes
SUBJECT:	Civic Education
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	**Favorable**
2.	Underhill	Sadberry	AP	**Pre-meeting**

I. Summary:

SB 146 authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education to annually designate each public school in the state which provides students with high-quality civic learning as a Freedom School, based on specified criteria.

The bill has a fiscal impact, however the Department of Education can implement the provisions of the bill with existing resources. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

Civic Literacy in Florida

Florida law establishes civic literacy as a priority of the Florida K-20 education system and defines civic literacy to mean that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.[1]

[1] Section 1000.03(5)(c), F.S.

Next Generation Sunshine State Standards

Florida law requires the adoption of standards for core curricula content taught in public schools and specifies the requirements students must meet to earn a standard high school diploma.[2] The Next Generation Sunshine State Standards (NGSSS) establish the core content to be taught in Florida and specify the core knowledge and skills K-12 public school students are expected to acquire. The curricular content must integrate critical-thinking, problem-solving, and workforce-literacy skills; communication, reading, and writing skills; collaboration skills; information and media-literacy skills; and civic-engagement skills, among others.[3]

The State Board of Education (SBE) is responsible for adopting the NGSSS and subsequent revisions to standards in rule.[4] NGSSS for social studies include, at a minimum, curricular content for geography, United States and world history, government, civics, humanities, economics, and financial literacy.[5]

Civic Standards Review

In 2019,[6] the Legislature required the Commissioner of Education to conduct a comprehensive review of Florida's civics education course standards. The SBE is expected to complete adoption of necessary revisions to these standards by the summer of 2021. Approval of new civics education course descriptions is anticipated by the fall of 2021.[7]

High School Diploma Requirements

Students have several options to earn a standard high school diploma.[8] In order to graduate from a Florida high school with a standard high school diploma under a 24-credit or 18-credit option or the Career and Technical Education pathway, a student must complete three credits in social studies comprised of one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government.[9]

Demonstration of Civic Literacy

Students in Florida public schools and those entering Florida College System (FCS) institutions or state universities must demonstrate competency in civic literacy.[10] Students must successfully complete a one-semester civics education course in grades 6, 7, and 8, which includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the

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[2] Sections 1003.41 and 1003.4282(3), F.S.
[3] Section 1003.41(1), F.S.
[4] Section 1003.41(3) and (4), F.S.
[5] Section 1003.41(2)(d), F.S.
[6] Section 1, ch. 2019-150, L.O.F.
[7] Florida Department of Education, *Civics Review*, http://www.fldoe.org/civicsreview/ (last visited Jan. 25, 2021).
[8] A student may complete a 24-credit program under s. 1003.4282(3), F.S., an 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option under s. 1002.3105, F.S., the Career and Technical Education (CTE) Pathway under 1002.4282(11), F.S., an International Baccalaureate (IB) curriculum or Advanced International Certificate of Education (AICE) curriculum, pursuant to s. 1003.4282(1)(a), F.S., or an option for students with a disability under s. 1003.4282(10), F.S.
[9] *See* ss. 1003.4282(3)(d), 1002.3105(5), and 1003.4282(11)(a)1., F.S.
[10] Florida Department of Education, *Civic Literacy*, http://www.fldoe.org/civicliteracy/ (last visited Jan. 28, 2021).

legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. Moreover, each student's performance on the statewide, standardized end-of-course assessment in civics education constitutes 30 percent of the student's final course grade.[11]

Students initially entering a FCS institution or state university must demonstrate civic literacy competencies and outcomes, including all of the following:

- Understanding of the basic principles of American democracy and how they are applied in our republican form of government.
- Understanding of the United States Constitution.
- Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance.
- Understanding of landmark Supreme Court cases and their impact on law and society.[12]

Service Learning

Service learning refers to a student-centered, research-based teaching and learning strategy that engages students in meaningful service activities in their schools or communities. Service learning activities are directly tied to academic curricula, standards, and course, district, or state assessments. The Department of Education is required by law to encourage school districts to initiate, adopt, expand, and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12.[13]

Florida Bright Futures Scholarship Program

The Florida Bright Futures Scholarship Program (program)[14] is comprised of four awards, the Florida Academic Scholarship (FAS), the Florida Medallion Scholarship (FMS), the Florida Gold Seal CAPE Scholarship (CAPE), and the Florida Gold Seal Vocational Scholarship (Gold Seal).[15]

In order to be eligible for an initial program award, a student must meet residency, academic, and service work requirements specified by each award. Criteria specific to each scholarship program include completing, as approved by the district school board, administrators of a nonpublic school, or Department of Education for home education students:

- For the FAS, a minimum of 100 hours of volunteer service work.[16]
- For the FMS, a minimum of 75 hours of volunteer service work.[17]

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[11] Florida Department of Education, *Civic Literacy*, http://www.fldoe.org/civicliteracy/ (last visited Jan. 28, 2021). *See also* s. 1003.4156(1)(c), F.S.
[12] *Id. See also* s. 1007.25(4), F.S. Students must demonstrate competency by successful completion of a specified civic literacy course or by achieving a passing score on an assessment. *Id.*
[13] *Id.* Section 1003.497(1), F.S.
[14] Chapter 2002-387, s. 422, Laws of Fla. (creating the Florida Bright Futures Scholarship Program, effective Jan. 7, 2003); *see also* ss. 1009.53-1009.538, F.S.
[15] Section 1009.53(2), F.S.
[16] Section 1009.534(1)(e), F.S.
[17] Section 1009.535(1)(e), F.S.

- For the CAPE and Gold Seal, at least 30 hours of volunteer service work.[18]

The program of volunteer service work includes identifying a social or civic issue or a professional area that interests the student, developing a plan for his or her personal involvement in addressing the issue or learning about the area, and, through papers or other presentations, evaluating and reflecting on his or her experience.[19] Service work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service must be documented in writing, and the document must be signed by the student, the student's parent or guardian, and a representative of the organization for which the student performed the volunteer service work.[20]

III. Effect of Proposed Changes:

This bill authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education (commissioner) to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education (SBE) to annually designate each public school in the state which provides students with high-quality civic learning, based on specified criteria, as a Freedom School.

The bill requires the commissioner to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course required for high school graduation, beginning with the 2022-2023 school year. The bill also requires the commissioner to develop a process by which a district school board can verify that a student successfully completed a practicum meeting the required criteria. The criteria developed by the commissioner must require a student to:

- Identify a civic issue that impacts his or her community;
- Rigorously research the issue from multiple perspectives and develop a plan for his or her personal involvement in addressing the issue; and
- Create a portfolio to evaluate and reflect upon his or her experience and the outcomes or likely outcomes of his or her involvement. A portfolio must, at a minimum, include research, evidence, and a written plan of involvement.

[18] Section 1009.536(1)(e) and (2)(b), F.S.
[19] Except for credit earned through service-learning courses adopted pursuant to s. 1003.497, F.S., the student may not receive remuneration or academic credit for the volunteer service work performed. Sections 1009.534(1)(e), 1009.535(1)(e), and 1009.536(1)(e) and (2)(b), F.S.
[20] Sections 1009.534(1)(e), 1009.535(1)(e), and 1009.536(1)(e) and (2)(b), F.S.

The bill specifies that the civic literacy practicum must be nonpartisan, focus on addressing at least one community issue, and promote a student's ability to consider differing points of view and engage in civil discourse with individuals who hold an opposing opinion.

School districts are required to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards, especially those awards that currently include community service as a criterion or selection factor. The bill authorizes school districts to count the hours outside of classroom instruction a student devotes to the nonpartisan civic literacy practicum to implement his or her plan of involvement toward meeting the community service requirements of the Florida Bright Futures Scholarship Program.

The bill requires the SBE to designate on an annual basis each public school in the state, which provides students with high-quality civic learning, including civic-engagement skills, as a Freedom School. The SBE must establish the criteria[21] for a school's designation as a Freedom School, which must include:

- The extent to which strategies to develop high-quality civic learning, including civic-engagement skills, are integrated into the classroom using best instructional practices.
- The scope of integration of high-quality civic learning, including civic-engagement skills, across the school's curricula.
- The extent to which the school supports interdisciplinary, teacher-led professional learning communities to support continuous improvement in instruction and student achievement.
- The minimum percentage of students graduating with a standard high school diploma who must successfully complete a civic literacy practicum and earn community service hours.

The creation of a civic literacy practicum may promote civic literacy in Florida and create an additional pathway for students to fulfill the community service requirements of state and local academic awards.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[21] According to the Florida Department of Education (DOE), the State Board of Education should be granted explicit rulemaking authority to develop criteria and processes required in the bill. DOE, *Senate Bill 146 Fiscal Analysis* (Jan. 28, 2021) (on file with the Senate Committee on Education).

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:

The bill has no impact on state revenues or expenditures. There may be costs for a school district to incorporate a nonpartisan civic literacy practicum into a school's curriculum for the high school United States Government course. However, the nonpartisan civic literacy practicum is not required and a school district will only experience these costs if the district chooses to incorporate the practicum into its curriculum for the course.

The Department of Education estimates that compliance with the requirements of the bill relating to the civic literacy practicum and criteria for a school designation would require two additional staff at a cost of $152,939.[22] However, the department has vacant positions that can be used to absorb any additional workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1003.44 of the Florida Statutes.

[22] DOE, *Senate Bill 146 Fiscal Analysis* (Jan. 28, 2021) (on file with the Senate Committee on Education).

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 Senator Brandes

24-00351-21 2021146__

A bill to be entitled

An act relating to civic education; amending s. 1003.44, F.S.; requiring the Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum for high school students, beginning with a specified school year; requiring the commissioner to develop a certain process for use by district school boards; specifying criteria for the civic literacy practicum; authorizing students to apply the hours they devote to practicum activities to certain community service requirements; requiring school districts accept nonpartisan civic literacy practicum activities and hours in requirements for certain awards; requiring the State Board of Education to designate certain high schools as Freedom Schools; requiring the state board to establish criteria for such designation; providing an effective date.

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

Section 1. Present subsection (5) of section 1003.44, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

1003.44 Patriotic programs; rules.—

(5)(a) In order to help students evaluate the roles, rights, and responsibilities of United States citizens and determine methods of active participation in society, government, and the political system, the commissioner shall develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school's curriculum for the high school United States Government course required by s. 1003.4282(3)(d), beginning with the 2022-2023 school year. The commissioner also shall develop a process by which a district school board can verify that a student successfully completed a practicum meeting those criteria.

1. The criteria must require a student to do all of the following:

a. Identify a civic issue that impacts his or her community.

b. Rigorously research the issue from multiple perspectives and develop a plan for his or her personal involvement in addressing the issue.

c. Create a portfolio to evaluate and reflect upon his or her experience and the outcomes or likely outcomes of his or her involvement. A portfolio must, at minimum, include research, evidence, and a written plan of involvement.

2. A civic literacy practicum must be nonpartisan, focus on addressing at least one community issue, and promote a student's ability to consider differing points of view and engage in civil discourse with individuals who hold an opposing opinion.

(b) The hours outside of classroom instruction which a student devotes to the nonpartisan civic literacy practicum to implement his or her plan of involvement may be counted toward meeting the community service requirements of the Florida Bright Futures Scholarship Program. School districts must include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards, especially those awards that include community service as a criterion or selection

factor.

(c) The State Board of Education shall annually designate each public school in this state which provides students with high-quality civic learning, including civic-engagement skills, as a Freedom School. The state board shall establish the criteria for a school's designation as a Freedom School. The criteria must include all of the following:

1. The extent to which strategies to develop high-quality civic learning, including civic-engagement skills, are integrated into the classroom using best instructional practices.

2. The scope of integration of high-quality civic learning, including civic-engagement skills, across the school's curricula.

3. The extent to which the school supports interdisciplinary, teacher-led professional learning communities to support continuous improvement in instruction and student achievement.

4. The minimum percentage of students graduating with a standard high school diploma who must successfully complete a civic literacy practicum and earn community service hours as provided in this subsection.

Section 2. This act shall take effect July 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 272 (211898)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Baxley
SUBJECT:	Rare Disease Advisory Council
DATE:	March 10, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Gerbrandt	Kidd	AHS	**Recommend: Fav/CS**
3.	Gerbrandt	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 272 creates section 381.99, Florida Statutes, to establish the Rare Disease Advisory Council (Council) adjunct to the Department of Health (DOH). The Council is tasked with providing recommendations to improve the health outcomes of Floridians who have a rare disease, defined as a disease that affects fewer than 200,000 people in the United States. The bill establishes the membership of the Council, as well as the length of the members' terms, and requires that the Council first meet by October 1, 2021, and provide its recommendations to the Governor and the State Surgeon General by July 1 of each year beginning in 2022.

The bill takes effect on July 1, 2021.

II. Present Situation:

Advisory Councils

Section 20.03, F.S., defines an advisory council as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.052, F.S., requires that each advisory council established may be created only when it is found to be necessary and beneficial to the furtherance of a public

purpose, and such a council must be terminated by the Legislature when it is no longer necessary.[1] An advisory body may not be created unless:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for four-year staggered terms; and
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

The section also requires that:

- The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.
- Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body, commission, board of trustees, or other collegial body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings.
- If an advisory body, commission, board of trustees, or other collegial body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The advisory body, commission, board of trustees, or other collegial body may not perform any activities after the effective date of its abolition.

Rare Disease Research

In the United States, a rare disease is defined as a condition that affects fewer than 200,000 people nationally. This definition was created by Congress in the Orphan Drug Act of 1983. Rare diseases became known as “orphan diseases” because drug companies were not interested in adopting them to develop treatments. The Orphan Drug Act created financial incentives to encourage companies to develop new drugs for rare diseases. The rare disease definition was needed to establish which conditions would qualify for the new incentive programs.[2]

There may be as many as 7,000 rare diseases. The total number of Americans living with a rare disease is estimated between 25-30 million. This estimate has been used by the rare disease community for several decades to highlight that while individual diseases may be rare, the total number of people with a rare disease is large.[3]

[1] The agency to which an advisory body is adjunct must advise the Legislature at the time the advisory body ceases to be essential to the furtherance of a public purpose.
[2] U.S. Department of Health and Human Services, National Institutes of Health, *FAQs About Rare Diseases*, *available at* https://rarediseases.info.nih.gov/diseases/pages/31/faqs-about-rare-diseases. (last visited Jan. 27, 2021).
[3] *Id.*

In the United States, only a few types of rare diseases are tracked when a person is diagnosed. These include certain infectious diseases, birth defects, and cancers. It also includes the diseases on state newborn screening tests. Because most rare diseases are not tracked, it is difficult to determine the exact number of rare diseases or how many people are affected.[4]

Researchers have made progress in learning how to diagnose, treat, and even prevent a variety of rare diseases. However, most rare diseases have no treatments. The National Institutes of Health (NIH) supports research to improve the health of people with rare diseases. Many of the 27 Institutes and Centers at the NIH fund medical research for rare diseases. One of these Centers, the National Center for Advancing Translational Sciences (NCATS), focuses on getting new cures and treatments to all patients more quickly. NCATS supports research through collaborative projects to study common themes and causes of related diseases. This approach aims to speed the development of treatments that will eventually serve both rare and common diseases.[5]

The NCATS Office of Rare Diseases Research guides and coordinates NIH-wide activities involving research for rare diseases. Some of the NCATS programs for rare diseases include:[6]

- Rare Diseases Clinical Research Network.
- Therapeutics for Rare and Neglected Diseases.
- Rare Diseases Registry Program.
- Genetic and Rare Diseases Information Center.

Efforts to improve and bring to market treatments for rare diseases are coordinated by the Food and Drug Administration. The Office of Orphan Products Development (OOPD) provides incentives for drug companies to develop treatments for rare diseases. Between 1973 and 1983, fewer than 10 treatments for rare diseases were approved. Since 1983, the OOPD has helped develop and bring to market more than 400 drugs and biologic products for rare diseases.[7]

III. Effect of Proposed Changes:

This bill creates s. 381.99, F.S., to establish the Rare Disease Advisory Council. The Council is created adjunct to the DOH for the purpose of providing recommendations on ways to improve health outcomes for individuals with rare diseases. The bill defines a rare disease as a disease that affects fewer than 200,000 people in the United States.

The bill requires the Governor to appoint members to the Council as follows:

- A representative of the Department of Health.
- A representative of the Agency for Health Care Administration.
- A representative of the Office of Insurance Regulation.
- A representative of the Department of Education.
- Two representatives from academic research institutions in this state that receive any grant funding for research regarding rare diseases.

[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*

- One geneticist practicing in this state.
- One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.
- Two physicians who are licensed under chapter 458 (the Florida Medical Practice Act) or chapter 459 (the Florida Osteopathic Practice Act) and practicing in this state with experience treating rare diseases.
- One hospital administrator from a hospital in this state that provides care to individuals diagnosed with rare diseases.
- Two individuals who are 18 years of age or older who have a rare disease.
- Two individuals who are caregivers of an individual with a rare disease.
- Two representatives of organizations operating in this state that provide care or other support for individuals with rare diseases.
- A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.
- A representative of the biotechnology industry.
- A representative of health insurance companies.

Members of the Council must be appointed by September 1, 2021, and are appointed for four-year terms except that half the Council is initially appointed to a two-year term to stagger the appointments. The Council is required to hold its initial meeting by October 1, 2021, and may meet upon the call of the chair or upon the request of the majority of its members thereafter. The Council is authorized to meet electronically.

The bill requires the Council to:
- Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state;
- Develop recommended strategies for academic research institutions in this state to facilitate continued research on rare diseases;
- Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the DOH for publication on the department's website; and
- Provide input and feedback in writing to the DOH, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

The DOH must provide staff and administrative support to the Council. The Council is required to submit a report to the DOH and the State Surgeon General, by July 1 of each year beginning in 2022, which describes the activities of the Council in the most recent year and its findings and recommendations regarding rare disease research and care.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH may experience an indeterminate negative fiscal impact from PCS/CS/SB 272 due to the requirement that the DOH provide staff and administrative support to the Council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.99 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 March 3, 2021:
The committee substitute clarifies that the advisory council must be composed of two physicians who are licensed under chapter 458 (the Florida Medical Practice Act) or chapter 459 (the Florida Osteopathic Practice Act) and practicing in Florida with experience treating rare diseases.

CS by Health Policy on February 4, 2021:
The CS replaces the underlying bill's requirement that the Rare Disease Advisory Council establish a method to securely hold and distribute funds for certain uses with the requirement that the Council provide written input and feedback to state agencies on matters that affect people who have been diagnosed with a rare disease, including, but not limited to, pandemic or natural disaster preparedness and response.

B. Amendments:

None.

211898

576-02379-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Rare Disease Advisory Council; creating s. 381.99, F.S.; creating the advisory council adjunct to the Department of Health; specifying the purpose of the advisory council; providing for staff and administrative support; defining the term "rare disease"; specifying application of state law governing the establishment of advisory councils; prescribing the composition of the advisory council; providing for initial appointments to the advisory council by a specified date; providing organizational and other meeting requirements for the advisory council; prescribing duties and responsibilities of the advisory council; providing an effective date.

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

Section 1. Section 381.99, Florida Statutes, is created to read:

381.99 Rare Disease Advisory Council.—

(1) The Rare Disease Advisory Council, an advisory council as defined in s. 20.03(7), is created adjunct to the Department of Health for the purpose of providing recommendations on ways to improve health outcomes for individuals residing in this state who have a rare disease. The department shall provide staff and administrative support for the advisory council in the

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carrying out of its duties and responsibilities. For purposes of this section, the term "rare disease" means a condition that affects fewer than 200,000 people in the United States. Except as otherwise provided in this section, the advisory council shall operate in a manner consistent with s. 20.052.

(2) The advisory council is composed of the following members appointed by the Governor:

(a) A representative of the Department of Health.

(b) A representative of the Agency for Health Care Administration.

(c) A representative of the Office of Insurance Regulation.

(d) A representative of the Department of Education.

(e) Two representatives from academic research institutions in this state which receive any grant funding for research regarding rare diseases.

(f) One geneticist practicing in this state.

(g) One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.

(h) Two physicians who are licensed under chapter 458 or chapter 459 and practicing in this state with experience treating rare diseases.

(i) One hospital administrator from a hospital in this state which provides care to individuals diagnosed with rare diseases.

(j) Two individuals who are 18 years of age or older who have a rare disease.

(k) Two individuals who are caregivers of an individual with a rare disease.

(l) Two representatives of organizations operating in this state which provide care or other support for individuals with rare diseases.

(m) A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.

(n) A representative of the biotechnology industry.

(o) A representative of health insurance companies.

Any vacancy on the advisory council shall be filled in the same manner as the original appointment.

(3) The initial members of the advisory council shall be appointed by September 1, 2021. Each member shall be appointed to a 4-year term of office. However, in order to achieve staggered terms, the initial members appointed pursuant to paragraphs (2)(a)-(i) shall be appointed to a 2-year term. The Governor shall designate a chair and vice chair of the advisory council from among its membership. The advisory council shall meet for its initial meeting by October 1, 2021. Thereafter, the advisory council may meet upon the call of the chair or upon the request of a majority of its members. The advisory council may meet via teleconferencing or other electronic means. Notices for any scheduled meetings of the advisory council must be published in advance on the department's website.

(4) The advisory council shall:

(a) Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state.

(b) Develop recommended strategies for academic research

institutions in this state to facilitate continued research on rare diseases.

(c) Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the Department of Health for publication on the department's website.

(d) Provide input and feedback in writing to the department, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

(e) By July 1 of each year, beginning in 2022, submit a report to the Governor and the State Surgeon General which describes the activities of the advisory council in the past year and its findings and recommendations regarding rare disease research and care. Additionally, the report must be made available on the department's website.

Section 2. This act shall take effect July 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 272
INTRODUCER:	Health Policy Committee and Senator Baxley
SUBJECT:	Rare Disease Advisory Council
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Gerbrandt	Kidd	AHS	**Recommend: Fav/CS**
3.	Gerbrandt	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 272 creates section 381.99, Florida Statutes, to establish the Rare Disease Advisory Council (Council) adjunct to the Department of Health (DOH). The Council is tasked with providing recommendations to improve the health outcomes of Floridians who have a rare disease, defined as a disease that affects fewer than 200,000 people in the United States. The bill establishes the membership of the Council, as well as the length of the members' terms, and requires that the Council first meet by October 1, 2021, and provide its recommendations to the Governor and the State Surgeon General by July 1 of each year beginning in 2022.

The bill takes effect on July 1, 2021.

II. Present Situation:

Advisory Councils

Section 20.03, F.S., defines an advisory council as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.052, F.S., requires that each advisory council established may be created only when it is found to be necessary and beneficial to the furtherance of a public

purpose, and such a council must be terminated by the Legislature when it is no longer necessary.[1] An advisory body may not be created unless:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for four-year staggered terms; and
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

The section also requires that:

- The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.
- Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body, commission, board of trustees, or other collegial body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings.
- If an advisory body, commission, board of trustees, or other collegial body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The advisory body, commission, board of trustees, or other collegial body may not perform any activities after the effective date of its abolition.

Rare Disease Research

In the United States, a rare disease is defined as a condition that affects fewer than 200,000 people nationally. This definition was created by Congress in the Orphan Drug Act of 1983. Rare diseases became known as “orphan diseases” because drug companies were not interested in adopting them to develop treatments. The Orphan Drug Act created financial incentives to encourage companies to develop new drugs for rare diseases. The rare disease definition was needed to establish which conditions would qualify for the new incentive programs.[2]

There may be as many as 7,000 rare diseases. The total number of Americans living with a rare disease is estimated between 25-30 million. This estimate has been used by the rare disease community for several decades to highlight that while individual diseases may be rare, the total number of people with a rare disease is large.[3]

[1] The agency to which an advisory body is adjunct must advise the Legislature at the time the advisory body ceases to be essential to the furtherance of a public purpose.
[2] U.S. Department of Health and Human Services, National Institutes of Health, *FAQs About Rare Diseases, available at* https://rarediseases.info.nih.gov/diseases/pages/31/faqs-about-rare-diseases. (last visited Jan. 27, 2021).
[3] *Id.*

In the United States, only a few types of rare diseases are tracked when a person is diagnosed. These include certain infectious diseases, birth defects, and cancers. It also includes the diseases on state newborn screening tests. Because most rare diseases are not tracked, it is difficult to determine the exact number of rare diseases or how many people are affected.[4]

Researchers have made progress in learning how to diagnose, treat, and even prevent a variety of rare diseases. However, most rare diseases have no treatments. The National Institutes of Health (NIH) supports research to improve the health of people with rare diseases. Many of the 27 Institutes and Centers at the NIH fund medical research for rare diseases. One of these Centers, the National Center for Advancing Translational Sciences (NCATS), focuses on getting new cures and treatments to all patients more quickly. NCATS supports research through collaborative projects to study common themes and causes of related diseases. This approach aims to speed the development of treatments that will eventually serve both rare and common diseases.[5]

The NCATS Office of Rare Diseases Research guides and coordinates NIH-wide activities involving research for rare diseases. Some of the NCATS programs for rare diseases include:[6]

- Rare Diseases Clinical Research Network.
- Therapeutics for Rare and Neglected Diseases.
- Rare Diseases Registry Program.
- Genetic and Rare Diseases Information Center.

Efforts to improve and bring to market treatments for rare diseases are coordinated by the Food and Drug Administration. The Office of Orphan Products Development (OOPD) provides incentives for drug companies to develop treatments for rare diseases. Between 1973 and 1983, fewer than 10 treatments for rare diseases were approved. Since 1983, the OOPD has helped develop and bring to market more than 400 drugs and biologic products for rare diseases.[7]

III. Effect of Proposed Changes:

This bill creates s. 381.99, F.S., to establish the Rare Disease Advisory Council. The Council is created adjunct to the DOH for the purpose of providing recommendations on ways to improve health outcomes for individuals with rare diseases. The bill defines a rare disease as a disease that affects fewer than 200,000 people in the United States.

The bill requires the Governor to appoint members to the Council as follows:

- A representative of the Department of Health.
- A representative of the Agency for Health Care Administration.
- A representative of the Office of Insurance Regulation.
- A representative of the Department of Education.
- Two representatives from academic research institutions in this state that receive any grant funding for research regarding rare diseases.

[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*

- One geneticist practicing in this state.
- One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.
- Two physicians who are licensed and practicing in this state with experience treating rare diseases.
- One hospital administrator from a hospital in this state that provides care to individuals diagnosed with rare diseases.
- Two individuals who are 18 years of age or older who have a rare disease.
- Two individuals who are caregivers of an individual with a rare disease.
- Two representatives of organizations operating in this state that provide care or other support for individuals with rare diseases.
- A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.
- A representative of the biotechnology industry.
- A representative of health insurance companies.

Members of the Council must be appointed by September 1, 2021, and are appointed for four-year terms except that half the Council is initially appointed to a two-year term to stagger the appointments. The Council is required to hold its initial meeting by October 1, 2021, and may meet upon the call of the chair or upon the request of the majority of its members thereafter. The Council is authorized to meet electronically.

The bill requires the Council to:
- Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state;
- Develop recommended strategies for academic research institutions in this state to facilitate continued research on rare diseases;
- Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the DOH for publication on the department's website; and
- Provide input and feedback in writing to the DOH, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

The DOH must provide staff and administrative support to the Council. The Council is required to submit a report to the DOH and the State Surgeon General, by July 1 of each year beginning in 2022, which describes the activities of the Council in the most recent year and its findings and recommendations regarding rare disease research and care.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH may experience an indeterminate negative fiscal impact from CS/SB 272 due to the requirement that the DOH provide staff and administrative support to the Council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.99 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 Health Policy on February 4, 2021:
The CS replaces the underlying bill's requirement that the Rare Disease Advisory Council establish a method to securely hold and distribute funds for certain uses with the requirement that the Council provide written input and feedback to state agencies on matters that affect people who have been diagnosed with a rare disease, including, but not limited to, pandemic or natural disaster preparedness and response.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Baxley

588-01988-21 2021272c1

A bill to be entitled

An act relating to the Rare Disease Advisory Council; creating s. 381.99, F.S.; creating the advisory council adjunct to the Department of Health; specifying the purpose of the advisory council; providing for staff and administrative support; defining the term "rare disease"; specifying application of state law governing the establishment of advisory councils; prescribing the composition of the advisory council; providing for initial appointments to the advisory council by a specified date; providing organizational and other meeting requirements for the advisory council; prescribing duties and responsibilities of the advisory council; providing an effective date.

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

Section 1. Section 381.99, Florida Statutes, is created to read:

381.99 Rare Disease Advisory Council.—

(1) The Rare Disease Advisory Council, an advisory council as defined in s. 20.03(7), is created adjunct to the Department of Health for the purpose of providing recommendations on ways to improve health outcomes for individuals residing in this state who have a rare disease. The department shall provide staff and administrative support for the advisory council in the carrying out of its duties and responsibilities. For purposes of this section, the term "rare disease" means a condition that

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affects fewer than 200,000 people in the United States. Except as otherwise provided in this section, the advisory council shall operate in a manner consistent with s. 20.052.

(2) The advisory council is composed of the following members appointed by the Governor:

(a) A representative of the Department of Health.

(b) A representative of the Agency for Health Care Administration.

(c) A representative of the Office of Insurance Regulation.

(d) A representative of the Department of Education.

(e) Two representatives from academic research institutions in this state which receive any grant funding for research regarding rare diseases.

(f) One geneticist practicing in this state.

(g) One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.

(h) Two physicians who are licensed and practicing in this state with experience treating rare diseases.

(i) One hospital administrator from a hospital in this state which provides care to individuals diagnosed with rare diseases.

(j) Two individuals who are 18 years of age or older who have a rare disease.

(k) Two individuals who are caregivers of an individual with a rare disease.

(l) Two representatives of organizations operating in this state which provide care or other support for individuals with rare diseases.

(m) A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.

(n) A representative of the biotechnology industry.

(o) A representative of health insurance companies.

Any vacancy on the advisory council shall be filled in the same manner as the original appointment.

(3) The initial members of the advisory council shall be appointed by September 1, 2021. Each member shall be appointed to a 4-year term of office. However, in order to achieve staggered terms, the initial members appointed pursuant to paragraphs (2)(a)-(i) shall be appointed to a 2-year term. The Governor shall designate a chair and vice chair of the advisory council from among its membership. The advisory council shall meet for its initial meeting by October 1, 2021. Thereafter, the advisory council may meet upon the call of the chair or upon the request of a majority of its members. The advisory council may meet via teleconferencing or other electronic means. Notices for any scheduled meetings of the advisory council must be published in advance on the department's website.

(4) The advisory council shall:

(a) Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state.

(b) Develop recommended strategies for academic research institutions in this state to facilitate continued research on rare diseases.

(c) Develop recommended strategies for health care

providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the Department of Health for publication on the department's website.

(d) Provide input and feedback in writing to the department, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

(e) By July 1 of each year, beginning in 2022, submit a report to the Governor and the State Surgeon General which describes the activities of the advisory council in the past year and its findings and recommendations regarding rare disease research and care. Additionally, the report must be made available on the department's website.

Section 2. This act shall take effect July 1, 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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SJR 340
INTRODUCER:	Senator Diaz
SUBJECT:	Supermajority Vote Required to Enact a Single-payor Healthcare System
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Favorable**
2.	McKnight	Kidd	AHS	**Recommend: Favorable**
3.	McKnight	Sadberry	AP	**Pre-meeting**
4.			RC	

I. Summary:

SJR 340 proposes an amendment to the Florida Constitution to prohibit the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval.

The amendment proposed in the joint resolution will take effect on January 3, 2023, if approved by sixty percent of voters during the 2022 general election or an earlier special election specifically authorized by law for that purpose.

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted. There are indeterminate general publication costs associated with amendments appearing on the ballot.

II. Present Situation:

The Florida Constitution grants the Legislature authority (with some specific exceptions) to enact legislation by a majority vote in each house.[1] A bill to enact general law passed by the Legislature must be presented to the Governor for approval, and the bill becomes law if the Governor signs it or fails to veto it.[2] Vetoes can be overcome by a two-thirds vote of each house of the Legislature.[3]

[1] FLA. CONST. art. III, s. 7.
[2] FLA. CONST. art. III, s. 8(a).
[3] FLA. CONST. art. III, s. 8(c).

Similar Initiatives in Other States

In a single-payor health care system, only one entity bears the financial responsibility of health care – the government. Since the Affordable Care Act was passed in 2010 through 2019, sixty-six different single-payor bills have been proposed by legislators in twenty-one states.[4] Vermont is the first and only U.S. state that has passed such legislation.[5]

The Demise of Vermont's Green Mountain Care

On December 17, 2014, Vermont Governor Peter Shumlin publicly ended his administration's four-year initiative to develop, enact, and implement a single-payor health care system in Vermont.[6] Shumlin was first elected in 2010, promising a government-financed system, called Green Mountain Care, to provide universal coverage, replacing most private health insurance in Vermont. In 2011, a law was enacted to establish Green Mountain Care by 2017.[7]

Vermont's per capita income was rising and was projected to continue to rise,[8] meaning the federal matching rate for state dollars spent on Medicaid was decreasing.[9] Projected federal revenues from an anticipated State Innovation Waiver (under Section 1332 of the Affordable Care Act) dropped from $420 million in 2011 to $106 million in 2014.[10] To bankroll the $4.3 billion dollar cost of Green Mountain Care and substitute for the loss of private health insurance premiums, the Vermont Legislature would have had to approve an 11.5-percent payroll tax and an income tax on households as high as 9.5 percent.[11] These new taxes would have been glaringly evident on every Vermonter's tax bill, unlike employer-based health insurance premiums, which sometimes go unnoticed.[12] The funding challenges were met with a decline in public support for the program[13] and the Governor ended his attempt to enact Green Mountain Care.

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[4] Erin C. Fuse Brown and Elizabeth Y. McCuskey, *Federalism, ERISA, and State Single-Payer Health Care*, University of Pennsylvania Law Review, Vol. 168 (Mar. 31, 2020) *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3395462 (last visited Jan. 29, 2021).
[5] *Id.*
[6] Sarah Wheaton, *Vermont Bails on single-payer health care*, Politico (Dec. 17, 2014) *available at* https://www.politico.com/story/2014/12/vermont-peter-shumlin-single-payer-health-care-113653 (last visited Jan. 29, 2021).
[7] *Id.*
[8] Audio Interview with John E. McDonough, Dr.P.H., M.P.A., on Vermont's attempt to implement a single-payer health system – and why it failed, *Supplement to the N Engl J Med 2015; 372:1584-1585 available at* https://www.nejm.org/doi/full/10.1056/NEJMp1501050 (last visited Jan. 29, 2021).
[9] For every dollar a state spends on Medicaid, the federal government matches a rate that varies year to year. The Federal Medical Assistance Percentage (FMAP) is the percentage at which the federal government matches each state dollar spent on Medicaid. When a state's per capita income increases, it causes the FMAP to decrease.
[10] John E. McDonough, Dr.P.H., M.P.A., *The Demise of Vermont's Single-Payer Plan*, N Engl J Med 2015; 372:1584-1585 *available at* https://www.nejm.org/doi/full/10.1056/NEJMp1501050 (last visited Jan. 29, 2021).
[11] *Id.*
[12] *Id.*
[13] *Id. See also* Morgan True, *Special Report: What went wrong with the state's health care exchange (website), and why*, VTDigger (Mar. 16, 2014) *available at* https://vtdigger.org/2014/03/16/special-report-went-wrong-states-health-care-exchange/ (last visited Jan. 29, 2021).

III. Effect of Proposed Changes:

SJR 340 prohibits the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval pursuant to Article III, Section 8 of the Florida Constitution.

It defines the term "comprehensive health care services" to mean the full range of personal health services for diagnosis, treatment, follow-up, and rehabilitation of patients.

It defines the term "single-payor" to mean an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable to joint resolutions.

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:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted because the

amendment does not impact baseline revenue forecasts, which are based on current law and do not contain assumptions regarding future legislative changes.

Section 5(d), Art. XI, of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State paid approximately $351,834.45 to advertise six constitutional amendments in 2020.[14] Full publication costs for advertising a single constitutional amendment, on average, was approximately $58,639.08. This cost was paid from non-recurring General Revenue funds.[15] Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.[16] The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,[17] in newspapers for the 2020 election cycle was $86.85 per English word of the originating document.[18]

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.[19]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates section 22, Article III of the Florida Constitution.

[14] E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Health Policy).
[15] *See* Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.
[16] *Id.*
[17] Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.
[18] *Supra*, note 14.
[19] Section 100.371(13)(e)4., F.S. *See also* Chapter 2019-64, s. 3, Laws of Fla.

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 Senator Diaz

36-00558-21 2021340__

Senate Joint Resolution

A joint resolution proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval; providing definitions.

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

That the following creation of Section 22 of Article III of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE III

LEGISLATURE

SECTION 22. Supermajority vote required to enact a single-payor health care system.—

(a) SUPERMAJORITY VOTE REQUIRED TO ENACT SINGLE-PAYOR HEALTH CARE SYSTEM. The legislature may not enact a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Comprehensive health care services" means the full

36-00558-21 2021340__

range of personal health services for diagnosis, treatment, followup, and rehabilitation of patients.

(2) "Single-payor" means an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE III, SECTION 22

SUPERMAJORITY VOTE REQUIRED TO ENACT A SINGLE-PAYOR HEALTH CARE SYSTEM.—Proposing an amendment to the State Constitution to prohibit the legislature from enacting a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 348
INTRODUCER:	Health Policy Committee and Senator Rodriguez
SUBJECT:	Medicaid
DATE:	March 10, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Fav/CS**
2.	McKnight	Kidd	AHS	**Recommend: Favorable**
3.	McKnight	Sadberry	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 348 requires Florida Medicaid to reimburse for Medicare crossover claims for non-emergency ambulance services. Currently, Medicaid pays for emergency transportation crossover claims but not for non-emergency transportation crossover claims.

The bill requires Florida Medicaid to pay all deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to chapter 401, Florida Statutes, according to the corresponding procedure codes for such services. Currently, Medicaid must pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to chapter 401, Florida Statutes.

The bill is estimated to have an indeterminate fiscal impact on the Florida Medicaid program. *See* Section V of this analysis.

The bill takes effect on July 1, 2021.

II. Present Situation:

Florida Medicaid Program

The Medicaid program is a joint federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults and persons with disabilities.[1] The Centers for Medicare and Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS) is responsible for administering the federal Medicaid program. Florida Medicaid is the health care safety net for low-income Floridians. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.[2]

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups).[3] States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes. States send state plan amendments to the federal CMS for review and approval.[4]

Medicaid enrollees generally receive benefits through one of two service-delivery systems: fee-for-service (FFS) or managed care. Under FFS, health care providers are paid by the state Medicaid program for each service provided to a Medicaid enrollee. Under managed care, the AHCA contracts with private managed care plans for the coordination and payment of services for Medicaid enrollees. The state pays the managed care plans a capitation payment, or fixed monthly payment, per recipient enrolled in the managed care plan.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.[5] The SMMC program has two components, the Managed Medical Assistance (MMA) program and the Long-term Care program. Florida's SMMC offers a health care package covering both acute and long-term care.[6] The SMMC benefits are authorized by federal authority and are specifically required in ss. 409.973 and 409.98, F.S.

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[1] Medicaid.gov, *Medicaid, available at* https://www.medicaid.gov/medicaid/index.html (last visited Feb. 23, 2021).
[2] Section 20.42, F.S.
[3] Agency for Health Care Administration (AHCA), *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).
[4] Medicaid.gov, *Medicaid State Plan Amendments, available at* https://www.medicaid.gov/medicaid/medicaid-state-plan-amendments/index.html (last visited Feb. 23, 2021).
[5] *Id.*
[6] *Id.*

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in August 2014, and was re-procured for a period beginning December 2018 and ending in 2023.[7]

Florida Medicaid Dual-Eligible Recipients

Medicare is the federally administered and federally funded health insurance program for people who are 65 or older, certain younger people with disabilities, and people with end-stage renal disease.[8] Individuals who are enrolled in both Medicare and Medicaid are referred to as dual-eligible recipients.

For dual-eligible recipients, Medicare is the primary payer for medical services and Medicaid is the payer of last resort. Medicaid may cover medical costs that Medicare does not cover or only partially covers, such as nursing home care, personal care, and home and community-based services.

When Medicare does not pay the full amount billed for a service rendered to a dual-eligible recipient, the claim is transferred to the state Medicaid program to determine if Medicaid can pay the difference. This is often referred to as a crossover claim. This process also facilitates Medicaid programs in covering the costs of the recipient's Medicare Part A or Part B coinsurance or deductible amounts.

Various state statutes and rules govern whether or how much of a crossover Medicaid will pay. In the case of Medicare emergency ambulance services, s. 409.908(13), F.S., specifies that Medicaid must pay the entire crossover amount for dual-eligible recipients.

Regulation of Emergency Medical Transportation

Part III of ch. 401, F.S., governs the provision of medical transportation services in Florida and establishes the licensure and operational requirements for emergency medical services.[9]

Florida Medicaid currently covers emergency and non-emergency ambulance services as a mandatory state plan benefit.[10] This includes both ground and air ambulances. In the fee-for-service delivery system, the Medicaid reimbursement rate for ambulance transportation varies based on the mode of transportation (air or ground) and the needs of the recipient during transport (basic life support, advanced life support, or specialty care).

[7] *Id.*
[8] Medicare.gov, *What's Medicare*, *available at* https://www.medicare.gov/what-medicare-covers/your-medicare-coverage-choices/whats-medicare (last visited Feb. 2, 2021).
[9] Section 401.251, F.S.
[10] AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

Medicare Ambulance Services

Medicare covers emergency and non-emergency ambulance services under its Part B services category. Medicare enrollees who receive these services are responsible for a 20-percent coinsurance or deductible payment.[11]

Unlike Florida Medicaid, Medicare does not reimburse flat rates for ambulance transportation. Medicare pays providers a base rate plus an additional amount based on miles traveled. These rates are based on multiple factors, including geography and regional costs of living, and can range from as low as $400 to $1,500 depending on the level of care and miles traveled.[12]

III. Effect of Proposed Changes:

Section 1 amends s. 409.908(13)(c)4., F.S., to require Medicaid to pay deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to ch. 401, F.S., according to the corresponding procedure codes for such services. This authorizes the reimbursement of those costs for non-emergency transportation.

Section 401.23, F.S., defines the term "ambulance," which is interchangeable with the term "emergency medical services vehicle," to mean any privately or publicly owned land or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for, and is used for, or intended to be used for, land or water transportation of sick or injured persons requiring or likely to require medical attention during transport. An ambulance or emergency medical services vehicle can be used for both emergency and non-emergency transportation.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

[11] Medicare.gov, *Ambulance Services*, *available at* https://www.medicare.gov/coverage/ambulance-services (last visited Feb. 2, 2021).
[12] AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will increase reimbursements paid to ambulance providers that provide non-emergency transportation to dually-eligible individuals.

C. Government Sector Impact:

In the fee-for-service (FFS) delivery system, the deductibles and coinsurance for non-emergency medical transportation are already covered. For state fiscal year 2019-2020, Medicaid paid $1.1 million for coinsurance and deductibles for non-emergency transportation services provided to dually-eligible individuals through the FFS delivery system. In managed care, reasonable costs to comply with mandates must be built into the capitation rates paid to the health plans participating in the SMMC program, however, the proposed change would not have a material impact on the capitation rates. The bill is estimated to have an indeterminate fiscal impact on the Florida Medicaid program.[13]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.908 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 3, 2021:
The CS clarifies that the services required to be reimbursed must be services covered by Medicare and that they will be reimbursed according to their corresponding procedure

[13] AHCA, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

codes. The CS reinstates the requirement in current law that such reimbursed services be provided by ambulances licensed under ch. 401, F.S.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Rodriguez

588-01989-21 2021348c1

A bill to be entitled

An act relating to Medicaid; amending s. 409.908, F.S.; revising the types of emergency transportation vehicle services provided to Medicare-eligible persons for which Medicaid shall pay deductibles and coinsurance; specifying that such payments must be made according to certain procedure codes; providing an effective date.

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

Section 1. Paragraph (c) of subsection (13) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost

reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(13) Medicare premiums for persons eligible for both Medicare and Medicaid coverage shall be paid at the rates established by Title XVIII of the Social Security Act. For Medicare services rendered to Medicaid-eligible persons, Medicaid shall pay Medicare deductibles and coinsurance as follows:

(c) Notwithstanding paragraphs (a) and (b):

1. Medicaid payments for Nursing Home Medicare part A coinsurance are limited to the Medicaid nursing home per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. The Medicaid per diem rate shall be the rate in effect for the dates of service of the crossover claims and may not be subsequently adjusted due to subsequent per diem rate adjustments.

2. Medicaid shall pay all deductibles and coinsurance for Medicare-eligible recipients receiving freestanding end stage renal dialysis center services.

3. Medicaid payments for general and specialty hospital inpatient services are limited to the Medicare deductible and coinsurance per spell of illness. Medicaid payments for hospital Medicare Part A coinsurance shall be limited to the Medicaid hospital per diem rate less any amounts paid by Medicare, but only up to the amount of Medicare coinsurance. Medicaid payments for coinsurance shall be limited to the Medicaid per diem rate in effect for the dates of service of the crossover claims and may not be subsequently adjusted due to subsequent per diem adjustments.

4. Medicaid shall pay all deductibles and coinsurance for Medicare-covered ~~Medicare emergency transportation~~ services provided to Medicare-eligible recipients by ambulances licensed pursuant to chapter 401 according to the corresponding procedure codes for such services.

5. Medicaid shall pay all deductibles and coinsurance for portable X-ray Medicare Part B services provided in a nursing home, in an assisted living facility, or in the patient's home.

Section 2. This act shall take effect July 1, 2021.