

Tab 1	CS/SB 140 by JU, Benacquisto (CO-INTRODUCERS) Simpson, Book, Hutson, Perry, Bracy, Torres, Rodriguez, Campbell; (Similar to H 00335) Marriage Licenses
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Tab 2	SB 268 by Passidomo; Public Records/Public Guardians and Public-guardian Case Managers
423396	D S RCS CF, Passidomo Delete everything after 11/13 06:31 PM

Tab 3	SB 422 by Gibson; (Similar to H 00259) Elder Abuse Fatality Review Teams
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Tab 4	SB 424 by Gibson; (Identical to H 00261) Public Records and Public Meetings/Elder Abuse Fatality Review Team
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Tab 5	SB 450 by Garcia; Mental Health and Substance Use Disorders
862364	D S RCS CF, Garcia Delete everything after 11/13 06:31 PM

Tab 6	SB 498 by Garcia; Office of Public and Professional Guardians Direct-support Organization
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Garcia, Chair
Senator Torres, Vice Chair

MEETING DATE: Monday, November 13, 2017

TIME: 4:00—6:00 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Garcia, Chair; Senator Torres, Vice Chair; Senators Broxson, Campbell, Stargel, and Steube

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 140 Judiciary / Benacquisto (Similar H 335, Compare H 71, S 208)	Marriage Licenses; Providing that a marriage license may not be issued to a person under the age of 18 years; requiring each party to a marriage to provide his or her social security number or an alien registration number for purposes of child support enforcement; providing that the effective date of a marriage license must be delayed by 3 days if the parties to the marriage have not submitted valid certificates of completion of a premarital preparation course, etc. JU 10/24/2017 Fav/CS CF 11/06/2017 CF 11/13/2017 Favorable RC	Favorable Yeas 6 Nays 0
2	SB 268 Passidomo	Public Records/Public Guardians and Public-guardian Case Managers; Providing an exemption from public records requirements for certain identifying and location information of current or former public guardians, public-guardian case managers, and the spouses and children thereof; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CF 11/06/2017 CF 11/13/2017 Fav/CS GO RC	Fav/CS Yeas 6 Nays 0
3	SB 422 Gibson (Similar H 259, Compare H 261, Linked S 424)	Elder Abuse Fatality Review Teams; Creating elder abuse fatality review teams in each judicial circuit housed, for administrative purposes only, in the Department of Elderly Affairs; exempting certain information and records acquired by a review team from discovery or introduction into evidence in specified actions or proceedings; prohibiting a person from being required to testify regarding records or information produced or presented during meetings or other activities of a review team, etc. CF 11/13/2017 Favorable AHS AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Monday, November 13, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 424 Gibson (Identical H 261, Compare H 259, Linked S 422)	Public Records and Public Meetings/Elder Abuse Fatality Review Team; Specifying that information obtained by an elder abuse fatality review team which is confidential or exempt from public records requirements retains its protected status; providing an exemption from public meetings requirements for portions of review team meetings at which confidential or exempt information or the identity of an elder abuse victim is discussed; providing for future legislative review and repeal; providing statements of public necessity, etc. CF 11/13/2017 Favorable GO AP	Favorable Yeas 6 Nays 0
5	SB 450 Garcia	Mental Health and Substance Use Disorders; Requiring a specific level of screening for peer specialists working in mental health programs and facilities; specifying that the use of peer specialists for recovery support is an essential element of a coordinated system of behavioral health care; requiring the Department of Children and Families to develop a training program for peer specialists and give preference to trainers who are certified peer specialists; requiring all peer specialists to meet the requirements of a background screening as a condition of employment and continued employment, etc. CF 11/06/2017 CF 11/13/2017 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0
6	SB 498 Garcia	Office of Public and Professional Guardians Direct-support Organization; Abrogating the scheduled repeal of provisions governing a direct-support organization established under the Office of Public and Professional Guardians within the Department of Elderly Affairs, etc. CF 11/13/2017 Favorable AHS AP	Favorable Yeas 6 Nays 0
7	Update from: Secretary Mike Carroll, Department of Children and Families Director Barbara Palmer, Agency for Persons with Disabilities Secretary Jeffrey Bragg, Department of Elder Affairs Executive Director Leon Biegalski, Department of Revenue		Discussed

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Monday, November 13, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	Use of Portable Dialysis for Elders		Discussed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Committee Code Not Found

BILL: CS/SB 140

INTRODUCER: Judiciary Committee and Senator Benacquisto and others

SUBJECT: Marriage Licenses

DATE: November 3, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 140 prohibits a county court judge or clerk of the circuit court from issuing a marriage license to any person under the age of 18. Accordingly, a minor is not permitted to marry in the state. The current exceptions that permit a minor to marry, such as parental consent, the fact that a couple already has a child, or a physician's written verification of a pregnancy, are repealed. Under this bill, only a person 18 years of age or older is permitted to marry.

II. Present Situation:

According to the Bureau of Vital Statistics,¹ 1,828 marriage licenses were issued in the last 5 years to a couple in which at least one party was a minor. Of this total, 132 licenses were issued to a couple in which both parties were minors. In that same time period, 1 license was issued in which one party was 13 years old, 7 licenses were issued in which one party was 14 years old, 29 licenses were issued in which one party was 15 years old, and 1,807 licenses were issued in which one party was 16 or 17 years old.² A complete chart of data from the Bureau of Vital Statistics is provided below.

¹ *Marriages Under 18, Years 2012-2016*, Email attachment supplied by Gary Sammet, Bureau of Vital Statistics, Department of Health (Oct. 25, 2017) (on file with the Senate Committee on Judiciary). The Bureau of Vital Statistics is the state repository for all marriage records filed in the state. The licenses are filed with the clerks of courts who are legally bound to report them to the Bureau.

² The sum of these four categories, 1,844, exceeds the total number of licenses issued, 1,828, because 16 minors are represented in more than one category.

Marriage Licenses Issued to a Minor, Years 2012-2016³

Number of Marriages by Year by Spouse Age.		2012	2013	2014	2015	2016
Party 1	Party 2					
13 years	16-17 Years		1			
14 years	15 Years		1			
	18-19 years			1		
	20-24 years	3				
15 Years	16-17 years	4	2	2		1
	18-19 years					3
	20-24 years	2	1		1	
	25-29 years			1		
16-17 Years	35-39 years				1	
	15 Years	3	2			
	16-17 Years	30	21	21	19	25
	18-19 years	195	145	136	128	113
	20-24 years	163	135	118	124	85
	25-29 years	28	25	26	38	18
	30-34 years	7	2	2	3	4
	35-39 years	2	1	2	1	1
18-19 years	40-44 years					1
	90-94 years			1		
20-24 years	15 Years	1	1			
	16-17 Years	19	16	18	21	35
25-29 years	14 years		1			
	15 Years		1			
	16-17 Years	5	7	5	8	21
30-34 years	15 Years	1				
	16-17 Years	2	1	2	2	4
35-39 years	14 years	1				
	15 Years				1	
	16-17 Years	1	1		1	
40-44 years	16-17 Years			1	1	
40-44 years	16-17 Years				1	
Totals		467	364	336	350	311

³ Bureau of Vital Statistics, Florida Department of Health.

Marriage Licenses

The authority to issue a marriage license in this state is vested solely in a county court judge or clerk of the circuit court.⁴ No one may marry without a valid license.⁵ In order to obtain a license, the single individuals must appear together in person, bring their valid government issued identification and social security numbers, and complete a marriage license application.

Applicants must generally be at least 18 years of age to obtain a marriage license. However, there are exceptions under which a minor may be issued a license to marry.

Applicants Who are 16 or 17 May Marry With Parental Consent

If an applicant for a marriage license is 16 or 17 years of age, he or she is entitled to a marriage license if both of his or her parents or a guardian provide consent to the marriage. However, the minor does not need parental consent if his or her parents are deceased or if the minor was married previously. The written consent must be acknowledged before a person authorized to take acknowledgments and administer oaths.⁶

Judicial Bypass in Cases of Pregnancy or Parentage

A minor applicant may receive a marriage license without parental consent in limited circumstances that depend upon the discretion of a county court judge. A county court judge may, in his or her discretion, issue a marriage license to a minor if both parties swear under oath that they are the parents of a child.⁷ Additionally, if a pregnancy is verified in writing by a licensed physician, a county court judge may issue a marriage license to:

- Any male or female younger than 18 years of age and the parties swear under oath that they are expecting a child; or
- Any female younger than 18 years of age and a male older than 18 years of age if the female provides a sworn application that she is expecting a child.⁸

The statutes do not set a minimum age requirement for a marriage license when the applicants for a license have a child together or are expecting a child.⁹ In these circumstances, the statutes permit a county court judge, in the exercise of his or her discretion, to issue a marriage license when one or both applicants for a license are younger than 16.

Disability of Nonage of Minors

Disabilities of nonage are basically activities or actions that an individual cannot legally do or engage in as a minor. Current law removes the disability of nonage of a minor who is married or has been married or subsequently becomes married, including one whose marriage is dissolved,

⁴ Section 741.01, F.S.

⁵ Section 741.08, F.S.

⁶ Section 741.0405(1), F.S.

⁷ Section 741.0405(2), F.S.

⁸ Section 741.0405(3), F.S.

⁹ See s. 741.0405(4), F.S.

or who is widowed. The minor may assume the management of his or her estate, contract and be contracted with, sue and be sued, and perform all acts that he or she could do if not a minor.¹⁰

III. Effect of Proposed Changes:

Under this bill, a person, without exception, must be at least 18 years of age to marry or receive a marriage license in this state. The current exceptions that allow a minor to marry with parental consent or without parental consent when the couple has a child or is expecting a child are repealed.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If marriage licenses are not issued to minors, the clerks of court might receive less revenue than in the years in which licenses were issued to minors.

VI. Technical Deficiencies:

- Line 100 of the bill reads 741.03 and 741.04(2) commits ... It should read 741.03 or ~~and~~ 741.04(2) commits ...

¹⁰ Section 743.01, F.S.

- If CS/SB 140 is enacted, s.743.01 would need to be repealed at a future date. Sections 48.031, 450.012, 450.061, 731.201, and 744.102, F.S. would need to be amended to conform to the repeal of s. 743.01, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 741.02 of the Florida Statutes and repeals section 741.0405 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 Judiciary on October 25, 2017:

The committee substitute reorganizes the current bill structure but does not make substantive changes to the bill. The committee substitute removes from s. 741.0405(4), F.S., the new language in the underlying bill which prohibits anyone younger than 18 years of age from marrying, and places it as new subsection (1) in s. 741.04, F.S. Current s. 741.0405, F.S. is then repealed. Section 741.04, F.S., is substantially reworded to modernize the language and break the existing language into shorter paragraphs.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senators Benacquisto,
Simpson, Book, Hutson, Perry, and Bracy

590-00928-18

2018140c1

1 A bill to be entitled
2 An act relating to marriage licenses; amending s.
3 741.04, F.S.; providing that a marriage license may
4 not be issued to a person under the age of 18 years;
5 requiring parties to a marriage to file a written and
6 signed affidavit with the county court judge or clerk
7 of the circuit court before the judge or clerk may
8 issue a marriage license; requiring such affidavit to
9 include certain information; providing legislative
10 intent; requiring each party to a marriage to provide
11 his or her social security number or an alien
12 registration number for purposes of child support
13 enforcement; prohibiting a judge or clerk from issuing
14 a marriage license unless he or she is presented with
15 certain written statements; providing that the
16 effective date of a marriage license must be delayed
17 by 3 days if the parties to the marriage have not
18 submitted valid certificates of completion of a
19 premarital preparation course; providing exceptions;
20 repealing s. 741.0405, F.S., relating to the issuance
21 of marriage licenses to persons under 18 years of age;
22 amending s. 741.05, F.S.; conforming cross-references;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 741.04, Florida Statutes, is amended to
28 read:
29 (Substantial rewording of section. See

Page 1 of 4

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

590-00928-18

2018140c1

30 s. 741.04, F.S., for present text.)
31 741.04 Issuance of marriage license.--
32 (1) A county court judge or clerk of the circuit court may
33 not issue a license to marry to any person younger than 18 years
34 of age.
35 (2) A county court judge or clerk of the circuit court may
36 not issue a license to marry until the parties to the marriage
37 file with the county court judge or clerk of the court a written
38 and signed affidavit, made and subscribed before a person
39 authorized by law to administer an oath, which provides:
40 (a) The social security number or any other available
41 identification number for each person.
42 (b) The respective ages of the parties.
43 (3) The submission of social security numbers as provided
44 in this section is intended to support the federal Personal
45 Responsibility and Work Opportunity Reconciliation Act of 1996.
46 The state has a compelling interest in promoting not only
47 marriage, but also responsible parenting, which may include the
48 payment of child support. Any person who has been issued a
49 social security number shall provide that number in satisfying
50 the requirement in subsection (2). Social security numbers or
51 other identification numbers obtained under this section may be
52 used only for the purposes of administration in Title IV-D child
53 support enforcement cases.
54 (a) Any person who is not a citizen of the United States
55 may provide either a social security number or an alien
56 registration number issued by the United States Bureau of
57 Citizenship and Immigration Services.
58 (b) Any person who is not a citizen of the United States

Page 2 of 4

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

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59 and who has not been issued a social security number or an alien
 60 registration number is encouraged to provide another form of
 61 identification.

62
 63 This subsection does not prohibit a county court judge or clerk
 64 of the circuit court from issuing a marriage license to
 65 individuals who are not citizens of the United States if one or
 66 both of them are unable to provide a social security number, an
 67 alien registration number, or another identification number.

68 (4) A county court judge or clerk of the circuit court may
 69 not issue a license for the marriage of any person unless the
 70 county court judge or clerk of the circuit court is first
 71 presented with both of the following:

72 (a) A written statement, signed by both parties, which
 73 specifies whether the parties, individually or together, have
 74 completed a premarital preparation course.

75 (b) A written statement that verifies that both parties
 76 have obtained and read or otherwise accessed the information
 77 contained in the handbook or other electronic media presentation
 78 of the rights and responsibilities of parties to a marriage
 79 specified in s. 741.0306.

80 (5) If a couple does not submit to the clerk of the circuit
 81 court valid certificates of completion of a premarital
 82 preparation course, the clerk shall delay the effective date of
 83 the marriage license by 3 days from the date of application, and
 84 the effective date must be printed on the marriage license in
 85 bold type. If a couple submits valid certificates of completion
 86 of a premarital preparation course, the effective date of the
 87 marriage license may not be delayed. The clerk shall grant

590-00928-18 2018140c1

88 exceptions to the delayed effective date requirement to non-
 89 Florida residents and to couples asserting hardship. Marriage
 90 license fee waivers are available to all eligible couples. A
 91 county court judge issuing a marriage license may waive the
 92 delayed effective date requirement for Florida residents who
 93 demonstrate good cause.

94 Section 2. Section 741.0405, Florida Statutes, is repealed.

95 Section 3. Section 741.05, Florida Statutes, is amended to
 96 read:

97 741.05 Penalty for violation of ss. 741.03, ~~741.04(1)~~
 98 ~~741.04(1)~~.--Any county court judge, clerk of the circuit court,
 99 or other person who violates ~~shall violate~~ any provision of ss.
 100 741.03 and 741.04(2) ~~commits 741.04(1)~~ shall be guilty of a
 101 misdeemeanor of the first degree, punishable as provided in s.
 102 775.082 or s. 775.083.

103 Section 4. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

14D
Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic End Child Marriage

Name Sherry Johnson

Job Title Advocate Survival S Von Foundation

Address 400 Cap. Cir.

Street

Tallahassee

City

State

Zip

Phone 850 320 7867

Email forgivingtheunforgivable@live

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing End Child Marriage

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/13/17

Meeting Date

SB 140

Bill Number (if applicable)

Topic Child Marriage

Amendment Barcode (if applicable)

Name Gus Corbella

Job Title Senior Director - Greenberg Traurig

Address 101 E. College Avenue

Phone 850-222-6891

Street

Tallahassee

FL

32301

Email corbella@gtlaw.com

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Tahirih (TAH-HOORAY) Justice Center

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-17
Meeting Date

140
Bill Number (if applicable)

Topic Child Marriage

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Ms

Address 625 E. Brevard St
Street

Phone 850-251-4280

Tallahassee FL 32308
City State Zip

Email barbaradevane1@
Yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL NOW (National Organization for Women)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17

Meeting Date

140 & 450

Bill Number (if applicable)

Topic Child marriage & Substance abuse

Amendment Barcode (if applicable)

Name Ignacio Diaz

Job Title _____

Address 228 dixie drive

Phone 954-675-4866

Street

Tallahassee
City

FL
State

32304
Zip

Email IDISE@my.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NASW & FSU NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1113117
Meeting Date

140
Bill Number (if applicable)

Topic Child Marriage

Name Mackenna Tobey

Job Title Second vice president

Address 2566 W Tennessee St. #4222

Street

Phone 954-612-9840

Tallahassee FL 32304

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FSU NOW

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17
Meeting Date

140
Bill Number (if applicable)

Topic Marriage Licenses

Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 119 S. Monroe St.
Street
TCH
City State Zip

Phone 904 205-9000

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chapter American Academy of Pediatrics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-17
Meeting Date

SB 140
Bill Number (if applicable)

Topic Marriage Licenses

Amendment Barcode (if applicable)

Name Jodi Stevens

Job Title Director of Government Affairs

Address 1 West Adams St.
Street
Jacksonville FL 32202
City State Zip

Phone 904-383-9403

Email jodi.stevens@pacecenter.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PACE Center For Girls, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-2017
Meeting Date

140
Bill Number (if applicable)

Topic Child Marriage

Amendment Barcode (if applicable)

Name Chloe Schulte

Job Title Vice Chair Student Mother Caucus

Address 2719 Mission Rd.
Street

Phone 407-956-0358

Tallahassee FL 32304
City State Zip

Email CMS1414@my.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Organization for Women

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

THE FLORIDA SENATE

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

Meeting Date
11-19-12

Bill Number (if applicable)
140

Amendment Barcode (if applicable)

Topic Child Marriage
Name Cynthia A. Cotas
Job Title President of FSU National Organization for Women
Address 501 Chapel Dr Apt 1412
Street
Tallahassee FL
City
32304
Zip
Email cgcotas@fswomen.org
Phone 904-654-5102

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FSU National Organization for Women

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/13/17 Meeting Date

Topic Child Marriage

Name Carolyn Sizemore

Job Title Director of Membership, NOW FSU

Address 9141 Greenleaf Ct.

City Fort Myers

State FL

Zip 33919

Email ces17d@my.fsu.edu

Phone 239-851-4850

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Organization for Women FSU

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

Amendment Barcode (if applicable)

Bill Number (if applicable)

1410

**THE FLORIDA SENATE
APPEARANCE RECORD**

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

Meeting Date 11-13-17

Bill Number (if applicable) 140

Amendment Barcode (if applicable) _____

Topic Under Age Marriage
Name Nelson Diaz

Job Title _____

Address 999 Ponce de Leon Blvd

Street Oral Gables
City FL
State 33134
Zip

Phone 305-490-3414

Email Diaz@505trkgy.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Family Law Section Florida Bar

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

APPEARANCE RECORD

THE FLORIDA SENATE

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

Meeting Date 11/13/17

Bill Number (if applicable) 140

Amendment Barcode (if applicable) _____

Topic Child Marriage

Name Victoria Tompkins

Job Title Director of Community Service

Address 411 SW 18th Ct

City Pompano Beach FL

State _____

Zip 33060

Phone 954-471-0765

Email tompatori@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ~~Florida~~ FSU National Organization for Women

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

APPEARANCE RECORD

THE FLORIDA SENATE

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

Meeting Date

11/13/17

Topic

DAN CHILD MATRIMONY

Name

ROY MULLER

Job Title

Address

111 S MARKNOVA BLVD

Street

TRIV

FL

City

State

Zip

32301

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

THE CHILDREN'S CAMPAIGN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

Amendment Barcode (if applicable)

Bill Number (if applicable)

170

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17
Meeting Date

140
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue
Street

Phone (407) 418-0250
~~(407) 418-0250~~

Orlando FL 32806
City State Zip

Email amberk@floridafamilyaction.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Family Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-2017
Meeting Date

140
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: CS/SB 140
FINAL ACTION: Favorable
MEETING DATE: Monday, November 13, 2017
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Campbell						
X		Stargel						
X		Steube						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0							
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
 UNF=Unfavorable
 -R=Reconsidered

RCS=Replaced by Committee Substitute
 RE=Replaced by Engrossed Amendment
 RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
 VA=Vote After Roll Call
 VC=Vote Change After Roll Call

WD=Withdrawn
 OO=Out of Order
 AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 268

INTRODUCER: Senator Passidomo

SUBJECT: Public Records/Public Guardians

DATE: November 14, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 268 creates a public records exemption for the identifying and location information of current and former public guardians, employees with fiduciary responsibility, and their spouses and children. The bill provides for retroactive application, and includes a constitutionally required public necessity statement. The exemption will stand repealed on October 2, 2023, pursuant to the Open Government Sunset Review Act unless it is reenacted.

The bill requires a two-thirds vote from each chamber for passage.

The bill has no impact on state revenues or expenditures.

The bill has an effective date of July 1, 2018.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST., art. I, s. 24(a).

of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

The OGSR also requires specified questions to be considered during the review process.²¹ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

²¹ Section 119.15(6)(a), F.S. The specified questions are:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?
4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
5. Is the record or meeting protected by another exemption?
6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.²³

Guardianship

Guardianship is a concept whereby a “guardian” acts for another, called a “ward,” whom the law regards as incapable of managing his or her own affairs due to age or incapacity. Guardianships are generally disfavored due to the loss of individual civil rights, and a guardian may be appointed only if the court finds there is no sufficient alternative to guardianship.

There are two main forms of guardianship: guardianship over the person or guardianship over the property, which may be limited or plenary.²⁴ For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage his or her own affairs. If the adult is competent, this can be accomplished voluntarily. However, in situations where an individual’s mental competence is in question, an involuntary guardianship may be established through the adjudication of incompetence which is based on the determination of a court appointed examination committee.²⁵

Florida courts have long recognized the relationship between a guardian and his or her ward as a classic fiduciary relationship.²⁶ A fiduciary relationship exists between two persons when one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of that relationship.²⁷ The most basic duty of a fiduciary is the duty of loyalty: a fiduciary must refrain from self-dealing, must not take unfair advantage of the ward, must act in the best interest of the ward, and must disclose material facts.²⁸ In addition to the duty of loyalty, a fiduciary also owes a duty of care to carry out its responsibilities in an informed and considered manner.

Section 744.361, F.S., imposes specific duties upon a guardian consistent with the basic duties of a fiduciary including protecting and preserving the property of the ward’s overall physical and social health. A guardian must file with the court an initial guardianship report,²⁹ an annual guardianship report,³⁰ and an annual accounting of the ward’s property.³¹ The reports provide evidence of the guardian’s faithful execution of his or her fiduciary duties.³²

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

²⁴ Section 744.102(9)(a) and (b), F.S.

²⁵ Sections 744.102(12), 744.3201, 744.341, F.S.

²⁶ *Lawrence v. Norris*, 563 So. 2d 195, 197 (Fla. 1st DCA 1990). Section 744.361(1), F.S.

²⁷ *Doe v. Evans*, 814 So. 2d 370, 374 (Fla. 2002).

²⁸ *Capital Bank v. MVP, Inc.* 644 So. 2d 515, 520 (Fla. 3d DCA 1994).

²⁹ Section 744.362, F.S.

³⁰ Section 744.367, F.S.

³¹ Section 744.3678, F.S.

³² Sections 744.368(1) and 744.369, F.S.

At the heart of a court's interpretation of a fiduciary relationship is a concern that persons who assume trustee-like positions with discretionary power over the interests of others might breach their duties and abuse their position. Section 744.446(1), F.S., explicitly states that the "fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law." If a guardian breaches his or her fiduciary duty, a court will intervene and "take the necessary actions to protect the ward and the ward's assets."³³

Office of the Public and Professional Guardians

The Legislature created the Statewide Public Guardianship Office in 1999 to provide oversight for all public guardians.³⁴ The Statewide Public Guardianship Office was renamed the Office of the Public and Professional Guardians in 2006.³⁵ A public guardian may serve "an incapacitated person if there is no family member or friend, other person, bank, or corporation willing and qualified to serve as guardian."³⁶ A person serving as a public guardian is considered a professional guardian for purposes of regulation, education, and registration.³⁷ A public guardian may be an appointee of the Office of the Public and Professional Guardians or a contract employee of a nonprofit corporation.³⁸ Public guardianship offices are located in all 20 judicial circuits in the state.

Currently, the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of public guardians and employees with fiduciary responsibility as well as the names and location of schools and day care facilities of the children of public guardians and employees with fiduciary responsibility are subject to release pursuant to a public records request.

III. Effect of Proposed Changes:

Section 1 creates s. 744.21031, F.S., to allow the home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians and employees with fiduciary responsibility; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former guardians and employees with fiduciary responsibility; and the names and locations of schools and day care facilities attended by the children of current and former public guardians and employees with fiduciary responsibility to be exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The bill also provides that the public records exemption has retroactive effect.

The public records exemption is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S., and will be repealed October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

³³ Section 744.446(4), F.S.

³⁴ Chapter 99-277, Laws of Fla.

³⁵ Chapter 2016-40, Laws of Fla.

³⁶ Section 744.2007(1), F.S.

³⁷ Section 744.102(17), F.S.

³⁸ Section 744.2006, F.S.

Section 2 states that the Legislature finds it is a public necessity that the identifying and location information of current and former public guardians and employees with fiduciary responsibility, their spouses and children be exempt from s. 119.07(1) and s. 24(a), Article I of the State Constitution. The bill includes examples of how public guardians have been threatened and injured by their wards. The bill provides that the release of identifying and location information of current and former public guardians, employees with fiduciary responsibility, and their family members places them in danger of physical and emotional harm from disgruntled individuals who may act inappropriately or seek revenge due to actions taken by public guardians. Section 2 also states that the harm that may result from the release of such personal identifying and location information outweighs any public benefit that may be derived from the disclosure of the information.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of each chamber for public records exemptions to pass.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the state purpose of the law. The bill exempts certain identifying and location information of current and former public guardians, employees with fiduciary responsibility, their spouses and children. The public necessity for the exemption provides that guardians and their family members are subject to threats of emotional and physical harm from disgruntled individuals. The exemption from disclosure would help protect guardians and their families. This bill appears to be no broader than necessary to accomplish the public necessity for this public records exemption

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private contractors will have to redact the information of the public guardian or employee with fiduciary responsibility if a public records request is made. This cost will be absorbed through existing resources.

C. Government Sector Impact:

Government entities will have to redact the information of the public guardian or employee with fiduciary responsibility if a public records request is made. This cost will be absorbed through existing resources.

VI. Technical Deficiencies:

Section 2. of the bill on line 77 should be Section 3.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 744.21031 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Children, Families, and Elder Affairs on November 13, 2017:

The amendment replaces the term “public-guardian case manager” with the term “employee with fiduciary responsibility.”

B. Amendments:

None.



423396

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 744.21031, Florida Statutes, is created
to read:

744.21031 Public records exemption.—The home addresses,
telephone numbers, dates of birth, places of employment, and
photographs of current or former public guardians and employees
with fiduciary responsibility; the names, home addresses,



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11 telephone numbers, dates of birth, and places of employment of
12 the spouses and children of such persons; and the names and
13 locations of schools and day care facilities attended by the
14 children of such persons are exempt from s. 119.07(1) and s.
15 24(a), Art. I of the State Constitution. This exemption applies
16 to information held by an agency before, on, or after July 1,
17 2018. This section is subject to the Open Government Sunset
18 Review Act in accordance with s. 119.15 and shall stand repealed
19 on October 2, 2023, unless reviewed and saved from repeal
20 through reenactment by the Legislature.

21 Section 2. (1) The Legislature finds that it is a public
22 necessity that the following identifying and location
23 information be exempt from s. 119.07(1), Florida Statutes, and
24 s. 24(a), Article I of the State Constitution:

25 (a) The home addresses, telephone numbers, dates of birth,
26 places of employment, and photographs of current or former
27 public guardians and employees with fiduciary responsibility;

28 (b) The names, home addresses, telephone numbers, dates of
29 birth, and places of employment of spouses and children of such
30 guardians and employees with fiduciary responsibility; and

31 (c) The names and locations of schools and day care
32 facilities attended by the children of such guardians and
33 employees with fiduciary responsibility.

34 (2) The Legislature finds that the release of such
35 identifying and location information might place current or
36 former public guardians and employees with fiduciary
37 responsibility and their family members in danger of physical
38 and emotional harm from disgruntled individuals who react
39 inappropriately to actions taken by the public guardians and



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40 employees with fiduciary responsibility. Public guardians and
41 employees with fiduciary responsibility provide a valuable
42 service to the community by helping some of the state's most
43 vulnerable residents who lack the physical or mental capacity to
44 take care of most aspects of their own personal affairs. Public
45 guardians and employees with fiduciary responsibility help those
46 who lack a willing and qualified family member or friend and do
47 not have the income or assets to pay a professional guardian.

48 (3) Despite the value of this service, however, some
49 persons, including a public guardian's own wards, become
50 disgruntled with the assistance provided or the decisions a
51 public guardian or an employee with fiduciary responsibility
52 makes, which can result in a guardian or an employee with
53 fiduciary responsibility or the family members of the guardian
54 or the employee with fiduciary responsibility becoming potential
55 targets for an act of revenge. Wards have harassed their public
56 guardians with threats of incarceration, violence, and death
57 through voicemail messages and social media. Wards have also
58 left voicemail messages threatening to kill themselves and others,
59 as well as the public guardian. In the course of their duties,
60 public guardians have also been subject to being physically
61 assaulted.

62 (4) After a public guardian or an employee with fiduciary
63 responsibility concludes his or her service, the risk continues
64 because a disgruntled individual may wait until then to commit
65 an act of revenge. The harm that may result from the release of
66 a public guardian's or an employee with fiduciary
67 responsibility's personal identifying and location information
68 outweighs any public benefit that may be derived from the



423396

69 disclosure of the information.

70 Section 2. This act shall take effect July 1, 2018.

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

72 And the title is amended as follows:

73 Delete everything before the enacting clause
74 and insert:

75 A bill to be entitled

76 An act relating to public records; creating s.

77 744.21031, F.S.; providing an exemption from public

78 records requirements for certain identifying and

79 location information of current or former public

80 guardians, employees with fiduciary responsibility,

81 and the spouses and children thereof; providing for

82 retroactive application; providing for future

83 legislative review and repeal of the exemption;

84 providing a statement of public necessity; providing

85 an effective date.

By Senator Passidomo

28-00312-18

2018268__

A bill to be entitled

An act relating to public records; creating s. 744.21031, F.S.; providing an exemption from public records requirements for certain identifying and location information of current or former public guardians, public-guardian case managers, and the spouses and children thereof; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 744.21031, Florida Statutes, is created to read:

744.21031 Public records exemption.—The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians and public-guardian case managers; 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. This exemption applies to information held by an agency before, on, or after July 1, 2018. This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the

Page 1 of 3

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

28-00312-18

2018268__

Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that the following identifying and location information be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution:

(a) The home addresses, telephone numbers, dates of birth, places of employment, and photographs of current or former public guardians and public-guardian case managers;

(b) The names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such guardians and case managers; and

(c) The names and locations of schools and day care facilities attended by the children of such guardians and case managers.

(2) The Legislature finds that the release of such identifying and location information might place current or former public guardians and public-guardian case managers and their family members in danger of physical and emotional harm from disgruntled individuals who react inappropriately to actions taken by the public guardians and public-guardian case managers. Public guardians and public-guardian case managers provide a valuable service to the community by helping some of the state's most vulnerable residents who lack the physical or mental capacity to take care of most aspects of their own personal affairs. Public guardians and public-guardian case managers help those who lack a willing and qualified family member or friend and do not have the income or assets to pay a professional guardian.

(3) Despite the value of this service, however, some

Page 2 of 3

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

28-00312-18

2018268__

59 persons, including a public guardian's own wards, become
60 disgruntled with the assistance provided or the decisions a
61 public guardian or case manager makes, which can result in a
62 guardian or case manager or the guardian's or case manager's
63 family members becoming potential targets for an act of revenge.
64 Wards have harassed their public guardians with threats of
65 incarceration, violence, and death through voicemail messages
66 and social media. Wards have also left voicemail messages
67 threatening to kill themselves and others, as well as the public
68 guardian. In the course of their duties, public guardians have
69 also been subject to being physically assaulted.

70 (4) After a public guardian or case manager concludes his
71 or her service, the risk continues because a disgruntled
72 individual may wait until then to commit an act of revenge. The
73 harm that may result from the release of a public guardian's or
74 case manager's personal identifying and location information
75 outweighs any public benefit that may be derived from the
76 disclosure of the information.

77 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17
Meeting Date

268
Bill Number (if applicable)
423396
Amendment Barcode (if applicable)

Topic _____

Name Bryan Cherry

Job Title Associate

Address 217 S. Adams St.
Street

Phone (850) 544-5673

Tallahassee FL. 32301
City State Zip

Email bryan@pinpointresults.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Public Guardian Coalition

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/2017

Meeting Date

268

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St. Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17

Meeting Date

268

Bill Number (if applicable)

423396

Amendment Barcode (if applicable)

Topic _____

Name Karen Campbell

Job Title Public Guardian

Address 1425 Piedmont Dr. E #2010

Street

Phone (850) 933-7382

Tallahassee FL 32308

City

State

Zip

Email CampbellPC@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL. Public Guardian Coalition

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 268
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, November 13, 2017
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS	11/13/2017 1					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Campbell						
X		Stargel						
X		Steube						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
-R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 422

INTRODUCER: Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: November 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 422 authorizes the establishment of elder abuse fatality review teams to review fatal incidents of elder abuse. The bill also exempts certain information and records acquired by a review team from discovery or introduction into evidence in specified actions or proceedings. The review teams are assigned to the Department of Elder Affairs.

The bill has an effective date of July 1, 2018, and the fiscal impact is unknown.

II. Present

There are currently no designated Elder Abuse Fatality Review Teams. The Adult Protective Services Program, under the Department of Children and Families (DCF), is responsible for preventing further harm to vulnerable adults who are victims of abuse, neglect, exploitation or self-neglect. This responsibility includes alleged deaths due to abuse or neglect.

The Florida Abuse Hotline, under DCF, screens allegations of adult abuse and/or neglect to determine whether the information meets the criteria of an abuse report. If the criteria is met, a protective investigation is initiated to confirm whether or not there is evidence that abuse has occurred; whether that is an immediate or long-term risk to the victim; and whether the victim needs additional services to safeguard his or her well-being.¹

In section 415.1034, F.S., there is a list of persons that have an immediate, mandatory requirement to report to the central abuse hotline if they know, have suspicion, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited. Additionally, any person required to investigate reports of abuse, neglect, or

¹Florida Department of Children and Families; Protecting Vulnerable Adults, available at <http://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults> (last visited Nov. 7, 2017).

exploitation and who has reasonable cause to suspect that a vulnerable adult dies as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency and to the department, notwithstanding the existence of a death certificate signed by a practicing physician.²

DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.³ For each report it receives the department shall perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in needs of services, whether there is an indication that the vulnerable adult was abused, neglected, or exploited, and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.⁴

Section 415.1102, F.S., authorizes DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. Multidisciplinary adult protection team is defined as a team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly persons.⁵ The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personal with experience or training to provide health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.⁶ The multidisciplinary team is to be utilized and convened to supplement the protective services activities of the protective services program of the department.⁷

III. Effect of Proposed Changes:

Section 1 creates s. 415.1103, F.S., to authorize the creation of elder abuse fatality review teams. The review teams include numerous state and local agencies as well as community partners. The fatality review teams are established in each judicial circuit to review fatal or near-fatal incidents of abuse, neglect or violence against the elderly. There are currently 20 judicial circuits in Florida. The review may include a review of events leading up to the incident, available community resources, current laws and policies and actions taken by systems and individuals related to the incident. The review team is directed to make policy and other recommendations as to how incidents of elder abuse deaths may be prevented.

This section includes language to prevent monetary liability on the part of any member of the elder abuse fatality review team. Additionally, all information and records acquired by an elder abuse fatality review team are not subject to discovery or introduction into evidence in any civil or criminal action. The elder abuse fatality review teams are assigned to the Department of Elder Affairs for administrative purposes.

² Section 415.1034(2), F.S.

³ Section 415.104(1), F.S.

⁴ Section 415.104(2), F.S.

⁵ Section 415.1102(1), F.S.

⁶ Section 415.1102(2), F.S.

⁷ Section 415.1102(3), F.S.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Any public records or open meetings issues are addressed in SB 424.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The creation of elder abuse fatality review teams will create a fiscal impact on both the Department of Elder Affairs for administrative support, and other public agencies whose staff lend their time to sit on the local review teams. The cost of the bill is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Review teams will most likely need access to confidential information in order to complete its reviews. Section 415.107, F.S., makes reports and investigations of elder abuse and/or neglect confidential but the team will most likely need this information to complete its reviews.

VIII. Statutes Affected:

This bill creates section 415.1103 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Gibson

6-00430B-18

2018422__

A bill to be entitled

An act relating to elder abuse fatality review teams; creating s. 415.1103, F.S.; providing legislative findings; creating elder abuse fatality review teams in each judicial circuit housed, for administrative purposes only, in the Department of Elderly Affairs; providing for membership; specifying the duties of the review teams; providing immunity from liability for acts conducted in furtherance of a review team's duties; prohibiting a review team and its members from disclosing certain information; exempting certain information and records acquired by a review team from discovery or introduction into evidence in specified actions or proceedings; providing an exception; prohibiting a person from being required to testify regarding records or information produced or presented during meetings or other activities of a review team; providing an exception; requiring each judicial circuit to organize by public notice the review team's initial meeting; providing requirements for the initial meeting; providing an effective date.

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

Section 1. Section 415.1103, Florida Statutes, is created to read:

415.1103 Elder abuse fatality review teams.-

(1) The Legislature finds that elder abuse is a serious issue and that fatality review teams raise awareness in the

Page 1 of 5

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

6-00430B-18

2018422__

community of the serious nature and potential lethality of elder abuse in this state, support the enactment of protections and reforms that will help prevent abuse-related deaths in the future, and help ensure that victims of elder abuse receive needed services.

(2) Effective December 31, 2018, an elder abuse fatality review team must be established in each judicial circuit to review the facts and circumstances in cases involving abuse-related deaths. The teams shall be housed, for administrative purposes only, in the Department of Elderly Affairs.

(3) The elder abuse fatality review teams are composed of volunteers, each of whom shall serve without compensation for a term of 2 years. The review team membership may include, but is not limited to, the following or their representatives:

(a) Law enforcement agencies.

(b) The state attorney.

(c) The medical examiner.

(d) A county court judge.

(e) Adult protective services.

(f) The Aging and Disability Resource Center.

(g) The State Long-Term Care Ombudsman Program.

(h) The Agency for Health Care Administration.

(i) The Office of the Attorney General.

(j) The office of court administration.

(k) The clerk of the court.

(l) A victim services program.

(m) An elder law attorney.

(n) Emergency services personnel.

(o) A certified domestic violence center.

Page 2 of 5

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

6-00430B-18

2018422__

59 (p) An advocacy organization for victims of sexual
 60 violence.
 61 (q) A funeral home director.
 62 (r) A forensic pathologist.
 63 (s) A geriatrician.
 64 (t) A geriatric nurse.
 65 (u) A geriatric psychiatrist or other individual licensed
 66 to offer behavioral health services.
 67 (v) A hospital discharge planner.
 68 (w) A public guardian.
 69 (x) Other persons who have knowledge regarding fatal
 70 incidents of elder abuse, domestic violence, or sexual violence,
 71 including knowledge of research, policy, law, and other matters
 72 connected with such incidents or who are recommended for
 73 inclusion by the review team.
 74 (4) Each elder abuse fatality review team shall do all of
 75 the following:
 76 (a) Limit its review to cases that have been closed, to
 77 avoid interference with or influencing the outcome of an ongoing
 78 criminal investigation or prosecution.
 79 (b) Determine the number of cases it will review in which
 80 an elderly person's death is verified to have been caused by
 81 abuse or neglect.
 82 (c) After reviewing those cases, make policy and other
 83 recommendations as to how incidents of abuse-related fatalities
 84 may be prevented.
 85 (d) Submit its recommendations to the Office of the
 86 Governor, the President of the Senate, the Speaker of the House
 87 of Representatives, the Department of Children and Families, and

Page 3 of 5

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

6-00430B-18

2018422__

88 the Department of Elder Affairs.
 89 (5) (a) The elder abuse fatality review teams must be
 90 provided access to any information or records contained in a
 91 closed file that pertains to an elder whose death is subject to
 92 review by a team, including information or records from a law
 93 enforcement agency, which are determined necessary for the team
 94 to carry out its duties.
 95 (b) The review teams shall review the events leading up to
 96 a fatal incident, available community resources, the actions
 97 taken by systems and individuals related to the fatal incident,
 98 and any other information deemed relevant by the team.
 99 (6) There is no monetary liability on the part of, and a
 100 cause of action for damages may not arise against, any member of
 101 an elder abuse fatality review team in the performance of his or
 102 her duties as a review team member.
 103 (7) Elder abuse fatality review teams and their members may
 104 not disclose any information that is not otherwise a public
 105 record.
 106 (8) Information and records acquired by an elder abuse
 107 fatality review team are not subject to discovery or
 108 introduction into evidence in any civil or criminal action or
 109 administrative or disciplinary proceeding by any department or
 110 employing agency if the information or records arose out of
 111 matters that are the subject of evaluation and review by the
 112 elder abuse fatality review team. However, information,
 113 documents, and records that are available from other sources are
 114 not immune from discovery or introduction into evidence solely
 115 because the information, documents, or records were presented to
 116 or reviewed by a review team. A person who has attended a

Page 4 of 5

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

6-00430B-18

2018422__

117 meeting of an elder abuse fatality review team may not be
118 required to testify in any civil, criminal, administrative, or
119 disciplinary proceedings as to any records or information
120 produced or presented to the team during meetings or other
121 activities authorized by this section. However, review team
122 members may be required to testify as to matters otherwise
123 within their personal knowledge.

124 (9) The chief judge or his or her representative from each
125 judicial circuit shall provide public notice of the initial
126 meeting of the review team in its circuit. At the initial
127 meeting, the volunteers shall choose two members who shall serve
128 as co-chairs of the review team. The co-chairs shall determine
129 the frequency of the meetings in the circuit and submit the
130 team's recommendations as provided in paragraph (4) (d).

131 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/13/17

Meeting Date

SB 422

Bill Number (if applicable)

Topic Elder Abuse Fatality Review Teams

Name Robert Beck

Amendment Barcode (if applicable)

Job Title Partner, PinPoint Results

Address 217 S. Adams St

Street

Phone 850 766 1410

Tallahassee

City

FL

State

32301

Zip

Email Robert@pinpointresults.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Association of AREA Agencies on Aging

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/2017

Meeting Date

3402

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33709
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17
Meeting Date

422 424
Bill Number (if applicable)

Topic SB 422 424

Amendment Barcode (if applicable)

Name Eileen Rodden

Job Title Community Education Director

904 922-3000

Address 5744 Colcord Ave.
Street

Phone 904 442-4783

Jacksonville FL 32211
City State Zip

Email erodden@kwmenscenterofjax.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ELDER ABUSE FATALITY REVIEW TEAM

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB
422 & 424
Bill Number (if applicable)

Meeting Date _____

Topic SB 422 & 424

Amendment Barcode (if applicable) _____

Name Teresa Miles

Job Title Executive Director

Address 5644 Colcord Ave
Street

Phone 904-722-3000

Jacksonville FL 32011
City State Zip

Email tmiles@womenscenterofjacksonville.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Women's Center of Jacksonville

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 422
FINAL ACTION: Favorable
MEETING DATE: Monday, November 13, 2017
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Campbell						
X		Stargel						
X		Steube						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
 UNF=Unfavorable
 -R=Reconsidered

RCS=Replaced by Committee Substitute
 RE=Replaced by Engrossed Amendment
 RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
 VA=Vote After Roll Call
 VC=Vote Change After Roll Call

WD=Withdrawn
 OO=Out of Order
 AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 424

INTRODUCER: Senator Gibson

SUBJECT: Public Records and Public Meetings/Elder Abuse Fatality Review Team

DATE: November 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	AP	_____

I. Summary:

SB 424 provides that it is a public necessity that there be an exemption from public records requests for certain information obtained by an elder abuse fatality review team conducting a review. This includes information contained in a record created by an elder abuse fatality review team that reveals the identity of a victim of elder abuse.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and unless reviewed and saved from repeal through reenactment by the Legislature shall be repealed on October 2, 2023.

The bill is effective if and when SB 422 becomes law. The bill is not expected to have a fiscal impact.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Public Meetings

Section 286.011, F.S., provides that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, including meetings with or attended by any person elected to such board or commission at which official acts are to be taken are public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken at such meeting.¹⁵

The elder abuse fatality review teams would have access to review confidential records, including possible information gathered in a criminal investigation, in order to carry out their duties. In Chapter 2000-219, Laws of Florida, the Legislature found, in the creation of domestic violence fatality review teams, that sensitive information concerning victims and family members would be discussed at team meetings and the harm that would result from the release of such information substantially outweighs any minimal public benefit derived therefrom.¹⁶ Additionally, the Legislature found that proceedings and meetings of any domestic violence fatality review team regarding domestic violence fatalities and their prevention during which the identity of the victim is discussed are exempt from s. 286.011 and s. 24(b) of Art. I of the State Constitution.¹⁷

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁸ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁹ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 286.011(1), F.S.

¹⁶ Chapter 2000-219, s. 2, Laws of Fla.

¹⁷ *Id.*

¹⁸ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁹ Section 119.15(3), F.S.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:²⁰

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.²¹ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.²²

III. Effect of Proposed Changes:

Section 1 amends s. 415.1103, F.S., created under SB 422, to provide that any information that is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is obtained by an elder abuse fatality review team conducting a review retains its confidential or exempt status when held by the review team. Additionally, any information created by a review team that reveals the identity of a victim of elder abuse is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

This section also provides that portions of meetings of a review team at which confidential or exempt information or the identify of a victim of elder abuse is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

The exemption is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S., and will be repealed October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 states that the Legislature finds it is a public necessity that the information that is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution remain confidential and exempt when held by an elder abuse fatality review team or contained in a record created by the review team that reveals the identity of a victim of elder abuse. Otherwise, sensitive personal information concerning victims of elder abuse would be disclosed and open communication and coordination between the parties involved in the review would be hampered.

²⁰ Section 119.15(6)(a), F.S.

²¹ FLA. CONST., art. I, s. 24(c).

²² Section 119.15(7), F.S.

The Legislature further finds that it is a public necessity that portions of meetings of an elder abuse fatality review team at which confidential or exempt information or the identify of a victim of elder abuse is discuss be exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution. The failure to close public meetings at which confidential or exempt information or the identity of the victim of elder abuse are discussed would defeat the purpose of the public records exemption.

Section 3 provides an effective date to be the same date that SB 422 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of the Legislature for public records exemptions to pass.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the state purpose of the law. The bill provides that information that is confidential and exempt from s, 119.07(1), F.S., remain confidential and exempt when held by an elder abuse fatality review team. The bill also allows that a record created by a review team that identifies the victim of elder abuse remain confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution. This bill appears to be no broader than necessary to accomplish the public necessity for this public records exemption.

Portions of meetings of an elder abuse fatality review team at which confidential or exempt information or the identify of a victim of elder abuse is discussed would be exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 415.1103 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Gibson

6-00538-18

2018424__

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 amending s. 415.1103, F.S.; specifying that
 4 information obtained by an elder abuse fatality review
 5 team which is confidential or exempt from public
 6 records requirements retains its protected status;
 7 providing an exemption from public records
 8 requirements for identifying information of an elder
 9 abuse victim in records created by a review team;
 10 providing an exemption from public meetings
 11 requirements for portions of review team meetings at
 12 which confidential or exempt information or the
 13 identity of an elder abuse victim is discussed;
 14 providing for future legislative review and repeal;
 15 providing statements of public necessity; providing a
 16 contingent effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Subsections (10), (11), and (12) are added to
 21 section 415.1103, Florida Statutes, as created by SB ____, to
 22 read:
 23 415.1103 Elder abuse fatality review teams.-
 24 (10) (a) Any information that is confidential or exempt from
 25 s. 119.07(1) and s. 24(a), Art. I of the State Constitution and
 26 that is obtained by an elder abuse fatality review team
 27 conducting a review under this section retains its confidential
 28 or exempt status when held by an elder abuse fatality review
 29 team.

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

6-00538-18

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30 (b) Any information contained in a record created by an
 31 elder abuse fatality review team which reveals the identity of a
 32 victim of elder abuse is confidential and exempt from s.
 33 119.07(1) and s. 24(a), Art. I of the State Constitution.
 34 (11) Portions of meetings of an elder abuse fatality review
 35 team at which confidential or exempt information or the identity
 36 of a victim of elder abuse is discussed are exempt from s.
 37 286.011 and s. 24(b), Art. I of the State Constitution.
 38 (12) Subsections (10) and (11) are subject to the Open
 39 Government Sunset Review Act in accordance with s. 119.15 and
 40 shall stand repealed on October 2, 2023, unless reviewed and
 41 saved from repeal through reenactment by the Legislature.
 42 Section 2. (1) The Legislature finds that it is a public
 43 necessity that information that is confidential or exempt from
 44 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 45 State Constitution remain confidential or exempt when held by an
 46 elder abuse fatality review team and that any information
 47 contained in a record created by an elder abuse fatality review
 48 team which reveals the identity of a victim of elder abuse be
 49 confidential and exempt from public records requirements.
 50 Otherwise, sensitive personal information concerning victims of
 51 elder abuse would be disclosed and open communication and
 52 coordination among the parties involved in the elder abuse
 53 fatality review teams would be hampered. The harm that would
 54 result from the release of such information substantially
 55 outweighs any public benefit that would be achieved by
 56 disclosure.
 57 (2) The Legislature further finds that it is a public
 58 necessity that portions of meetings of an elder abuse fatality

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

6-00538-18

2018424__

59 review team at which confidential or exempt information or the
60 identity of a victim of elder abuse is discussed be exempt from
61 s. 286.011, Florida Statutes, and s. 24(b), Article I of the
62 State Constitution. The failure to close portions of meetings at
63 which confidential or exempt information or the identity of a
64 victim of elder abuse are discussed would defeat the purpose of
65 the public records exemption. Further, the Legislature finds
66 that the exemption is narrowly tailored to apply to only certain
67 portions of meetings of elder abuse fatality review teams to
68 allow for public oversight.

69 Section 3. This act shall take effect on the same date that
70 SB ___ or similar legislation takes effect, if such legislation
71 is adopted in the same legislative session or an extension
72 thereof and becomes a law.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 424
FINAL ACTION: Favorable
MEETING DATE: Monday, November 13, 2017
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Campbell						
X		Stargel						
X		Steube						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 450

INTRODUCER: Senator Garcia

SUBJECT: Mental Health and Substance Use Disorders

DATE: November 14, 2017 REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 450 promotes the use of peer specialists in behavioral health care. Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness. The bill revises background screening requirements and codifies existing training and certification requirements for peer specialists.

The bill is expected to have a positive fiscal impact on the state and is effective July 1, 2018.

II. Present Situation:

Behavioral Health Workforce Shortage

Workforce issues for providers of substance use disorder and mental illness services, which have been of concern for decades, have taken on a greater sense of urgency with the passage of recent parity and health reform legislation.¹ The Affordable Care Act increased the number of people who are eligible for health care coverage including behavioral health services. In addition, as screening for mental illness and substance abuse becomes more frequent in primary care, more

¹ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues. January 24, 2013. Available at: <https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORk/PEP13-RTC-BHWORk.pdf> (last visited Nov. 2, 2017).

people will need behavioral health services. Furthermore, workforce shortages will be impacted by additional demands that result from: (1) a large number of returning veterans in need of services; and (2) new state re-entry initiatives to reduce prison populations, a large majority of whom have mental or substance use disorders.²

Shortages of qualified behavioral health workers, recruitment and retention of staff and an aging workforce have long been cited as problems. Lack of workers in rural/frontier areas and the need for a workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many. Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field. In addition, the misunderstanding and prejudice of persons with mental and substance use disorders can negatively affect the use of peer specialists.

Opioid Epidemic

Florida has experienced an exponential growth in overdoses and death from overdoses from opioids.³ In 2016, Florida had 53,180 deaths from overdoses of legal and illegal opioids.⁴ The overdoses and deaths have significant social and economic impacts to the state. For example, families are negatively impacted as more children must be removed from their homes due to substance use or the death of their parents.

On May 3, 2017, Governor Rick Scot, following the Centers for Disease Control and Prevention (CDC) declaring a national opioid epidemic, signed Executive Order 17-146 directing a Public Health Emergency across the state for the opioid epidemic in Florida.⁵ The Emergency Order, allowed the state to immediately draw down more than \$27 million in federal grant funding from the United States Department of Health and Human Services Opioid State Targeted Response Grant to provide prevention, treatment and recovery support services. In addition, Surgeon General Dr. Celeste Philip issued a standing order for Naloxone, an emergency treatment for opioid overdose. This will help ensure first responders have immediate access to this lifesaving drug to respond to opioid overdoses.

Use of Peer Specialists

Research has shown that recovery from a substance use disorder or mental illness is facilitated by the use of social support provided by peers.⁶ The most recognized form of peer support is the

² *Id.*

³ Jim Hall, Senior Epidemiologist, Center for Applied Research on Substance Use and Health Disparities, Nova Southeastern University. Presentation to the Senate Appropriations Subcommittee on Health and Human Services, Oct. 25, 2017. Available at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/AHS/MeetingRecords/MeetingPacket_3987.pdf (last visited Nov. 2, 2017).

⁴ *Id.*

⁵ Office of the Governor, Executive Order number 17-146. Available at <http://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited Nov. 2, 2017).

⁶ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited Nov. 2, 2017).

12-step programs of Alcoholic Anonymous and Narcotic Anonymous. More recently, peers or peer specialists, have been used to assist persons with serious mental illnesses.⁷

Research has identified four types of social support provided by peers:

- Emotional - where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. This is often provided by peer mentoring or peer-led support groups.
- Informational - where a peer shares knowledge and information to provide life or vocational skills training. Examples include parenting classes, job readiness training, or wellness seminars.
- Instrumental - where a peer provides concrete assistance to help others accomplish tasks. Examples include child care, transportation and help accessing health and human services.
- Affiliational - where the a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. Examples include staffing recovery centers, sports league participation, and alcohol or drug free socialization.⁸

The Department of Children and Families (department) Florida Peer Services Handbook, defines a peer as an individual who has life experience with a mental health and/or substance use condition.⁹ Current department guidelines recommend that an individual be in recovery for at least two years to be considered for peer training. In Florida, family members or caregivers can also work and be certified as peer specialists.

The Florida Certification Board currently offers certification with three distinct endorsements for individuals with lived experience who wish to become certified as Peer Specialists. General requirements for certification include being age 18 or older, minimum education of high school diploma or equivalent, background screening, completion of a minimum of 40 hours of training, and passing a competency exam.

Barriers to the Use of Peer Specialists

Currently, there is a shortage of peers working within behavioral health services. As of June 2017, there are 418 individuals with active certification through the Florida Certification Board.¹⁰ There are two principal barriers to the use of peer specialists.

First, peer specialists often cannot pass background screening requirements in ss. 435.04 and 408.809, F.S. Persons who have recovered from a substance use disorder or mental illness often have a criminal history.¹¹ Common offenses would include using and selling illegal substances,

⁷ National Public Radio. In Texas, People with Mental Illness Are Finding Work Helping Peers. July 11, 2017. <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited Nov. 2, 2017).

⁸ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited Nov. 2, 2017).

⁹ Department of Children and Families, Florida Peer Services Handbook. Available at <http://www.myflfamilies.com/service-programs/substance-abuse/publications> (last visited Nov. 2, 2017).

¹⁰ *Id.*

¹¹ SB 450 Department of Children and Families Bill Analysis. Oct. 11, 2017. On file with the Senate Committee on Children, Families and Elder Affairs.

prostitution, or financial fraud. Section 435.04, F.S., allows persons with disqualifying offenses identified through background screening to apply to the respective state agency head (the Secretary of the Department of Children and Families or the Secretary of the Agency for Health Care Administration) for an exemption if it has been three or more years since their conviction. The applicant must produce all court records regarding their convictions, letters of recommendation, evidence of their rehabilitation, education documents, evidence of employment, and fill out a questionnaire. The requirements of this exemption often deter persons from becoming peer specialists.

Second, peer specialists have only recently been reimbursed as a behavioral health care service. Medicaid billing for peer support services began in Georgia in 1999, and quickly expanded nationally in 2007 after the Center for Medicare and Medicaid Services (CMS) sent guidelines to states on how to be reimbursed for services delivered by peer providers.¹² In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer providers. CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services. Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a state's discretion, which can include peer providers. Florida's Medicaid program currently covers peer recovery services. The department also allows the state's behavioral health managing entities to reimburse for these services.

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., to define "peer specialist," as a person who has been in recovery from a substance use disorder or mental illness for the past 2 years or a family member of such a person and is certified or is seeking certification under s. 397.417, F.S. This is consistent with the department's definition for peer specialists and recommended recovery time, and is consistent with national standards.

Section 2 amends s. 394.4572, F.S., relating to background screening of mental health personnel. The bill conforms this statute to the requirements of the bill to background screen peer specialists through the newly created s. 397.417, F.S.

Section 3 amends s. 394.4573, F.S., to add use of peer specialists to the list of recovery supports as an essential element of a coordinated system of behavioral health care.

Section 4 amends s. 397.311, F.S., providing definitions to Chapter 397 on Substance Abuse Services to include a definition for "peer specialist."

Section 5 amends s. 397.4073, F.S., relating to background screening for persons working with persons with substance use disorders. The bill removes provisions authorizing agency heads to exempt persons who have recovered from a substance use disorder from drug offenses that

¹² U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. SMDL #07-011. Aug. 15, 2007. On file with the Senate Committee on Children, Families and Elder Affairs.

would otherwise disqualify them from providing recovery services. This language is no longer needed as the bill revises background requirements in the newly created s. 397.417, F.S.

Section 6 creates s. 397.417, F.S., to specify legislative findings that there is a shortage of behavioral health care employees; that the state is experiencing an opioid epidemic; and that peers are often an effective support for persons with substance use disorders or mental illness because the peer shares the same life experience. The bill intends expand the use of peer specialists as a cost-effective behavioral health care service.

The bill sets qualifications for peer specialists and responsibilities of the department. A peer specialist must be certified and meet the background screening requirements, as well as complete a training program approved by the department. The department must develop a training program for peer specialists—with preference given to trainers who are certified peer specialists—and certify peer specialists via an approved, designated certification organization. The bill also requires peer specialists that are providing services be supervised by a licensed behavioral health care professional or certified peer specialist.

In addition, the bill also provides that peer specialist services may be reimbursed as a recovery service through the department, behavioral health managing entity, or Medicaid.

The bill specifies revised background screening requirements that differ from current law because persons who have recovered from a substance use disorder or mental illness may be more likely to have committed certain offenses.¹³ Under current law and department rule, peers working with persons suffering from substance use disorders must meet background screening requirements in s. 435.04, F.S. Peers working with persons suffering from mental illness must meet the screening requirements in s. 435.04 F.S., as well as those in s. 408.409, F.S. The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- misdemeanor assault, or battery (Ch. 784, F.S.),
- prostitution (Ch. 796, F.S.),
- lower level burglary offenses (s. 810.02, F.S.),
- lower level theft and robbery offenses (Ch. 812, F.S.),
- lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.),
- mail or wire fraud (s. 817.034, F.S.),
- insurance fraud (s. 817.234, F.S.),
- credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.),
- identification fraud (s. 817.568, F.S.), and
- forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

Finally, the bill offers a grandfather clause to allow all peer specialists certified as of July 1, 2018 to be recognized as having met the requirements of this bill.

Section 7 amend s. 212.055, F.S., relating to the county public hospital surtax to correct a cross reference to a definition in chapter 397, F.S. relating to substance abuse.

¹³ SB 450 Department of Children and Families Bill Analysis. Oct. 11, 2017. On file with the Senate Committee on Children, Families and Elder Affairs.

Section 8 amends s. 394.495, F.S., relating to children's mental health care to correct a cross reference to definitions.

Section 9 amends s. 394.496, F.S., relating to mental health service planning to correct a cross reference to definitions.

Section 10 amends s. 394.9085, F.S., relating to behavioral health service provider liability to correct a cross reference to definitions.

Section 11 amends s. 397.416, F.S., relating to substance use disorder treatment services to correct a cross reference to a definition.

Section 12 amends s. 409.972, F.S., relating to enrollment in Medicaid to correct a cross reference to a definition.

Section 13 amends s. 440.102, F.S., relating to the drug-free workplace program to correct a cross reference to a definition.

Section 14 amends s. 744.2007, F.S., relating to public guardians to correct a cross reference to a definition.

Section 15 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will allow additional peers to be employed to provide recovery services to persons suffering from substance use disorder to mental illnesses. Private insurers and

Medicaid managed care plans may see a reduction in the cost of behavioral health care services if more health insurance providers make use of peer specialists. This would be due to the effectiveness of peer specialists in assisting persons recovering from substance use disorders or mental illnesses and the lower cost of peer recovery services compared to other behavioral health care services.

C. Government Sector Impact:

The bill may result in additional background screenings if more persons apply to be peer specialists. The employee or behavioral health care provider are charged a fee to cover the cost of the background screening.

The state may see a reduction in the cost of behavioral health care services if more health insurance providers make use of peer specialists. This would be due to the effectiveness of peer specialists in assisting persons recovering from substance use disorders or mental illnesses and the lower cost of peer recovery services compared to other behavioral health care services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.4572, 394.4573, 397.311, 397.4073, 212.055, 394.495, 394.496, 394.9085, 397.416, 409.972, 440.102, and 744.2007.

This bill creates the section 397.417 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Children, Families, and Elder Affairs on November 13, 2017:

- Adds a family member or caregiver of a person with a substance use disorder or mental illness to the definition of a peer specialist. This is current practice and family members presently serve as certified peer specialists in Florida.
- Allows certified peer specialists, along with licensed behavioral health care professionals, to supervise other peer specialists. The CS removes supervision by a behavioral health care agency.
- Clarifies that peer specialists must have had no felony convictions for at least 3 years and meet the background screening requirements in the bill.

- Requires peer specialists to have completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for any felony prior to being certified.
- Adds felony assault and battery, female genital mutilation, and robbery, as offenses that would disqualify peer specialists. The CS clarifies that drug offenses that are first and second degree are disqualifying for peer specialists. Peer specialists would still be able to request an exemption from a state agency. The CS removes the offense of selling a non-controlled substance as a controlled substance from the list of disqualifying offenses.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (32) through (48) of section 394.455, Florida Statutes, are redesignated as subsections (33) through (49), respectively, and a new subsection (32) is added to that section, to read:

394.455 Definitions.—As used in this part, the term:

(32) "Peer specialist" means a person who has been in



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11 recovery from a substance use disorder or mental illness for the
12 past 2 years or a family member or caregiver of a person with a
13 substance use disorder or mental illness and who is certified
14 under s. 397.417.

15 Section 2. Paragraph (a) of subsection (1) of section
16 394.4572, Florida Statutes, is amended to read:

17 394.4572 Screening of mental health personnel.—

18 (1) (a) The department and the Agency for Health Care
19 Administration shall require level 2 background screening
20 pursuant to chapter 435 for mental health personnel. "Mental
21 health personnel" includes all program directors, professional
22 clinicians, staff members, and volunteers working in public or
23 private mental health programs and facilities who have direct
24 contact with individuals held for examination or admitted for
25 mental health treatment. For purposes of this chapter,
26 employment screening of mental health personnel also includes,
27 but is not limited to, employment screening as provided under
28 chapter 435 and s. 408.809. The department and the Agency for
29 Health Care Administration shall require a level 2 background
30 screening pursuant to s. 397.417(5) for persons working as peer
31 specialists in public or private mental health programs or
32 facilities who have direct contact with individuals held for
33 involuntary examination or admitted for mental health treatment.

34 Section 3. Paragraph (1) of subsection (2) of section
35 394.4573, Florida Statutes, is amended to read:

36 394.4573 Coordinated system of care; annual assessment;
37 essential elements; measures of performance; system improvement
38 grants; reports.—On or before December 1 of each year, the
39 department shall submit to the Governor, the President of the



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40 Senate, and the Speaker of the House of Representatives an
41 assessment of the behavioral health services in this state. The
42 assessment shall consider, at a minimum, the extent to which
43 designated receiving systems function as no-wrong-door models,
44 the availability of treatment and recovery services that use
45 recovery-oriented and peer-involved approaches, the availability
46 of less-restrictive services, and the use of evidence-informed
47 practices. The department's assessment shall consider, at a
48 minimum, the needs assessments conducted by the managing
49 entities pursuant to s. 394.9082(5). Beginning in 2017, the
50 department shall compile and include in the report all plans
51 submitted by managing entities pursuant to s. 394.9082(8) and
52 the department's evaluation of each plan.

53 (2) The essential elements of a coordinated system of care
54 include:

55 (1) Recovery support, including, but not limited to, the
56 use of peer specialists as described in s. 397.417 to assist in
57 the individual's recovery from a substance use disorder or
58 mental illness, support for competitive employment, educational
59 attainment, independent living skills development, family
60 support and education, wellness management and self-care, and
61 assistance in obtaining housing that meets the individual's
62 needs. Such housing may include mental health residential
63 treatment facilities, limited mental health assisted living
64 facilities, adult family care homes, and supportive housing.
65 Housing provided using state funds must provide a safe and
66 decent environment free from abuse and neglect.

67 Section 4. Present subsections (30) through (49) of section
68 397.311, Florida Statutes, are redesignated as subsections (31)



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69 through (50), respectively, and a new subsection (30) is added
70 to that section, to read:

71 397.311 Definitions.—As used in this chapter, except part
72 VIII, the term:

73 (30) "Peer specialist" means a person who has been in
74 recovery from a substance use disorder or mental illness for the
75 past 2 years or a family member or caregiver of a person with a
76 substance use disorder or mental illness and who is certified
77 under s. 397.417.

78 Section 5. Paragraphs (b) and (c) of subsection (4) of
79 section 397.4073, Florida Statutes, are amended to read:

80 397.4073 Background checks of service provider personnel.—

81 (4) EXEMPTIONS FROM DISQUALIFICATION.—

82 ~~(b) Since rehabilitated substance abuse impaired persons~~
83 ~~are effective in the successful treatment and rehabilitation of~~
84 ~~individuals with substance use disorders, for service providers~~
85 ~~which treat adolescents 13 years of age and older, service~~
86 ~~provider personnel whose background checks indicate crimes under~~
87 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~
88 ~~disqualification from employment pursuant to this paragraph.~~

89 ~~(c) The department may grant exemptions from~~
90 ~~disqualification which would limit service provider personnel to~~
91 ~~working with adults in substance use disorder ~~abuse~~ treatment~~
92 ~~facilities.~~

93 Section 6. Section 397.417, Florida Statutes, is created to
94 read:

95 397.417 Behavioral health peer specialists.—

96 (1) LEGISLATIVE FINDINGS AND INTENT.—

97 (a) The Legislature finds that:



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98 1. The ability to provide adequate behavioral health
99 services is limited by a shortage of professionals and
100 paraprofessionals.

101 2. The state is experiencing an increase in opioid
102 addictions, which prove fatal to persons in many cases.

103 3. Peer specialists provide effective support services
104 because they share common life experiences with the persons they
105 assist.

106 4. Peer specialists promote a sense of community among
107 those in recovery.

108 5. Research has shown that peer support facilitates
109 recovery and reduces health care costs.

110 6. Peer specialists may have a criminal history that
111 prevents them from meeting background screening requirements.

112 (b) The Legislature intends to expand the use of peer
113 specialists as a cost-effective means of providing services by
114 ensuring that peer specialists meet specified qualifications,
115 meet modified background screening requirements, and are
116 adequately reimbursed for their services.

117 (2) QUALIFICATIONS.—

118 (a) A person may seek certification as a peer specialist if
119 he or she has been in recovery from a substance use disorder or
120 mental illness for the past 2 years or if he or she is a family
121 member or caregiver of a person with a substance use disorder or
122 mental illness.

123 (b) To obtain certification as a peer specialist, a person
124 must meet the background screening requirements of subsection
125 (5), complete the training program, and achieve a passing score
126 on the competency exam described in paragraph (3)(a).



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127 (3) DUTIES OF THE DEPARTMENT.—

128 (a) The department must develop a training program for
129 persons seeking certification as peer specialists. The
130 department must give preference to trainers who are certified
131 peer specialists. The training program must coincide with a
132 competency exam and be based on current practice standards.

133 (b) The department shall certify peer specialists. The
134 department may certify peer specialists directly or may
135 designate a private, nonprofit certification organization to
136 certify peer specialists, implement the training program, and
137 administer the competency exam.

138 (c) The department must require that a person providing
139 peer specialist services be certified or be supervised by a
140 licensed behavioral health care professional or a certified peer
141 specialist.

142 (4) PAYMENT.—Peer specialist services may be reimbursed as
143 a recovery service through the department, a behavioral health
144 managing entity, or the Medicaid program. Medicaid managed care
145 plans are encouraged to use peer specialists in providing
146 recovery services.

147 (5) BACKGROUND SCREENING.—

148 (a) All peer specialists must have completed or been
149 lawfully released from confinement, supervision, or any
150 nonmonetary condition imposed by the court for any felony and
151 must undergo a background screening as a condition of employment
152 and continued employment. The background screening must include
153 fingerprinting for statewide criminal history records checks
154 through the Department of Law Enforcement and national criminal
155 history records checks through the Federal Bureau of



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156 Investigation. The background screening may include local
157 criminal records checks through local law enforcement agencies.

158 (b) The department or the Agency for Health Care
159 Administration, as applicable, may require by rule that
160 fingerprints submitted pursuant to this section be submitted
161 electronically to the Department of Law Enforcement.

162 (c) The department or the Agency for Health Care
163 Administration, as applicable, may contract with one or more
164 vendors to perform all or part of the electronic fingerprinting
165 pursuant to this section. Such contracts must ensure that the
166 owners and personnel of the vendor performing the electronic
167 fingerprinting are qualified and will ensure the integrity and
168 security of all personal identifying information.

169 (d) Vendors who submit fingerprints on behalf of employers
170 must:

- 171 1. Meet the requirements of s. 943.053; and
172 2. Have the ability to communicate electronically with the
173 department or the Agency for Health Care Administration, as
174 applicable, accept screening results from the Department of Law
175 Enforcement and provide the applicant's full first name, middle
176 initial, and last name; social security number or individual
177 taxpayer identification number; date of birth; mailing address;
178 sex; and race.

179 (e) The background screening under this section must ensure
180 that a peer specialist has not, during the previous 3 years,
181 been arrested for and is awaiting final disposition of, been
182 found guilty of, regardless of adjudication, or entered a plea
183 of nolo contendere or guilty to, or been adjudicated delinquent
184 and the record has not been sealed or expunged for, any felony.



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185 (f) The background screening under this section must ensure
186 that a peer specialist has not been found guilty of, regardless
187 of adjudication, or entered a plea of nolo contendere or guilty
188 to, or been adjudicated delinquent and the record has not been
189 sealed or expunged for, any offense prohibited under any of the
190 following state laws or similar laws of another jurisdiction:

191 1. Section 393.135, relating to sexual misconduct with
192 certain developmentally disabled clients and reporting of such
193 sexual misconduct.

194 2. Section 394.4593, relating to sexual misconduct with
195 certain mental health patients and reporting of such sexual
196 misconduct.

197 3. Section 409.9201, relating to Medicaid fraud.

198 4. Section 415.111, relating to adult abuse, neglect, or
199 exploitation of aged persons or disabled adults.

200 5. Section 741.28, relating to domestic violence.

201 6. Section 777.04, relating to attempts, solicitation, and
202 conspiracy to commit an offense listed in this section.

203 7. Section 782.04, relating to murder.

204 8. Section 782.07, relating to manslaughter, aggravated
205 manslaughter of an elderly person or disabled adult, aggravated
206 manslaughter of a child, or aggravated manslaughter of an
207 officer, a firefighter, an emergency medical technician, or a
208 paramedic.

209 9. Section 782.071, relating to vehicular homicide.

210 10. Section 782.09, relating to killing of an unborn child
211 by injury to the mother.

212 11. Chapter 784, relating to assault, battery, and culpable
213 negligence, if the offense was a felony.



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- 214 12. Section 787.01, relating to kidnapping.
- 215 13. Section 787.02, relating to false imprisonment.
- 216 14. Section 787.025, relating to luring or enticing a
217 child.
- 218 15. Section 787.04(2), relating to leading, taking,
219 enticing, or removing a minor beyond the state limits, or
220 concealing the location of a minor, with criminal intent pending
221 custody proceedings.
- 222 16. Section 787.04(3), relating to leading, taking,
223 enticing, or removing a minor beyond the state limits, or
224 concealing the location of a minor, with criminal intent pending
225 dependency proceedings or proceedings concerning alleged abuse
226 or neglect of a minor.
- 227 17. Section 790.115(1), relating to exhibiting firearms or
228 weapons within 1,000 feet of a school.
- 229 18. Section 790.115(2)(b), relating to possessing an
230 electric weapon or device, destructive device, or other weapon
231 on school property.
- 232 19. Section 794.011, relating to sexual battery.
- 233 20. Former s. 794.041, relating to prohibited acts of
234 persons in familial or custodial authority.
- 235 21. Section 794.05, relating to unlawful sexual activity
236 with certain minors.
- 237 22. Section 794.08, relating to female genital mutilation.
- 238 23. Section 798.02, relating to lewd and lascivious
239 behavior.
- 240 24. Chapter 800, relating to lewdness and indecent
241 exposure.
- 242 25. Section 806.01, relating to arson.



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- 243 26. Section 810.02, relating to burglary, if the offense
244 was a felony of the first degree.
- 245 27. Section 810.14, relating to voyeurism, if the offense
246 was a felony.
- 247 28. Section 810.145, relating to video voyeurism, if the
248 offense was a felony.
- 249 29. Section 812.13, relating to robbery.
- 250 30. Section 812.131, relating to robbery by sudden
251 snatching.
- 252 31. Section 812.133, relating to carjacking.
- 253 32. Section 812.135, relating to home-invasion robbery.
- 254 33. Section 817.50, relating to fraudulently obtaining
255 goods or services from a health care provider and false reports
256 of a communicable disease.
- 257 34. Section 817.505, relating to patient brokering.
- 258 35. Section 825.102, relating to abuse, aggravated abuse,
259 or neglect of an elderly person or disabled adult.
- 260 36. Section 825.1025, relating to lewd or lascivious
261 offenses committed upon or in the presence of an elderly person
262 or disabled person.
- 263 37. Section 825.103, relating to exploitation of an elderly
264 person or disabled adult, if the offense was a felony.
- 265 38. Section 826.04, relating to incest.
- 266 39. Section 827.03, relating to child abuse, aggravated
267 child abuse, or neglect of a child.
- 268 40. Section 827.04, relating to contributing to the
269 delinquency or dependency of a child.
- 270 41. Former s. 827.05, relating to negligent treatment of
271 children.



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- 272 42. Section 827.071, relating to sexual performance by a
273 child.
- 274 43. Section 831.30, relating to fraud in obtaining
275 medicinal drugs.
- 276 44. Section 831.31, relating to sale, manufacture,
277 delivery, possession with intent to sell, manufacture, or
278 deliver any counterfeit controlled substance if the offense was
279 a felony.
- 280 45. Section 843.01, relating to resisting arrest with
281 violence.
- 282 46. Section 843.025, relating to depriving a law
283 enforcement, correctional, or correctional probation officer
284 means of protection or communication.
- 285 47. Section 843.12, relating to aiding in an escape.
- 286 48. Section 843.13, relating to aiding in the escape of
287 juvenile inmates of correctional institutions.
- 288 49. Chapter 847, relating to obscene literature.
- 289 50. Section 874.05, relating to encouraging or recruiting
290 another to join a criminal gang.
- 291 51. Chapter 893, relating to drug abuse prevention and
292 control, if the offense was a felony of the second degree or
293 greater severity.
- 294 52. Section 895.03, relating to racketeering and collection
295 of unlawful debts.
- 296 53. Section 896.101, relating to the Florida Money
297 Laundering Act.
- 298 54. Section 916.1075, relating to sexual misconduct with
299 certain forensic clients and reporting of such sexual
300 misconduct.



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301 55. Section 944.35(3), relating to inflicting cruel or
302 inhuman treatment on an inmate resulting in great bodily harm.
303 56. Section 944.40, relating to escape.
304 57. Section 944.46, relating to harboring, concealing, or
305 aiding an escaped prisoner.
306 58. Section 944.47, relating to introduction of contraband
307 into a correctional facility.
308 59. Section 985.701, relating to sexual misconduct in
309 juvenile justice programs.
310 60. Section 985.711, relating to contraband introduced into
311 detention facilities.
312 (6) EXEMPTION REQUESTS.—Persons who wish to become a peer
313 specialist and are disqualified under subsection (5) may request
314 an exemption from disqualification pursuant to s. 435.07 from
315 the department or the Agency for Health Care Administration, as
316 applicable.
317 (7) GRANDFATHER CLAUSE.—All peer specialists certified as
318 of the effective date of this act are recognized as having met
319 the requirements of this act.
320 Section 7. Paragraph (e) of subsection (5) of section
321 212.055, Florida Statutes, is amended to read:
322 212.055 Discretionary sales surtaxes; legislative intent;
323 authorization and use of proceeds.—It is the legislative intent
324 that any authorization for imposition of a discretionary sales
325 surtax shall be published in the Florida Statutes as a
326 subsection of this section, irrespective of the duration of the
327 levy. Each enactment shall specify the types of counties
328 authorized to levy; the rate or rates which may be imposed; the
329 maximum length of time the surtax may be imposed, if any; the



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330 procedure which must be followed to secure voter approval, if
331 required; the purpose for which the proceeds may be expended;
332 and such other requirements as the Legislature may provide.
333 Taxable transactions and administrative procedures shall be as
334 provided in s. 212.054.

335 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
336 s. 125.011(1) may levy the surtax authorized in this subsection
337 pursuant to an ordinance either approved by extraordinary vote
338 of the county commission or conditioned to take effect only upon
339 approval by a majority vote of the electors of the county voting
340 in a referendum. In a county as defined in s. 125.011(1), for
341 the purposes of this subsection, “county public general
342 hospital” means a general hospital as defined in s. 395.002
343 which is owned, operated, maintained, or governed by the county
344 or its agency, authority, or public health trust.

345 (e) A governing board, agency, or authority shall be
346 chartered by the county commission upon this act becoming law.
347 The governing board, agency, or authority shall adopt and
348 implement a health care plan for indigent health care services.
349 The governing board, agency, or authority shall consist of no
350 more than seven and no fewer than five members appointed by the
351 county commission. The members of the governing board, agency,
352 or authority shall be at least 18 years of age and residents of
353 the county. A ~~No~~ member may not be employed by or affiliated
354 with a health care provider or the public health trust, agency,
355 or authority responsible for the county public general hospital.
356 The following community organizations shall each appoint a
357 representative to a nominating committee: the South Florida
358 Hospital and Healthcare Association, the Miami-Dade County



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359 Public Health Trust, the Dade County Medical Association, the
360 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
361 County. This committee shall nominate between 10 and 14 county
362 citizens for the governing board, agency, or authority. The
363 slate shall be presented to the county commission and the county
364 commission shall confirm the top five to seven nominees,
365 depending on the size of the governing board. Until such time as
366 the governing board, agency, or authority is created, the funds
367 provided for in subparagraph (d)2. shall be placed in a
368 restricted account set aside from other county funds and not
369 disbursed by the county for any other purpose.

370 1. The plan shall divide the county into a minimum of four
371 and maximum of six service areas, with no more than one
372 participant hospital per service area. The county public general
373 hospital shall be designated as the provider for one of the
374 service areas. Services shall be provided through participants'
375 primary acute care facilities.

376 2. The plan and subsequent amendments to it shall fund a
377 defined range of health care services for both indigent persons
378 and the medically poor, including primary care, preventive care,
379 hospital emergency room care, and hospital care necessary to
380 stabilize the patient. For the purposes of this section,
381 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~
382 ~~397.311(45)~~. Where consistent with these objectives, the plan
383 may include services rendered by physicians, clinics, community
384 hospitals, and alternative delivery sites, as well as at least
385 one regional referral hospital per service area. The plan shall
386 provide that agreements negotiated between the governing board,
387 agency, or authority and providers shall recognize hospitals



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388 that render a disproportionate share of indigent care, provide
389 other incentives to promote the delivery of charity care to draw
390 down federal funds where appropriate, and require cost
391 containment, including, but not limited to, case management.
392 From the funds specified in subparagraphs (d)1. and 2. for
393 indigent health care services, service providers shall receive
394 reimbursement at a Medicaid rate to be determined by the
395 governing board, agency, or authority created pursuant to this
396 paragraph for the initial emergency room visit, and a per-member
397 per-month fee or capitation for those members enrolled in their
398 service area, as compensation for the services rendered
399 following the initial emergency visit. Except for provisions of
400 emergency services, upon determination of eligibility,
401 enrollment shall be deemed to have occurred at the time services
402 were rendered. The provisions for specific reimbursement of
403 emergency services shall be repealed on July 1, 2001, unless
404 otherwise reenacted by the Legislature. The capitation amount or
405 rate shall be determined before program implementation by an
406 independent actuarial consultant. In no event shall such
407 reimbursement rates exceed the Medicaid rate. The plan must also
408 provide that any hospitals owned and operated by government
409 entities on or after the effective date of this act must, as a
410 condition of receiving funds under this subsection, afford
411 public access equal to that provided under s. 286.011 as to any
412 meeting of the governing board, agency, or authority the subject
413 of which is budgeting resources for the retention of charity
414 care, as that term is defined in the rules of the Agency for
415 Health Care Administration. The plan shall also include
416 innovative health care programs that provide cost-effective



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417 alternatives to traditional methods of service and delivery
418 funding.

419 3. The plan's benefits shall be made available to all
420 county residents currently eligible to receive health care
421 services as indigents or medically poor as defined in paragraph
422 (4) (d).

423 4. Eligible residents who participate in the health care
424 plan shall receive coverage for a period of 12 months or the
425 period extending from the time of enrollment to the end of the
426 current fiscal year, per enrollment period, whichever is less.

427 5. At the end of each fiscal year, the governing board,
428 agency, or authority shall prepare an audit that reviews the
429 budget of the plan, delivery of services, and quality of
430 services, and makes recommendations to increase the plan's
431 efficiency. The audit shall take into account participant
432 hospital satisfaction with the plan and assess the amount of
433 poststabilization patient transfers requested, and accepted or
434 denied, by the county public general hospital.

435 Section 8. Subsection (3) of section 394.495, Florida
436 Statutes, is amended to read:

437 394.495 Child and adolescent mental health system of care;
438 programs and services.—

439 (3) Assessments must be performed by:

440 (a) A professional as defined in s. 394.455(5), (7), (33)
441 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

442 (b) A professional licensed under chapter 491; or

443 (c) A person who is under the direct supervision of a
444 qualified professional as defined in s. 394.455(5), (7), (33)
445 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under



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446 chapter 491.

447 Section 9. Subsection (5) of section 394.496, Florida
448 Statutes, is amended to read:

449 394.496 Service planning.—

450 (5) A professional as defined in s. 394.455(5), (7), (33)
451 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
452 chapter 491 must be included among those persons developing the
453 services plan.

454 Section 10. Subsection (6) of section 394.9085, Florida
455 Statutes, is amended to read:

456 394.9085 Behavioral provider liability.—

457 (6) For purposes of this section, the term ~~terms~~
458 “detoxification services” has the same meaning as
459 detoxification in s. 397.311(26) (a), “addictions receiving
460 facility” has the same meaning as provided in s.
461 397.311(26) (a), and “receiving facility” has have the same
462 meaning meanings as those provided in s. 394.455 ss.
463 ~~397.311(26) (a) 4., 397.311(26) (a) 1., and 394.455(39),~~
464 respectively.

465 Section 11. Section 397.416, Florida Statutes, is amended
466 to read:

467 397.416 Substance use disorder ~~abuse~~ treatment services;
468 qualified professional.—Notwithstanding any other provision of
469 law, a person who was certified through a certification process
470 recognized by the former Department of Health and Rehabilitative
471 Services before January 1, 1995, may perform the duties of a
472 qualified professional with respect to substance use ~~abuse~~
473 treatment services as defined in this chapter, and need not meet
474 the certification requirements contained in s. 397.311(35) ~~s.~~



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475 ~~397.311(34).~~

476 Section 12. Paragraph (b) of subsection (1) of section
477 409.972, Florida Statutes, is amended to read:

478 409.972 Mandatory and voluntary enrollment.—

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

483 (b) Medicaid recipients residing in residential commitment
484 facilities operated through the Department of Juvenile Justice
485 or in a treatment facility as defined in s. 394.455 ~~s.~~
486 ~~394.455(47).~~

487 Section 13. Paragraphs (d) and (g) of subsection (1) of
488 section 440.102, Florida Statutes, are amended to read:

489 440.102 Drug-free workplace program requirements.—The
490 following provisions apply to a drug-free workplace program
491 implemented pursuant to law or to rules adopted by the Agency
492 for Health Care Administration:

493 (1) DEFINITIONS.—Except where the context otherwise
494 requires, as used in this act:

495 (d) "Drug rehabilitation program" means a service provider
496 as defined in s. 397.311 which, established pursuant to s.
497 ~~397.311(43), that~~ provides confidential, timely, and expert
498 identification, assessment, and resolution of employee drug
499 abuse.

500 (g) "Employee assistance program" means an established
501 program capable of providing expert assessment of employee
502 personal concerns; confidential and timely identification
503 services with regard to employee drug abuse; referrals of



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504 employees for appropriate diagnosis, treatment, and assistance;
505 and followup services for employees who participate in the
506 program or require monitoring after returning to work. If, in
507 addition to the above activities, an employee assistance program
508 provides diagnostic and treatment services, these services shall
509 in all cases be provided by service providers as defined in s.
510 397.311 ~~pursuant to s. 397.311(43).~~

511 Section 14. Subsection (7) of section 744.2007, Florida
512 Statutes, is amended to read:

513 744.2007 Powers and duties.—

514 (7) A public guardian may not commit a ward to a treatment
515 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
516 involuntary placement proceeding as provided by law.

517 Section 15. This act shall take effect July 1, 2018.

518

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

520 And the title is amended as follows:

521 Delete everything before the enacting clause
522 and insert:

523 A bill to be entitled

524 An act relating to mental health and substance use
525 disorders; amending s. 394.455, F.S.; defining the
526 term "peer specialist"; amending s. 394.4572, F.S.;
527 requiring a specific level of screening for peer
528 specialists working in mental health programs and
529 facilities; amending s. 394.4573, F.S.; specifying
530 that the use of peer specialists for recovery support
531 is an essential element of a coordinated system of
532 behavioral health care; amending s. 397.311, F.S.;



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533 defining the term "peer specialist"; amending s.
534 397.4073, F.S.; conforming provisions to changes made
535 by the act; creating s. 397.417, F.S.; providing
536 legislative findings and intent; authorizing a person
537 to seek certification as a peer specialist if he or
538 she meets specified qualifications; requiring a
539 background screening, completion of a training
540 program, and a passing score on a competency exam for
541 a qualified person to obtain certification as a peer
542 specialist; requiring the Department of Children and
543 Families to develop a training program for peer
544 specialists and give preference to trainers who are
545 certified peer specialists; requiring the training
546 program to coincide with a competency exam and be
547 based on current practice standards; requiring the
548 department to certify peer specialists directly or by
549 designating a nonprofit certification organization;
550 requiring that a person providing peer specialist
551 services be certified or supervised by a licensed
552 behavioral health care professional or a certified
553 peer specialist; authorizing the department, a
554 behavioral health managing entity, or the Medicaid
555 program to reimburse a peer specialist service as a
556 recovery service; encouraging Medicaid managed care
557 plans to use peer specialists in providing recovery
558 services; requiring peer specialists to meet the
559 requirements of a background screening as a condition
560 of employment and continued employment; authorizing
561 the department or the Agency for Health Care



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562 Administration to require by rule that fingerprints be
563 submitted electronically to the Department of Law
564 Enforcement; authorizing the department or the agency
565 to contract with certain vendors for fingerprinting;
566 specifying requirements for vendors; specifying
567 offenses to be considered in the background screening
568 of a peer specialist; authorizing a person who does
569 not meet background screening requirements to request
570 an exemption from disqualification from the department
571 or the agency; providing that all peer specialists
572 certified as of the effective date of this act are
573 recognized as having met the requirements of this act;
574 amending ss. 212.055, 394.495, 394.496, 394.9085,
575 397.416, 409.972, 440.102, and 744.2007, F.S.;
576 conforming cross-references; making technical changes;
577 providing an effective date.

By Senator Garcia

36-00634-18

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1 A bill to be entitled
 2 An act relating to mental health and substance use
 3 disorders; amending s. 394.455, F.S.; defining the
 4 term "peer specialist"; amending s. 394.4572, F.S.;
 5 requiring a specific level of screening for peer
 6 specialists working in mental health programs and
 7 facilities; amending s. 394.4573, F.S.; specifying
 8 that the use of peer specialists for recovery support
 9 is an essential element of a coordinated system of
 10 behavioral health care; amending s. 397.311, F.S.;
 11 defining the term "peer specialist"; amending s.
 12 397.4073, F.S.; conforming a provision to changes made
 13 by the act; creating s. 397.417, F.S.; providing
 14 legislative findings and intent; providing
 15 qualifications and requiring a background screening as
 16 a condition of certification for peer specialists;
 17 requiring the Department of Children and Families to
 18 develop a training program for peer specialists and
 19 give preference to trainers who are certified peer
 20 specialists; requiring that a peer specialist
 21 providing services be supervised by a licensed
 22 behavioral health care professional or a licensed
 23 behavioral health care agency; requiring the
 24 department to certify peer specialists directly or by
 25 designating a nonprofit certification organization;
 26 requiring a person to pass a competency exam before
 27 certification as a peer specialist; authorizing the
 28 department, a behavioral health managing entity, or
 29 the Medicaid program to reimburse a peer specialist

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30 service as a recovery service; encouraging Medicaid
 31 managed care plans to use peer specialists in the
 32 provision of recovery services; requiring all peer
 33 specialists to meet the requirements of a background
 34 screening as a condition of employment and continued
 35 employment; authorizing the department or the Agency
 36 for Health Care Administration to require by rule that
 37 fingerprints are submitted electronically to the
 38 Department of Law Enforcement; authorizing the
 39 department or the agency to contract with certain
 40 vendors for fingerprinting; specifying requirements
 41 for vendors; specifying offenses to be considered in
 42 the background screening of a peer specialist;
 43 authorizing a person who does not meet background
 44 screening requirements to request an exemption from
 45 disqualification from the department or the agency;
 46 providing that all peer specialists certified as of
 47 the effective date of this act are recognized as
 48 having met the requirements of this act; amending ss.
 49 212.055, 394.495, 394.496, 394.9085, 397.416, 409.972,
 50 440.102, and 744.2007, F.S.; conforming cross-
 51 references; making technical changes; providing an
 52 effective date.

53
 54 Be It Enacted by the Legislature of the State of Florida:

55
 56 Section 1. Present subsections (32) through (48) of section
 57 394.455, Florida Statutes, are redesignated as subsections (33)
 58 through (49), respectively, and a new subsection (32) is added

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59 to that section, to read:

60 394.455 Definitions.—As used in this part, the term:

61 (32) "Peer specialist" means a person who has been in
 62 recovery from a substance use disorder or mental illness for the
 63 past 2 years and is certified or is seeking certification under
 64 s. 397.417.

65 Section 2. Paragraph (a) of subsection (1) of section
 66 394.4572, Florida Statutes, is amended to read:

67 394.4572 Screening of mental health personnel.—

68 (1) (a) The department and the Agency for Health Care
 69 Administration shall require level 2 background screening
 70 pursuant to chapter 435 for mental health personnel. "Mental
 71 health personnel" includes all program directors, professional
 72 clinicians, staff members, and volunteers working in public or
 73 private mental health programs and facilities who have direct
 74 contact with individuals held for examination or admitted for
 75 mental health treatment. For purposes of this chapter,
 76 employment screening of mental health personnel also includes,
 77 but is not limited to, employment screening as provided under
 78 chapter 435 and s. 408.809. The department and the Agency for
 79 Health Care Administration shall require a level 2 background
 80 screening pursuant to s. 397.417(5) for persons working as peer
 81 specialists in public or private mental health programs or
 82 facilities who have direct contact with individuals held for
 83 involuntary examination or admitted for mental health treatment.

84 Section 3. Paragraph (1) of subsection (2) of section
 85 394.4573, Florida Statutes, is amended to read:

86 394.4573 Coordinated system of care; annual assessment;
 87 essential elements; measures of performance; system improvement

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88 grants; reports.—On or before December 1 of each year, the
 89 department shall submit to the Governor, the President of the
 90 Senate, and the Speaker of the House of Representatives an
 91 assessment of the behavioral health services in this state. The
 92 assessment shall consider, at a minimum, the extent to which
 93 designated receiving systems function as no-wrong-door models,
 94 the availability of treatment and recovery services that use
 95 recovery-oriented and peer-involved approaches, the availability
 96 of less-restrictive services, and the use of evidence-informed
 97 practices. The department's assessment shall consider, at a
 98 minimum, the needs assessments conducted by the managing
 99 entities pursuant to s. 394.9082(5). Beginning in 2017, the
 100 department shall compile and include in the report all plans
 101 submitted by managing entities pursuant to s. 394.9082(8) and
 102 the department's evaluation of each plan.

103 (2) The essential elements of a coordinated system of care
 104 include:

105 (1) Recovery support, including, but not limited to, the
 106 use of peer specialists pursuant to s. 397.417, support for
 107 competitive employment, educational attainment, independent
 108 living skills development, family support and education,
 109 wellness management and self-care, and assistance in obtaining
 110 housing that meets the individual's needs. Such housing may
 111 include mental health residential treatment facilities, limited
 112 mental health assisted living facilities, adult family care
 113 homes, and supportive housing. Housing provided using state
 114 funds must provide a safe and decent environment free from abuse
 115 and neglect.

116 Section 4. Present subsections (30) through (49) of section

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117 397.311, Florida Statutes, are redesignated as subsections (31)
 118 through (50), respectively, and a new subsection (30) is added
 119 to that section, to read:

120 397.311 Definitions.—As used in this chapter, except part
 121 VIII, the term:

122 (30) "Peer specialist" means a person who has been in
 123 recovery from a substance use disorder or mental illness for the
 124 past 2 years and is certified or is seeking certification under
 125 s. 397.417.

126 Section 5. Paragraphs (b) and (c) of subsection (4) of
 127 section 397.4073, Florida Statutes, are amended to read:

128 397.4073 Background checks of service provider personnel.—
 129 (4) EXEMPTIONS FROM DISQUALIFICATION.—
 130 (b) ~~Since rehabilitated substance abuse impaired persons~~
 131 ~~are effective in the successful treatment and rehabilitation of~~
 132 ~~individuals with substance use disorders, for service providers~~
 133 ~~which treat adolescents 13 years of age and older, service~~
 134 ~~provider personnel whose background checks indicate crimes under~~
 135 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~
 136 ~~disqualification from employment pursuant to this paragraph.~~
 137 ~~(c)~~ The department may grant exemptions from
 138 disqualification which would limit service provider personnel to
 139 working with adults in substance use abuse treatment facilities.

140 Section 6. Section 397.417, Florida Statutes, is created to
 141 read:

142 397.417 Behavioral health peer specialists.—
 143 (1) LEGISLATIVE FINDINGS AND INTENT.—
 144 (a) The Legislature finds that:
 145 1. The ability to provide adequate behavioral health

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146 services is limited by a shortage of professionals and
 147 paraprofessionals.
 148 2. The state is experiencing an increase in opioid
 149 addictions, which prove fatal to persons in many cases.
 150 3. Peer specialists provide effective support services
 151 because they share common life experiences with the persons they
 152 assist.
 153 4. Peer specialists promote a sense of community among
 154 those in recovery.
 155 5. Research has shown that peer support facilitates
 156 recovery and reduces health care costs.
 157 6. Peer specialists may have a criminal history that
 158 prevents them from meeting background screening requirements.
 159 (b) The Legislature intends to expand the use of peer
 160 specialists as a cost-effective means of providing services by
 161 ensuring that peer specialists meet specified qualifications,
 162 meet modified background screening requirements, and are
 163 adequately reimbursed for their services.
 164 (2) QUALIFICATIONS.—
 165 (a) A person may be certified as a peer specialist if he or
 166 she has been in recovery from a substance use disorder or mental
 167 illness for the past 2 years and meets all requirements of this
 168 section.
 169 (b) A peer specialist must meet the background screening
 170 requirements of subsection (5) and complete a training program
 171 approved by the department. The training program must coincide
 172 with a competency exam and be based on the current practice
 173 standards.
 174 (3) DUTIES OF THE DEPARTMENT.—

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175 (a) The department must develop a training program for peer
 176 specialists. The department must give preference to trainers who
 177 are certified peer specialists.

178 (b) The department must require that a peer specialist
 179 providing services is supervised by a licensed behavioral health
 180 care professional or licensed behavioral health care agency.

181 (c) The department must certify peer specialists. The
 182 department may designate a private, nonprofit certification
 183 organization to certify peer specialists or may certify peer
 184 specialists directly. The department or designated organization
 185 must require a peer specialist to pass a competency exam before
 186 certification.

187 (4) PAYMENT.—Peer specialist services may be reimbursed as
 188 a recovery service through the department, a behavioral health
 189 managing entity, or the Medicaid program. Medicaid managed care
 190 plans are encouraged to use peer specialists in the provision of
 191 recovery services.

192 (5) BACKGROUND SCREENING.—

193 (a) All peer specialists must undergo a background
 194 screening as a condition of employment and continued employment
 195 which must include fingerprinting for statewide criminal history
 196 records checks through the Department of Law Enforcement and
 197 national criminal history records checks through the Federal
 198 Bureau of Investigation. The background screening may include
 199 local criminal records checks through local law enforcement
 200 agencies.

201 (b) The department or the Agency for Health Care
 202 Administration, as applicable, may require by rule that
 203 fingerprints submitted pursuant to this section must be

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204 submitted electronically to the Department of Law Enforcement.

205 (c) The department or the Agency for Health Care
 206 Administration, as applicable, may contract with one or more
 207 vendors to perform all or part of the electronic fingerprinting
 208 pursuant to this section. Such contracts must ensure that the
 209 owners and personnel of the vendor performing the electronic
 210 fingerprinting are qualified and will ensure the integrity and
 211 security of all personal identifying information.

212 (d) Vendors who submit fingerprints on behalf of employers
 213 must:

- 214 1. Meet the requirements of s. 943.053; and
- 215 2. Have the ability to communicate electronically with the
 216 department or the Agency for Health Care Administration, as
 217 applicable, accept screening results from the Department of Law
 218 Enforcement and provide the applicant's full first name, middle
 219 initial, and last name; social security number or individual
 220 taxpayer identification number; date of birth; mailing address;
 221 sex; and race.

222 (e) The background screening under this section must ensure
 223 that a peer specialist has not, during the previous 3 years,
 224 been arrested for and is awaiting final disposition of, has been
 225 found guilty of, regardless of adjudication, or entered a plea
 226 of nolo contendere or guilty to, or has been adjudicated
 227 delinquent and the record has not been sealed or expunged for,
 228 any offense prohibited under any of the following state laws or
 229 similar laws of another jurisdiction:

- 230 1. Section 393.135, relating to sexual misconduct with
 231 certain developmentally disabled clients and reporting of such
 232 sexual misconduct.

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- 233 2. Section 394.4593, relating to sexual misconduct with
 234 certain mental health patients and reporting of such sexual
 235 misconduct.
- 236 3. Section 409.9201, relating to Medicaid fraud.
- 237 4. Section 415.111, relating to adult abuse, neglect, or
 238 exploitation of aged persons or disabled adults.
- 239 5. Section 741.28, relating to domestic violence.
- 240 6. Section 777.04, relating to attempts, solicitation, and
 241 conspiracy to commit an offense listed in this section.
- 242 7. Section 782.04, relating to murder.
- 243 8. Section 782.07, relating to manslaughter, aggravated
 244 manslaughter of an elderly person or disabled adult, aggravated
 245 manslaughter of a child, or aggravated manslaughter of an
 246 officer, a firefighter, an emergency medical technician, or a
 247 paramedic.
- 248 9. Section 782.071, relating to vehicular homicide.
- 249 10. Section 782.09, relating to killing of an unborn child
 250 by injury to the mother.
- 251 11. Section 787.01, relating to kidnapping.
- 252 12. Section 787.02, relating to false imprisonment.
- 253 13. Section 787.025, relating to luring or enticing a
 254 child.
- 255 14. Section 787.04(2), relating to leading, taking,
 256 enticing, or removing a minor beyond the state limits, or
 257 concealing the location of a minor, with criminal intent pending
 258 custody proceedings.
- 259 15. Section 787.04(3), relating to leading, taking,
 260 enticing, or removing a minor beyond the state limits, or
 261 concealing the location of a minor, with criminal intent pending

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- 262 dependency proceedings or proceedings concerning alleged abuse
 263 or neglect of a minor.
- 264 16. Section 790.115(1), relating to exhibiting firearms or
 265 weapons within 1,000 feet of a school.
- 266 17. Section 790.115(2)(b), relating to possessing an
 267 electric weapon or device, destructive device, or other weapon
 268 on school property.
- 269 18. Section 794.011, relating to sexual battery.
- 270 19. Former s. 794.041, relating to prohibited acts of
 271 persons in familial or custodial authority.
- 272 20. Section 794.05, relating to unlawful sexual activity
 273 with certain minors.
- 274 21. Section 798.02, relating to lewd and lascivious
 275 behavior.
- 276 22. Chapter 800, relating to lewdness and indecent
 277 exposure.
- 278 23. Section 806.01, relating to arson.
- 279 24. Section 810.14, relating to voyeurism, if the offense
 280 was a felony.
- 281 25. Section 810.145, relating to video voyeurism, if the
 282 offense was a felony.
- 283 26. Section 817.50, relating to fraudulently obtaining
 284 goods or services from a health care provider.
- 285 27. Section 817.505, relating to patient brokering.
- 286 28. Section 817.563, relating to fraudulent sale of
 287 controlled substances, if the offense was a felony.
- 288 29. Section 825.102, relating to abuse, aggravated abuse,
 289 or neglect of an elderly person or disabled adult.
- 290 30. Section 825.1025, relating to lewd or lascivious

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291 offenses committed upon or in the presence of an elderly person
 292 or disabled person.

293 31. Section 825.103, relating to exploitation of an elderly
 294 person or disabled adult, if the offense was a felony.

295 32. Section 826.04, relating to incest.

296 33. Section 827.03, relating to child abuse, aggravated
 297 child abuse, or neglect of a child.

298 34. Section 827.04, relating to contributing to the
 299 delinquency or dependency of a child.

300 35. Former s. 827.05, relating to negligent treatment of
 301 children.

302 36. Section 827.071, relating to sexual performance by a
 303 child.

304 37. Section 831.30, relating to fraud in obtaining
 305 medicinal drugs.

306 38. Section 831.31, relating to sale, manufacture,
 307 delivery, possession with intent to sell, manufacture, or
 308 deliver any counterfeit controlled substance if the offense was
 309 a felony.

310 39. Section 843.01, relating to resisting arrest with
 311 violence.

312 40. Section 843.025, relating to depriving a law
 313 enforcement, correctional, or correctional probation officer
 314 means of protection or communication.

315 41. Section 843.12, relating to aiding in an escape.

316 42. Section 843.13, relating to aiding in the escape of
 317 juvenile inmates of correctional institutions.

318 43. Chapter 847, relating to obscene literature.

319 44. Section 874.05, relating to encouraging or recruiting

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320 another to join a criminal gang.

321 45. Chapter 893, relating to drug abuse prevention and
 322 control, if the offense was a felony.

323 46. Section 895.03, relating to racketeering and collection
 324 of unlawful debts.

325 47. Section 896.101, relating to the Florida Money
 326 Laundering Act.

327 48. Section 916.1075, relating to sexual misconduct with
 328 certain forensic clients and reporting of such sexual
 329 misconduct.

330 49. Section 944.35(3), relating to inflicting cruel or
 331 inhuman treatment on an inmate resulting in great bodily harm.

332 50. Section 944.40, relating to escape.

333 51. Section 944.46, relating to harboring, concealing, or
 334 aiding an escaped prisoner.

335 52. Section 944.47, relating to introduction of contraband
 336 into a correctional facility.

337 53. Section 985.701, relating to sexual misconduct in
 338 juvenile justice programs.

339 54. Section 985.711, relating to contraband introduced into
 340 detention facilities.

341 (6) EXEMPTION REQUESTS.—Persons who wish to become a peer
 342 specialist and are disqualified under subsection (5) may request
 343 an exemption from disqualification pursuant to s. 435.07 from
 344 the department or the Agency for Health Care Administration, as
 345 applicable.

346 (7) GRANDFATHER CLAUSE.—All peer specialists certified as
 347 of the effective date of this act are recognized as having met
 348 the requirements of this act.

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349 Section 7. Paragraph (e) of subsection (5) of section
 350 212.055, Florida Statutes, is amended to read:
 351 212.055 Discretionary sales surtaxes; legislative intent;
 352 authorization and use of proceeds.—It is the legislative intent
 353 that any authorization for imposition of a discretionary sales
 354 surtax shall be published in the Florida Statutes as a
 355 subsection of this section, irrespective of the duration of the
 356 levy. Each enactment shall specify the types of counties
 357 authorized to levy; the rate or rates which may be imposed; the
 358 maximum length of time the surtax may be imposed, if any; the
 359 procedure which must be followed to secure voter approval, if
 360 required; the purpose for which the proceeds may be expended;
 361 and such other requirements as the Legislature may provide.
 362 Taxable transactions and administrative procedures shall be as
 363 provided in s. 212.054.
 364 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 365 s. 125.011(1) may levy the surtax authorized in this subsection
 366 pursuant to an ordinance either approved by extraordinary vote
 367 of the county commission or conditioned to take effect only upon
 368 approval by a majority vote of the electors of the county voting
 369 in a referendum. In a county as defined in s. 125.011(1), for
 370 the purposes of this subsection, “county public general
 371 hospital” means a general hospital as defined in s. 395.002
 372 which is owned, operated, maintained, or governed by the county
 373 or its agency, authority, or public health trust.
 374 (e) A governing board, agency, or authority shall be
 375 chartered by the county commission upon this act becoming law.
 376 The governing board, agency, or authority shall adopt and
 377 implement a health care plan for indigent health care services.

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378 The governing board, agency, or authority shall consist of no
 379 more than seven and no fewer than five members appointed by the
 380 county commission. The members of the governing board, agency,
 381 or authority shall be at least 18 years of age and residents of
 382 the county. A ~~No~~ member may not be employed by or affiliated
 383 with a health care provider or the public health trust, agency,
 384 or authority responsible for the county public general hospital.
 385 The following community organizations shall each appoint a
 386 representative to a nominating committee: the South Florida
 387 Hospital and Healthcare Association, the Miami-Dade County
 388 Public Health Trust, the Dade County Medical Association, the
 389 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 390 County. This committee shall nominate between 10 and 14 county
 391 citizens for the governing board, agency, or authority. The
 392 slate shall be presented to the county commission and the county
 393 commission shall confirm the top five to seven nominees,
 394 depending on the size of the governing board. Until such time as
 395 the governing board, agency, or authority is created, the funds
 396 provided for in subparagraph (d)2. shall be placed in a
 397 restricted account set aside from other county funds and not
 398 disbursed by the county for any other purpose.
 399 1. The plan shall divide the county into a minimum of four
 400 and maximum of six service areas, with no more than one
 401 participant hospital per service area. The county public general
 402 hospital shall be designated as the provider for one of the
 403 service areas. Services shall be provided through participants'
 404 primary acute care facilities.
 405 2. The plan and subsequent amendments to it shall fund a
 406 defined range of health care services for both indigent persons

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407 and the medically poor, including primary care, preventive care,
 408 hospital emergency room care, and hospital care necessary to
 409 stabilize the patient. For the purposes of this section,
 410 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~
 411 ~~397.311(45)~~. Where consistent with these objectives, the plan
 412 may include services rendered by physicians, clinics, community
 413 hospitals, and alternative delivery sites, as well as at least
 414 one regional referral hospital per service area. The plan shall
 415 provide that agreements negotiated between the governing board,
 416 agency, or authority and providers shall recognize hospitals
 417 that render a disproportionate share of indigent care, provide
 418 other incentives to promote the delivery of charity care to draw
 419 down federal funds where appropriate, and require cost
 420 containment, including, but not limited to, case management.
 421 From the funds specified in subparagraphs (d)1. and 2. for
 422 indigent health care services, service providers shall receive
 423 reimbursement at a Medicaid rate to be determined by the
 424 governing board, agency, or authority created pursuant to this
 425 paragraph for the initial emergency room visit, and a per-member
 426 per-month fee or capitation for those members enrolled in their
 427 service area, as compensation for the services rendered
 428 following the initial emergency visit. Except for provisions of
 429 emergency services, upon determination of eligibility,
 430 enrollment shall be deemed to have occurred at the time services
 431 were rendered. The provisions for specific reimbursement of
 432 emergency services shall be repealed on July 1, 2001, unless
 433 otherwise reenacted by the Legislature. The capitation amount or
 434 rate shall be determined before program implementation by an
 435 independent actuarial consultant. In no event shall such

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436 reimbursement rates exceed the Medicaid rate. The plan must also
 437 provide that any hospitals owned and operated by government
 438 entities on or after the effective date of this act must, as a
 439 condition of receiving funds under this subsection, afford
 440 public access equal to that provided under s. 286.011 as to any
 441 meeting of the governing board, agency, or authority the subject
 442 of which is budgeting resources for the retention of charity
 443 care, as that term is defined in the rules of the Agency for
 444 Health Care Administration. The plan shall also include
 445 innovative health care programs that provide cost-effective
 446 alternatives to traditional methods of service and delivery
 447 funding.

448 3. The plan's benefits shall be made available to all
 449 county residents currently eligible to receive health care
 450 services as indigents or medically poor as defined in paragraph
 451 (4) (d) .

452 4. Eligible residents who participate in the health care
 453 plan shall receive coverage for a period of 12 months or the
 454 period extending from the time of enrollment to the end of the
 455 current fiscal year, per enrollment period, whichever is less.

456 5. At the end of each fiscal year, the governing board,
 457 agency, or authority shall prepare an audit that reviews the
 458 budget of the plan, delivery of services, and quality of
 459 services, and makes recommendations to increase the plan's
 460 efficiency. The audit shall take into account participant
 461 hospital satisfaction with the plan and assess the amount of
 462 poststabilization patient transfers requested, and accepted or
 463 denied, by the county public general hospital.

464 Section 8. Subsection (3) of section 394.495, Florida

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465 Statutes, is amended to read:

466 394.495 Child and adolescent mental health system of care;
467 programs and services.—

468 (3) Assessments must be performed by:

469 (a) A professional as defined in s. 394.455(5), (7), (33)
470 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

471 (b) A professional licensed under chapter 491; or

472 (c) A person who is under the direct supervision of a
473 qualified professional as defined in s. 394.455(5), (7), (33)
474 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
475 chapter 491.

476 Section 9. Subsection (5) of section 394.496, Florida
477 Statutes, is amended to read:

478 394.496 Service planning.—

479 (5) A professional as defined in s. 394.455(5), (7), (33)
480 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
481 chapter 491 must be included among those persons developing the
482 services plan.

483 Section 10. Subsection (6) of section 394.9085, Florida
484 Statutes, is amended to read:

485 394.9085 Behavioral provider liability.—

486 (6) For purposes of this section, the terms “detoxification
487 services” has the same meaning as detoxification in s.
488 397.311(26)(a), “addictions receiving facility” has the same
489 meaning as provided in s. 397.311(26)(a), and “receiving
490 facility” has have the same meaning meanings as those provided
491 in s. 394.455 ss. 397.311(26)(a)4., 397.311(26)(a)1., and
492 394.455(39), respectively.

493 Section 11. Section 397.416, Florida Statutes, is amended

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494 to read:

495 397.416 Substance use ~~abuse~~ treatment services; qualified
496 professional.—Notwithstanding any other provision of law, a
497 person who was certified through a certification process
498 recognized by the former Department of Health and Rehabilitative
499 Services before January 1, 1995, may perform the duties of a
500 qualified professional with respect to substance use ~~abuse~~
501 treatment services as defined in this chapter, and need not meet
502 the certification requirements contained in s. 397.311(35) ~~s.~~
503 ~~397.311(34)~~.

504 Section 12. Paragraph (b) of subsection (1) of section
505 409.972, Florida Statutes, is amended to read:

506 409.972 Mandatory and voluntary enrollment.—

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

511 (b) Medicaid recipients residing in residential commitment
512 facilities operated through the Department of Juvenile Justice
513 or in a treatment facility as defined in s. 394.455 ~~s.~~
514 ~~394.455(47)~~.

515 Section 13. Paragraphs (d) and (g) of subsection (1) of
516 section 440.102, Florida Statutes, are amended to read:

517 440.102 Drug-free workplace program requirements.—The
518 following provisions apply to a drug-free workplace program
519 implemented pursuant to law or to rules adopted by the Agency
520 for Health Care Administration:

521 (1) DEFINITIONS.—Except where the context otherwise
522 requires, as used in this act:

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523 (d) "Drug rehabilitation program" means a service provider
524 as defined in s. 397.311 which, ~~established pursuant to s.~~
525 ~~397.311(43)~~, that provides confidential, timely, and expert
526 identification, assessment, and resolution of employee drug
527 abuse.

528 (g) "Employee assistance program" means an established
529 program capable of providing expert assessment of employee
530 personal concerns; confidential and timely identification
531 services with regard to employee drug abuse; referrals of
532 employees for appropriate diagnosis, treatment, and assistance;
533 and followup services for employees who participate in the
534 program or require monitoring after returning to work. If, in
535 addition to the above activities, an employee assistance program
536 provides diagnostic and treatment services, these services shall
537 in all cases be provided by service providers as defined in s.
538 397.311 pursuant to s. 397.311(43).

539 Section 14. Subsection (7) of section 744.2007, Florida
540 Statutes, is amended to read:

541 744.2007 Powers and duties.—

542 (7) A public guardian may not commit a ward to a treatment
543 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
544 involuntary placement proceeding as provided by law.

545 Section 15. This act shall take effect July 1, 2018.

Strike All Amendment Barcode # 862364 to SB 450

Children, Families and Elder Affairs Committee 11/13/17

- Adds family member or caregiver of a person with a substance use disorder or mental illness to the definition of a peer specialist. This is current practice and there are certified peer specialists that are family members.
- Allows certified peer specialists, along with licensed behavioral health care professionals, to supervise other peer specialists.
- Clarifies that peer specialists must have had no felonies for at least 3 years and meet background screening requirements.
- Requires peer specialists to have completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for any felony prior to being certified.
- Adds felony assault and battery, female genital mutilation, and robbery, as offenses that would disqualify peer specialists. Clarifies that drug offenses that are first and second degree are disqualifying for peer specialists. Peer specialists would still be able to request an exemption from the agency. Removes offense of selling a non-controlled substance as a controlled substance from the list of disqualifying offenses.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17
Meeting Date

SB 450
Bill Number (if applicable)

Topic Peer Specialists ✓

Name Cameron Wood ✓

Job Title Executive Director

Address 6418 S. Goldenrod Rd., Unit A

Phone (407) 988-5780

Orlando FL 32822
City State Zip

Email cameron@peersupportfl.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Peer Support Coalition of Florida, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the ...

THE FLORIDA SENATE

APPEARANCE RECORD

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

11-13-17

Meeting Date

450

Bill Number (if applicable)

Topic PEER SPECIALISTS

Amendment Barcode (if applicable)

Name GINO SCANO

Job Title RECOVERY COACH

Address 2020 26th AVE. E.

Phone 941-737-2403

Street

BRADENTON FL. 34209

City

State

Zip

Email bubblehead608@hotmail.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing CENTERSTONE BEHAVIORAL HOOP & ADDICTIONS CENTER

Appearing at request of Chair: [X] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17

Meeting Date

SB 450

Bill Number (if applicable)

Topic Mental Health and Substance Abuse

Amendment Barcode (if applicable)

Name Shane Messer

Job Title Legislative Affairs Director

Address 316 East Park Ave

Phone 850/322-6693

Street

Tallahassee

FL

32301

Email shane@fccmh.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Council for Behavioral Healthcare

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11.13.17
Meeting Date

450
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Albert Balido

Job Title Managing Partner

Address 201 W Park Ave, #100
Tallahassee FL 32301
Street City State Zip

Phone 850 251 3440

Email Albert@andrel@floridag.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Certification Board

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-17

Meeting Date

450

Bill Number (if applicable)

Topic Peers

Amendment Barcode (if applicable)

Name Jill Gran

Job Title Legislative Director

Address 2868 Mahan Drive

Phone 850-878-2196

Street

Tallahassee FL 32308

City

State

Zip

Email jill@myflaha.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Behavioral Health Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/13/17

Meeting Date

450

Bill Number (if applicable)

Topic Mental Health

Amendment Barcode (if applicable)

Name Alisa Laport

Job Title Executive Director

Address PO Box 961

Phone 671-4445

Street

TLH

Email alisa@nami-florida.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NAMI Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

11-13-2017
Meeting Date

450
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justicedjesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Children, Families, and Elder Affairs
ITEM: SB 450
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, November 13, 2017
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Office Building

FINAL VOTE		SENATORS	11/13/2017 1					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Campbell						
X		Stargel						
X		Steube						
X		Torres, VICE CHAIR						
X		Garcia, CHAIR						
6	0	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 498

INTRODUCER: Senator Garcia

SUBJECT: Office of Public and Professional Guardians Direct-support Organization

DATE: November 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 498 removes the scheduled repeal date for the Foundation for Indigent Guardianship, Inc. which serves as a direct-support organization for the Office of Public and Professional Guardians within the Department of Elder Affairs..

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2018.

II. Present Situation:

Citizen-Support Organizations and Direct-Support Organizations

Citizen-support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created non-profit organizations¹ authorized to carry out specific tasks in support of public entities or public causes. The function and purpose of a CSO or DSO are prescribed by an enacting statute and a written contract with the agency the CSO or DSO was created to support.²

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs.³ Specifically, the law requires each CSO and DSO to annually submit the following information to the appropriate agency by August 1:⁴

¹ Chapter 617, F.S.

² See ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d) available at https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited November 7, 2017).

³ Section 3, ch. 2014-96, L.O.F

⁴ Section 20.058(1), F.S.

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵

Additionally, the information submitted annually by a CSO or DSO must be available on the respective agency's website along with a link to the CSO or DSO's website, if one exists.⁶ Any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting the required information to the agency and posting the information on the agency's website.⁷ The contract must include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁸ If a CSO or DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the CSO or DSO.⁹

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by each CSO or DSO along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the CSO or DSO.¹⁰

Any law creating, or authorizing the creation of a CSO or DSO must state that the authorization for the organization repeals on October 1 of the 5th year after enactment unless reviewed and reenacted by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.¹¹

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹² The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO or CSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports. Additionally, the Auditor

⁵ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501. 26 C.F.R. 1.6033-2.

⁶ Section 20.058(2), F.S.

⁷ Section 20.058(4), F.S.

⁸ Chapter 2017-75, L.O.F.

⁹ Section 20.058(4), F.S.

¹⁰ Section 20.058(3), F.S.

¹¹ Section 20.058(5), F.S.

¹² The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.¹³

CSO and DSO Ethics Code Requirement

Section 112.3251, F.S., requires a CSO or DSO to adopt a code of ethics. The code of ethics must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.¹⁴ A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must post its code of ethics on its website.¹⁵

The Department of Elder Affairs

The Florida Constitution provides that the Legislature may create a Department of Elderly Affairs (DOEA or department) and prescribe its duties.¹⁶ In addition to the Florida Constitution, the Florida Statutes provide that the department shall be the state unit on aging as defined in the federal Older Americans Act of 1965, as amended, and shall exercise all responsibilities pursuant to that act.¹⁷ The department has served as the primary state agency for administering human services programs for elders and developing policy recommendations for long-term care since 1992.¹⁸ The department provides most of its direct services through its Division of Statewide Community-Based Services, which works through the state's eleven Area Agencies on Aging and local service providers to deliver essential services to a vital segment of the population. The department also directly administers a wide range of programs, ranging from the Long-Term Care Ombudsman Program, Office of Public and Professional Guardians, and Communities for a Lifetime to SHINE (Serving Health Insurance Needs of Elders) and CARES (Comprehensive Assessment and Review for Long-Term Care Services).¹⁹

The Office of Public and Professional Guardians

The Legislature created the Statewide Public Guardianship Office in 1999 to provide oversight for all public guardians.²⁰ In 2016, the Legislature renamed the Statewide Public Guardianship Office within the department as the Office of Public and Professional Guardians (Office)²¹ and expanded the Office's responsibilities. The expansion of the Office's oversight of professional guardians followed reports of abuse and inappropriate behavior by professional guardians. The Office now regulates professional guardians with certain disciplinary and enforcement powers. The Office is required to review and, if determined legally sufficient, investigate any complaint that a professional guardian has violated the standards of practice established by the Office.²²

¹³ Section 11.45(3), F.S.

¹⁴ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

¹⁵ Section 112.3251, F.S.

¹⁶ FLA.CONST. art. IV, s. 12, 1988.

¹⁷ Section 20.41, F.S.

¹⁸ Department of Elder Affairs, 2018 Agency Legislative Bill Analysis, SB 498, October 17, 2017.

¹⁹ *Id.*

²⁰ Section 744.7021, F.S.

²¹ Chapter 2016-40, L.O.F. Section 744.7021, F.S. was renumbered as s. 744.2001, F.S.

²² Section 744.2004, F.S.

Foundation for Indigent Guardianship, Inc.

In 2002, the Legislature authorized the Statewide Public Guardianship Office to create a direct-support organization for the direct or indirect benefit of the Office by conduct programs and activities; raising funds; request and receive grants, gifts, and bequests of moneys; and making expenditures to or for the direct or indirect benefit of the Office.²³

The Office established the Foundation for Indigent Guardianship, Inc. (FIG) as its direct-support organization. The Secretary of the department appoints the members of the board of directors. In 2006, FIG founded The Florida Public Guardianship Pooled Special Needs Trust (Trust) with the sole purpose of helping people with disabilities qualify for or maintain means-tested public benefits, such as Medicaid, Supplemental Security Income (SSI), food assistance and public housing while potentially benefitting Florida's statewide public guardianship program.²⁴ Since that date, FIG has distributed over \$1,000,000 to public guardianship programs.

The Foundation also provides complimentary educational opportunities for the staff of public guardianship programs as well as other educational projects to raise awareness to educate the public about the needs of public guardians and those they serve, to assist the livelihood and general welfare of Florida-resident elders in need of a public guardian as well as those persons with cognitive impairments who are indigent and have no family or friends to care for their needs.²⁵ The foundation is set to repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature.²⁶ The Foundation meets all of the statutory requirements to remain in existence.

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date for the Foundation for Indigent Guardianship which serves as a direct-support organization for the Office of Public and Professional Guardians within the Department of Elder Affairs.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ Chapter 2002-195, L.O.F.

²⁴ Department of Elder Affairs, 2018 Agency Legislative Bill Analysis, SB 498, October 17, 2017.

²⁵ *Id.*

²⁶ Chapter 2016-40, L.O.F. Section 744.2105, F.S. In 2016, s. 744.7082, F.S., was renumbered as s. 744.2105, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends s. 744.2105 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Garcia

36-00675-18

2018498__

1 A bill to be entitled
 2 An act relating to the Office of Public and
 3 Professional Guardians direct-support organization;
 4 amending s. 744.2105, F.S.; abrogating the scheduled
 5 repeal of provisions governing a direct-support
 6 organization established under the Office of Public
 7 and Professional Guardians within the Department of
 8 Elderly Affairs; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 744.2105, Florida Statutes, is amended
 13 to read:
 14 744.2105 Direct-support organization; definition; use of
 15 property; board of directors; audit; dissolution.—
 16 (1) DEFINITION.—As used in this section, the term “direct-
 17 support organization” means an organization whose sole purpose
 18 is to support the Office of Public and Professional Guardians
 19 and is:
 20 (a) A not-for-profit corporation incorporated under chapter
 21 617 and approved by the Department of State;
 22 (b) Organized and operated to conduct programs and
 23 activities; to raise funds; to request and receive grants,
 24 gifts, and bequests of moneys; to acquire, receive, hold,
 25 invest, and administer, in its own name, securities, funds,
 26 objects of value, or other property, real or personal; and to
 27 make expenditures to or for the direct or indirect benefit of
 28 the Office of Public and Professional Guardians; and
 29 (c) Determined by the Office of Public and Professional

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

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30 Guardians to be consistent with the goals of the office, in the
 31 best interests of the state, and in accordance with the adopted
 32 goals and mission of the Department of Elderly Affairs and the
 33 Office of Public and Professional Guardians.
 34 (2) CONTRACT.—The direct-support organization shall operate
 35 under a written contract with the Office of Public and
 36 Professional Guardians. The written contract must provide for:
 37 (a) Certification by the Office of Public and Professional
 38 Guardians that the direct-support organization is complying with
 39 the terms of the contract and is doing so consistent with the
 40 goals and purposes of the office and in the best interests of
 41 the state. This certification must be made annually and reported
 42 in the official minutes of a meeting of the direct-support
 43 organization.
 44 (b) The reversion of moneys and property held in trust by
 45 the direct-support organization:
 46 1. To the Office of Public and Professional Guardians if
 47 the direct-support organization is no longer approved to operate
 48 for the office;
 49 2. To the Office of Public and Professional Guardians if
 50 the direct-support organization ceases to exist;
 51 3. To the Department of Elderly Affairs if the Office of
 52 Public and Professional Guardians ceases to exist; or
 53 4. To the state if the Department of Elderly Affairs ceases
 54 to exist.
 55
 56 The fiscal year of the direct-support organization shall begin
 57 on July 1 of each year and end on June 30 of the following year.
 58 (c) The disclosure of the material provisions of the

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59 contract, and the distinction between the Office of Public and
60 Professional Guardians and the direct-support organization, to
61 donors of gifts, contributions, or bequests, including such
62 disclosure on all promotional and fundraising publications.

63 (3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs
64 shall appoint a board of directors for the direct-support
65 organization from a list of nominees submitted by the executive
66 director of the Office of Public and Professional Guardians.

67 (4) USE OF PROPERTY.—The Department of Elderly Affairs may
68 permit, without charge, appropriate use of fixed property and
69 facilities of the department or the Office of Public and
70 Professional Guardians by the direct-support organization. The
71 department may prescribe any condition with which the direct-
72 support organization must comply in order to use fixed property
73 or facilities of the department or the Office of Public and
74 Professional Guardians.

75 (5) MONEYS.—Any moneys may be held in a separate depository
76 account in the name of the direct-support organization and
77 subject to the provisions of the written contract with the
78 Office of Public and Professional Guardians. Expenditures of the
79 direct-support organization shall be expressly used to support
80 the Office of Public and Professional Guardians. The
81 expenditures of the direct-support organization may not be used
82 for the purpose of lobbying as defined in s. 11.045.

83 (6) PUBLIC RECORDS.—Personal identifying information of a
84 donor or prospective donor to the direct-support organization
85 who desires to remain anonymous is confidential and exempt from
86 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

87 (7) AUDIT.—The direct-support organization shall provide

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2018498__

88 for an annual financial audit in accordance with s. 215.981.

89 (8) DISSOLUTION.—A not-for-profit corporation incorporated
90 under chapter 617 that is determined by a circuit court to be
91 representing itself as a direct-support organization created
92 under this section, but that does not have a written contract
93 with the Office of Public and Professional Guardians in
94 compliance with this section, is considered to meet the grounds
95 for a judicial dissolution described in s. 617.1430(1)(a). The
96 Office of Public and Professional Guardians shall be the
97 recipient for all assets held by the dissolved corporation which
98 accrued during the period that the dissolved corporation
99 represented itself as a direct-support organization created
100 under this section.

101 ~~(9) REPEAL.—This section is repealed October 1, 2018,~~
102 ~~unless reviewed and saved from repeal by the Legislature.~~

103 Section 2. This act shall take effect July 1, 2018.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/13/17

Meeting Date

498

Bill Number (if applicable)

Topic SB 498

Amendment Barcode (if applicable)

Name Jon Ponley

Job Title Director, Legislative Affairs

Address 4040 Esplanade Way

Street

Tallahassee

City

State

FL

Zip

32317

Phone

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Department of Elder Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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



Improving Quality and Reducing Costs through Innovation

- Dialyze Direct provides point of care, staff-assisted home hemodialysis designed to tackle the most costly segment of dialysis patients, namely geriatric dialysis patients residing in skilled nursing facilities (“SNFs”).
- Currently, the majority of geriatric SNF dialysis patients are being forced to undergo costly trips to dialysis facilities to receive conventional dialysis 3 times per week, which has proven to not meet quality benchmarks in fluid removal, exacerbates cardiovascular problems, diminishes quality of life, and ultimately results in frequent and costly re-hospitalizations.
- The main goal of Dialyze Direct’s treatment model is to make the SNF a viable discharge solution for geriatric dialysis patients leaving the hospital. Dialyze Direct achieves this by stabilizing the patient within the SNF, which ultimately makes the patient a better home patient with a significantly reduced chance of post-acute re-hospitalizations that could ultimately result in death.
- Dialyze Direct utilizes a unique treatment model that combines direct oversight with proprietary protocols and procedures that are proven to improve medical outcomes, enhance patient experience and quality of life, while significantly lowering costs.
- Dialyze Direct provides a “home dialysis den” within the SNF and provides its own trained, specialized clinical staff (2 to 1 patient-to-staff ratio) to perform the patient-centric treatments which emphasizes and enhances coordination of care with the SNF staff.
- By improving the health of geriatric SNF patients through patient-centric treatments that are gentler and more frequent, Dialyze Direct slashes hospital re-admission rates by over 40%, which results in roughly \$140,000 in savings per patient per year, for patients that underwent 6 or more hospitalizations throughout the year.
- Dialyze Direct totally eliminates transportation costs for dialysis patients to and from SNFs which saves significant costs per dialysis treatment (i.e. transportation costs \$411 per treatment for Medicare).
- During Hurricane Irma, Dialyze Direct’s innovative, on-site model resulted in a 0% disruption rate of service for Dialyze Direct’s nursing home patients. Further, the model allowed patients to avoid risking dangerous travel to and from dialysis facilities for their treatments, or missing their treatments entirely which could result in costly re-hospitalizations or death. Dialyze Direct was critical in the SNFs emergency preparedness plan and had a two week stock of supplies and medications to ensure continuity of care.
- As the need for home hemodialysis grows, and in light of the need for increased geriatric-centric safety measures for future natural disasters, Dialyze Direct appreciates the opportunity to educate all stakeholders about this very frail and needy population that we both have the privilege to serve.

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Children, Families, and Elder Affairs

Judge:

Started: 11/13/2017 4:00:58 PM

Ends: 11/13/2017 5:57:40 PM Length: 01:56:43

4:00:58 PM Meeting called to order
4:01:16 PM Quroum Present
4:01:23 PM Sen Passidomo explain SB 268
4:02:33 PM BC 423396 introduced
4:03:36 PM Question by Vice Chair Torres
4:04:00 PM Sen Passidomo responds
4:04:17 PM Chair Garcia Question
4:04:26 PM Sen Passidomo response
4:04:32 PM Strike All adopted
4:05:07 PM Bryan Cherry, fl Public Guardian Coalition, waives in support
4:05:13 PM Brian Pitts, Justice for Jesus speaks to inform
4:09:51 PM Karen Campbell, FI Public Gurdian Coalition President, speaks in favor
4:13:48 PM Vice Chair Torres comments
4:14:24 PM Chair Garcia comments
4:15:09 PM Sen Passidomo closes on SB 268
4:15:18 PM Roll Call SB 268
4:15:23 PM Sb 268 recorded favorably
4:15:34 PM Sen Gibson SB 422
4:15:44 PM Sen Gibson explains the bill
4:17:41 PM Robert Beck, FI Association of Area agencies on aging, waives in support
4:18:46 PM Eileen Rodden, Elder Abuse Fatality Review Team, speakins in favor
4:20:20 PM Teresa Miles, Women's Center Waives in support
4:20:58 PM Brian Pitts, Justice for Jesus, speaks to inform
4:24:56 PM Sen Stuebe question
4:25:26 PM John Tolly, Dept. of Elder Affairs speaks regarding Steube's question
4:26:38 PM Sen Gibson closes on the SB 422
4:28:48 PM AA, Nikki Lowrey calls roll on SB 422
4:29:03 PM SB 422 recorded favorably
4:29:15 PM SB 424 Sen Gibson
4:29:21 PM Sen Gibson explains the bill
4:29:38 PM Eileen Rodden, waive in favor
4:29:49 PM Teresa waives in favor
4:29:57 PM AA calls roll on SB 424
4:30:05 PM SB 424 recoreded favorably
4:30:18 PM CS SB 140
4:30:47 PM Sen explains the bill
4:31:11 PM Barbara Devane, FI NOW, waives in support
4:31:32 PM Ignasio Diaz waives in support
4:31:48 PM Doug Bell waives in support
4:31:58 PM Jody Stevens, waives in support
4:32:14 PM Sherry Johnson, advocate, survivor, and non profit founder, speaks in favor of the bill
4:33:33 PM Chloe Shulte, National Organization for women, speaks in support

4:34:34 PM Cynthia Colas, FI Now, waives in support
4:35:22 PM Caroline Sizemore waives in support
4:35:33 PM Nelson Diaz, Florida Bar Family Law, speaks in support
4:36:15 PM Sen Campbell question
4:36:21 PM Nelson Diaz response
4:36:27 PM Victoria Tompkins, FSU NOW waives in support
4:36:42 PM Roy Miller, The Children Campaign, speaks in favor
4:37:40 PM Amber Kelly, FI Family Action, speaks in favor
4:38:46 PM Brian Pitts, Justice 2 Jesus speaks to inform
4:45:22 PM Sen Stargel comments
4:47:07 PM Sen Simpson waives close
4:47:24 PM AA Nikki Lowrey calls Roll on Sb 140
4:47:39 PM SB 140 recorded favorably
4:47:58 PM Tab 5 Sb 450
4:48:10 PM Sen Garcia explains the Amen.
4:50:07 PM Cameron Wood, Peer Support Coalition of Florida, speaks in favor
4:53:02 PM Gino Scano, Centerstone Behavioral Hospital and Addiction Center, speaks in favor
4:54:42 PM Shane Messer, FI Council, waives in support
4:55:42 PM Albert Balido, Florida Certification Board speaks in support
4:55:46 PM Jill Gra, Florida Behavioral Health Association, waive in support
4:55:53 PM Alisa Lapolt, NAMI Florida, speaks in favor
4:57:41 PM Sen Broxson poses a question
4:57:49 PM Lapolt response
4:59:31 PM Brian Pitts, Justice 2 Jesus speaks to inform
5:02:56 PM Vice Chair calls for adoption of the Amended.
5:03:22 PM Sen Garcia closes on bill as amended.
5:06:47 PM AA, Nikki Lowrey calls Roll on SB 450
5:06:59 PM CS SB 450 recorded favorably
5:07:19 PM SB 498 Sen Garcia
5:07:24 PM Sen Garcia explains the bill
5:07:50 PM Jon Conley, Dept of Elder Affairs, wavier in support
5:08:10 PM Sen Garcia waives close
5:08:17 PM AA roll Call
5:08:21 PM SB 498 recorded favorably
5:08:52 PM Josh Rosenbar Presentation on Diaze Direct
5:17:30 PM Vice Chair Torres question
5:18:29 PM rosenberg response
5:18:40 PM Sen Torres follow up question
5:19:02 PM Rosenberg responds
5:19:21 PM Sen Campbell question
5:20:18 PM Chair Garcia comments
5:23:29 PM Mike Carrol, Secretary of the Department of Children and Families presents
5:33:45 PM Sen Garcia question
5:35:52 PM Secretary Mike Carroll responds
5:40:58 PM Chair Garcia comments
5:42:07 PM Sen Broxson comments and question
5:43:56 PM Secretary Mike Carroll responds
5:47:05 PM Sen Torres question
5:47:23 PM Secretary Carroll responds
5:49:13 PM Chair Garcia comments
5:49:30 PM Barbara Palmer, Agency for Persons with Disabilities presents
5:56:31 PM Vice Chair Torres comments

5:57:07 PM Meeting adjourned