

<b>Tab 1</b>	<b>SB 270 by Steube; Involuntary Examination and Involuntary Admission of Minors</b>					
525166	A	S	RCS	CF, Garcia	Delete L.133 - 135:	02/21 09:23 AM
<b>Tab 2</b>	<b>SB 634 by Steube; Trauma-informed Services for Children</b>					
280660	D	S	RCS	CF, Steube	Delete everything after	02/20 04:40 PM
<b>Tab 3</b>	<b>HM 817 by Harrell (CO-INTRODUCERS) Williams; Renewal of Title IV-E Waivers for Child Welfare Services</b>					

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Garcia, Chair**  
**Senator Torres, Vice Chair**

**MEETING DATE:** Tuesday, February 20, 2018  
**TIME:** 11:00 a.m.—12:00 noon  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 270</b> Steube	Involuntary Examination and Involuntary Admission of Minors; Authorizing a designated law enforcement agency to decline to transport a minor 14 years of age or younger to a receiving facility for mental health or substance abuse evaluation if the parent or guardian of the minor agrees to transport the minor to the receiving facility; requiring the examination of a minor 14 years of age or younger to be initiated within 8 hours after the patient's arrival at the receiving facility, etc.  CJ     01/29/2018 Favorable CF     02/20/2018 Fav/CS RC	Fav/CS Yeas 5 Nays 0
2	<b>SB 634</b> Steube	Trauma-informed Services for Children; Prohibiting a child who has suffered sexual exploitation from being placed in a generic shelter setting when safe-harbor or trauma-informed housing is not available; requiring the Department of Children and Families to assemble a team of specified experts to determine the safest placement for the child, etc.  CF     02/20/2018 Fav/CS AHS AP	Fav/CS Yeas 5 Nays 0
3	<b>HM 817</b> Harrell	Renewal of Title IV-E Waivers for Child Welfare Services; Urges Congress to renew Title IV-E waivers for child welfare services.  CF     02/12/2018 Not Considered CF     02/20/2018 Favorable GO RC	Favorable Yeas 5 Nays 0

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.)

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

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BILL: CS/SB 270

INTRODUCER: Senator Steube

SUBJECT: Involuntary Examination and Involuntary Admission of Minors

DATE: February 20, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 270 amends the Baker Act to provide that a designated law enforcement agency may decline to transport a minor 14 years of age or younger to a receiving facility for involuntary examination (if current law requirements for declining transport are met) and the minor's parent or guardian agrees to transport the minor to the receiving facility.

The bill provides specific criteria for taking a minor 14 years of age or younger to a receiving facility for involuntary examination, including consent of the minor's parent or guardian. Exceptions to this consent are provided. A person 14 years of age or older is subject to the criteria in current law for taking a person to a receiving facility for involuntary examination.

The bill requires that if the patient is a minor 14 years of age or younger, an assessment by a service provider at the receiving facility must be initiated within 8 hours after the patient's arrival at the facility.

The bill requires that a receiving facility must release a minor 14 years of age or younger without delay to the minor's parent or guardian upon request of the parent or guardian, unless parent or guardian consent was not necessary to conduct the examination; the facility made a report with the central abuse hotline based upon knowledge or suspicion of abuse, abandonment, or neglect; or the facility filed a petition for involuntary services.

The bill is expected to have an indeterminate fiscal impact and has an effective date of July 1, 2018.

## II. Present Situation:

### **Baker Act**

In 1971, the Legislature adopted the Florida Mental Health Act, otherwise known as the Baker Act.<sup>1</sup> The Baker Act authorizes treatment programs for mental, emotional, and behavioral disorders. The Baker Act requires programs to include comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to facilitate recovery. Additionally, the Baker Act provides protections and rights to individuals examined or treated for mental illness. Legal procedures are addressed for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

### **Receiving Facility**

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.<sup>2</sup> Involuntary patients must be taken to a receiving facility, which is a public or private facility or hospital designated by the Department of Children and Families (DCF) to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health evaluation and to provide treatment or transportation to the appropriate service provider. A county jail is not a receiving facility.<sup>3</sup>

### **Criteria for Taking a Person to a Receiving Facility for Involuntary Examination**

An involuntary examination includes an examination performed under s. 394.463, F.S.<sup>4</sup> The purpose of the examination is to determine whether a person qualifies for involuntary services.<sup>5</sup> Involuntary services include court-ordered outpatient services or inpatient placement for mental health treatment.<sup>6</sup> Section 394.463, F.S., provides that a person may be taken to a receiving facility for involuntary examination if there is reason to believe that the person has a mental illness<sup>7</sup> and because of his or her mental illness:

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<sup>1</sup> Section 394.451, F.S. The act was created by ch. 71-131, L.O.F., and is codified in Part I of ch. 394, F.S. (ss. 394.451-394.47892, F.S.).

<sup>2</sup> Sections 394.4625 and 394.463, F.S.

<sup>3</sup> Section 394.455(39), F.S.

<sup>4</sup> Section 394.455(22), F.S.

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

<sup>6</sup> Section 394.455(23), F.S. The bill does not amend ss. 394.4655 and 394.467, F.S., which relate, respectively, to involuntary outpatient services and involuntary inpatient placement, and therefore the criteria and procedures relevant to involuntary outpatient services and involuntary inpatient placement are not discussed in this analysis.

<sup>7</sup> "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For purposes of Part I of ch. 394, F.S., the term does not include a developmental disability as defined in ch. 393, F.S., intoxication, or conditions manifested only by antisocial behavior or substance abuse. Section 394.455(28), F.S.

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; **or**
- The person is unable to determine for himself or herself whether examination is necessary; **and**
- Either of the following applies:
  - Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being, and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services.
  - There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.<sup>8</sup>

### **Initiation of Involuntary Examination**

There are three means of initiating an involuntary examination. First, a court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying the findings on which that conclusion is based. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer or other designated agent of the court takes the person into custody and delivers him or her to an appropriate, or the nearest, facility within the designated receiving system for examination.<sup>9</sup>

Second, a law enforcement officer must take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, facility for examination. The officer executes a written report detailing the circumstances under which the person was taken into custody, which is made a part of the patient's clinical record.<sup>10</sup>

Third, a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means, such as voluntary appearance for outpatient evaluation, are not available, a law enforcement officer takes the person named in the certificate into custody and delivers him or her to the appropriate, or nearest, facility for examination. The law enforcement officer executes a written report detailing the circumstances under which the person was taken into custody. The certificate and the law enforcement officer's report are made a part of the patient's clinical record.<sup>11</sup>

### **Transportation to a Receiving Facility**

The Baker Act requires each county to designate a single law enforcement agency within the county to transfer the person in need of services to a receiving facility for involuntary

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<sup>8</sup> Section 394.463(1), F.S.

<sup>9</sup> Section 394.463(2)(a)1., F.S.

<sup>10</sup> Section 394.463(2)(a)2., F.S.

<sup>11</sup> Section 394.463(2)(a)3., F.S.

examination.<sup>12</sup> If the person is in custody based on noncriminal or minor criminal behavior that meets the statutory guidelines for involuntary examination under s. 394.463, F.S., the law enforcement officer must transport the person to the appropriate facility within the designated receiving system pursuant to a transportation plan or an exception granted by the DCF Secretary, or to the nearest receiving facility if neither apply.<sup>13</sup>

If the person is arrested for a felony and it appears the person meets the statutory guidelines for involuntary examination or placement under Part I of ch. 394, F.S., the person must first be processed in the same manner as any other criminal suspect. Thereafter, the law enforcement officer must immediately notify the appropriate facility within the designated receiving system pursuant to a transportation plan or an exception granted by the DCF Secretary, or to the nearest receiving facility if neither apply. The receiving facility is responsible for promptly arranging for the examination and treatment of the person, but is not required to admit a person charged with a crime for whom the facility determines and documents that it is unable to provide adequate security.<sup>14</sup>

If the law enforcement officer believes the person has an emergency medical condition, the person may be first transported to a hospital for emergency medical treatment, regardless of whether the hospital is a designated receiving facility.<sup>15</sup>

A designated law enforcement agency may decline to transport a person to a receiving facility only if:

- The jurisdiction designated by the county has contracted on an annual basis with an emergency medical transport service or private transport company for transportation of persons to receiving facilities pursuant to this section at the sole cost of the county; and
- The law enforcement agency and the emergency medical transport service or private transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others.<sup>16</sup>

The appropriate facility within the designated receiving system pursuant to a transportation plan or an exception granted by the DCF Secretary, or the nearest receiving facility if neither apply, must accept a person brought by a law enforcement officer, or an emergency medical transport service or private transport company authorized by the county, for involuntary examination pursuant to s. 394.463, F.S.<sup>17</sup>

### **Notice by Receiving Facility to Parent or Guardian of a Minor**

A receiving facility must give notice of the whereabouts of a minor who is being involuntarily held for examination pursuant to s. 394.463, F.S., to the minor's parent, guardian, caregiver, or guardian advocate, in person or by telephone or other form of electronic communication,

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<sup>12</sup> Section 394.462(1)(a), F.S.

<sup>13</sup> Section 394.462(1)(g), F.S.

<sup>14</sup> Section 394.462(1)(h), F.S. If the facility is unable to provide adequate security, examination or treatment of the person is provided where he or she is held. *Id.*

<sup>15</sup> Section 394.462(1)(i), F.S.

<sup>16</sup> Section 394.462(1)(b)1., F.S.

<sup>17</sup> Section 394.462(1)(k), F.S.

immediately after the minor's arrival at the facility. The facility may delay notification for no more than 24 hours after the minor's arrival if the facility has submitted a report to the central abuse hotline pursuant to s. 39.201, F.S., based upon knowledge or suspicion of abuse, abandonment, or neglect and if the facility deems a delay in notification to be in the minor's best interest.<sup>18</sup>

The receiving facility must also attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until the receiving facility receives confirmation from the parent, guardian, caregiver, or guardian advocate, verbally, by telephone or other form of electronic communication, or by recorded message, that notification has been received. Attempts to notify the parent, guardian, caregiver, or guardian advocate must be repeated at least once every hour during the first 12 hours after the minor's arrival and once every 24 hours thereafter and must continue until such confirmation is received, unless the minor is released at the end of the 72-hour examination period, or until a petition for involuntary services is filed with the court. The receiving facility may seek assistance from a law enforcement agency to notify the minor's parent, guardian, caregiver, or guardian advocate if the facility has not received within the first 24 hours after the minor's arrival a confirmation by the parent, guardian, caregiver, or guardian advocate that notification has been received. The receiving facility must document notification attempts in the minor's clinical record.<sup>19</sup>

### **Time Limitations for Conducting an Involuntary Examination**

Specified time periods apply to holding a person in a receiving facility for involuntary examination. Generally, the examination period must be for up to 72 hours.<sup>20</sup> However, for a minor, the examination must be initiated within 12 hours after the minor arrives at the facility.<sup>21</sup> Within the examination period or, if the examination period ends on a weekend or holiday, no later than the next working day thereafter, one of the following actions must be taken, based on the individual needs of the patient:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will resume custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or
- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment.<sup>22</sup>

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<sup>18</sup> Section 394.4599(2)(c)1., F.S.

<sup>19</sup> Section 394.4599(2)(c)2., F.S.

<sup>20</sup> Section 394.463(2)(g), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* A person for whom an involuntary examination has been initiated who is being evaluated or treated at a hospital for an emergency medical condition must be examined by a facility within the examination period specified in s. 394.463(2)(g), F.S. The examination period begins when the patient arrives at the hospital and ceases when the attending physician documents that the patient has an emergency medical condition. If the patient is examined at a hospital providing emergency medical services by a professional qualified to perform an involuntary examination and is found as a result of that examination not to meet the criteria for involuntary outpatient services or involuntary inpatient placement, the patient may be offered voluntary services or placement, if appropriate, or released directly from the hospital providing emergency medical services. Section 394.463(2)(h), F.S. One of the following must occur within 12 hours after the patient's attending physician documents that the patient's medical condition has stabilized or that an emergency medical condition does not exist: the patient must be

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.462, F.S., to provide that a designated law enforcement agency may decline to transport a minor 14 years of age or younger to a receiving facility for involuntary examination if current law requirements for declining transport are met and the minor's parent or guardian agrees to transport the minor to the receiving facility.

**Section 2** amends s. 396.463, F.S., to provide that a minor 14 years of age or younger may be taken to a receiving facility for involuntary examination *with the consent of the minor's parent or guardian* if there is reason to believe that the minor has a mental illness and because of his or her mental illness:

- Without care or treatment, the minor is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that, without care or treatment, the minor will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

A person older than 14 years of age is subject to the criteria in current law (s. 394.463(1), F.S.) for taking a person to a receiving facility for involuntary examination.

The bill provides exceptions to the consent requirement. The consent of a parent or guardian of the minor is not required if the person who initiates the examination details in writing that at least one of the following events has occurred:

- Reasonable attempts have been made to contact the parents or guardians of the minor, and the parents or guardians could not be contacted or could not take custody of the minor within a reasonable amount of time.
- The minor was considered for an involuntary examination because he or she caused or attempted to cause serious bodily harm to himself or herself or others or possessed an item such as a weapon, a knife, a razor, a pill, or poison for the purpose of conducting such harm.
- The minor is in the custody of DCF.
- The person who initiated the involuntary examination or the person who reported the minor's suspected mental illness to the person authorized to initiate an involuntary examination made a report to the central abuse hotline pursuant to s. 39.201, F.S., based upon knowledge or suspicion of abuse, abandonment, or neglect.

If the patient is a minor 14 years of age or younger, an assessment by a service provider at the receiving facility must be initiated within 8 hours after the patient's arrival at the facility.

A receiving facility must release a minor 14 years of age or younger without delay to the minor's parent or guardian upon request of the parent or guardian, unless consent of the parent or guardian was not necessary to conduct the examination (i.e., an exception to consent applies); the

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examined by a facility and released; or the patient must be transferred to a designated facility in which appropriate medical treatment is available. However, the facility must be notified of the transfer within two hours after the patient's condition has been stabilized or after determination that an emergency medical condition does not exist. Section 394.463(2)(i), F.S.



facility made a report with the central abuse hotline pursuant to s. 39.201, F.S., based upon knowledge or suspicion of abuse, abandonment, or neglect; or the facility filed a petition for involuntary services.

**Section 3** amends s. 394.4599, F.S., to conform cross-references.

**Section 4** amends s. 790.065, F.S., to conform cross-references.

**Section 5** 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 may have an indeterminate impact on receiving facilities by requiring them to maintain a sufficient number of staff to begin an assessment of patients 14 or younger within 8 hours of admission.

C. Government Sector Impact:

DCF notes that the bill may result in a cost-savings to local law enforcement agencies:

The bill authorizes a designated law enforcement agency to decline to transport ... a minor 14 years of age or younger to a designated receiving facility if the parent or guardian agrees to transport. As a result, this could reduce the number of minors 14 years of age or younger transported by a designated law enforcement agency and would result in a cost-savings for the designated law enforcement agency.<sup>23</sup>

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

Further, if service provider costs increase, state reimbursement levels may also need to be increased.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

### Task Force Report on Involuntary Examination of Minors

In 2017, the Legislature created a task force within DCF to address the issue of involuntary examination of minors 17 years of age or younger. The task force was required to submit a report of its findings to the Governor, President of the Senate, and Speaker of the House of Representatives by November 15, 2017.<sup>24</sup> The task force submitted its report on November 15, 2017.<sup>25</sup>

One of the task force's findings is that "[i]nvoluntary examinations for children have increased over time... From FY 2000/2001 to FY 2015/2016, there was an 86% increase in involuntary examinations for children."<sup>26</sup> However, the task force cautioned that "it is not possible to identify specific root causes directly linked to the trend of increased Baker Act initiations. There is a confluence of individual, family, community, and societal factors at play, which may vary by community."<sup>27</sup>

None of the changes proposed by the bill were recommendations of the task force. However, the task force did recommend amending s. 381.0056(4)(a)19., F.S., "to require school administrators to notify a student's parent, guardian, or caregiver before a Baker Act is initiated and the student is removed from school, school transportation, or a school-sponsored activity."<sup>28</sup> The bill does not amend s. 381.0056(4)(a)19., F.S.

Section 381.0056(4)(a), F.S., requires each county health department to develop, jointly with the district school board and the local health advisory committee, a school health service plan that includes numerous, specified components. One of those components (s. 381.0056(4)(a)19., F.S.) is immediate notification to a student's parent, guardian, or caregiver if the student is removed from school, school transportation, or a school-sponsored activity and taken to a receiving

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<sup>24</sup> Section 27, ch. 2017-151, L.O.F.

<sup>25</sup> *Task Force Report on Involuntary Examination of Minors* (Nov. 15, 2017), Office of Substance Abuse and Mental Health, Department of Children and Families, available at [http://www.fcmh.org/documents/2017/Oct\\_Dec/TASK\\_FORCE\\_ON\\_INVOLUNTARY\\_EXAMINATION\\_OF\\_MINORS.pdf](http://www.fcmh.org/documents/2017/Oct_Dec/TASK_FORCE_ON_INVOLUNTARY_EXAMINATION_OF_MINORS.pdf) (last visited on February 14, 2018).

<sup>26</sup> *Id.* at p. 11.

<sup>27</sup> *Id.* at p. 21.

<sup>28</sup> *Id.* at p. 31. Findings of the report do not specifically indicate why this recommendation was made, though the task force noted that some key stakeholders responding to a survey initiated by the task force stated that a decrease in the initiation of Baker Act examinations could be attributed to "[i]ncreased parental involvement" and the "[a]bility to better diffuse, assess, and explain the situation to the parent, who is more willing to assist in a crisis situation if they are consulted and included in the process." *Id.* at p. 25.

facility for an involuntary examination pursuant to s. 394.463, F.S., including the requirements established under ss. 1002.20(3) and 1002.33(9), F.S., as applicable.

Section 1002.20(3)(l), F.S., requires a public school principal of a K-12 public school or the principal's designee to immediately notify the parent of a student who is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination pursuant to s. 394.463, F.S. The principal or the principal's designee may delay notification for no more than 24 hours after the student is removed if the principal or designee deems the delay to be in the student's best interest and if a report has been submitted to the central abuse hotline pursuant to s. 39.201, F.S., based upon knowledge or suspicion of abuse, abandonment, or neglect. Each district school board must develop a policy and procedures for notification under this paragraph.

Section 1002.33(9)(q), F.S., contains an identical requirement for the principal of a charter school.

### **DCF Concerns**

DCF states that it is unclear what the following terms used in the bill mean: "reasonable attempts," "reasonable amount of time," and "without delay." Additionally, DCF recommends that "further clarification be provided for possession of a 'pill.' For example, is the possession of an aspirin an event that could trigger the initiation of an involuntary examination that would not require parent or guardian consent?"<sup>29</sup>

### **Inconsistent Notice**

Notice provisions in the bill relevant to taking a minor 14 years of age or younger to a receiving facility for involuntary examination are narrower than and inconsistent with current requirements for notice by the receiving facility.

Section 394.4599(2)(c)1., F.S., requires a receiving facility to give notice of the whereabouts of a minor who is being involuntarily held for examination pursuant to s. 394.463, F.S., to the minor's *parent, guardian, caregiver, or guardian advocate*. Section 394.4599(2)(c)2., F.S., requires a receiving facility to attempt to notify the minor's *parent, guardian, caregiver, or guardian advocate* until the receiving facility receives confirmation from the *parent, guardian, caregiver, or guardian advocate*. (See discussion of s. 394.4599, F.S., *supra*.)

The bill requires the consent of the *parent or guardian* of a minor 14 years of age or younger before being taken to a receiving facility for involuntary examination (lines 94-96 of the bill). The bill also provides that the consent of the minor's *parent or guardian* is not required if the person who initiates the examination details in writing that at least one of four specified events has occurred. One of those events is that reasonable attempts have been made to contact the *parents or guardians* of the minor, and the *parents or guardians* could not be contacted or could not take custody of the minor within a reasonable amount of time.

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<sup>29</sup> *Supra*, n. 23.

**Transportation Concerns**

Permitting the parents of a minor to transport the child to a receiving facility may prove problematic if parents refuse to transport the child. Additionally, incidents have occurred wherein children have tried to escape from moving cars in a voluntary commitment setting.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.462, 394.463, 394.4599, and 790.065.

**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 February 20, 2018:**

- Requires that if a patient 14 years of age or younger is admitted involuntarily, an assessment by a service provider at the receiving facility must be initiated within 8 hours of the patient being admitted.
- Eliminates the requirement that the psychiatric evaluation of a patient 14 years of age or under be initiated within 8 hours of the patient being admitted.

- B. **Amendments:**

None.



525166

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2018	.	
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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 133 - 135  
and insert:  
facility. For a minor 14 years of age or younger, an assessment by a service provider shall be initiated within 8 hours after the patient's arrival at the facility. Within the examination period

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525166

11 And the title is amended as follows:

12 Delete lines 12 - 15

13 and insert:

14 for involuntary examination; requiring an assessment  
15 by a service provider of a minor 14 years of age or  
16 younger to be initiated within 8 hours after the  
17 patient's arrival at the receiving facility; requiring  
18 a receiving facility to

By Senator Steube

23-00357-18

2018270\_\_

A bill to be entitled

An act relating to involuntary examination and involuntary admission of minors; amending s. 394.462, F.S.; authorizing a designated law enforcement agency to decline to transport a minor 14 years of age or younger to a receiving facility for mental health or substance abuse evaluation if the parent or guardian of the minor agrees to transport the minor to the receiving facility; amending s. 394.463, F.S.; providing circumstances under which a minor 14 years of age or younger may be taken to a receiving facility for involuntary examination; requiring the examination of a minor 14 years of age or younger to be initiated within 8 hours after the patient's arrival at the receiving facility; requiring a receiving facility to release a minor 14 years of age or younger to the minor's parent or guardian; providing exceptions; amending ss. 394.4599 and 790.065, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 394.462, Florida Statutes, is amended to read:

394.462 Transportation.—A transportation plan shall be developed and implemented by each county by July 1, 2017, in collaboration with the managing entity in accordance with this section. A county may enter into a memorandum of understanding with the governing boards of nearby counties to establish a

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shared transportation plan. When multiple counties enter into a memorandum of understanding for this purpose, the counties shall notify the managing entity and provide it with a copy of the agreement. The transportation plan shall describe methods of transport to a facility within the designated receiving system for individuals subject to involuntary examination under s. 394.463 or involuntary admission under s. 397.6772, s. 397.679, s. 397.6798, or s. 397.6811, and may identify responsibility for other transportation to a participating facility when necessary and agreed to by the facility. The plan may rely on emergency medical transport services or private transport companies, as appropriate. The plan shall comply with the transportation provisions of this section and ss. 397.6772, 397.6795, 397.6822, and 397.697.

(1) TRANSPORTATION TO A RECEIVING FACILITY.—

(b)1. The designated law enforcement agency may decline to transport the person to a receiving facility only if:

a. The jurisdiction designated by the county has contracted on an annual basis with an emergency medical transport service or private transport company for transportation of persons to receiving facilities pursuant to this section at the sole cost of the county; ~~and~~

b. The law enforcement agency and the emergency medical transport service or private transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others; ~~and-~~

c. With respect to a minor 14 years of age or younger, the parent or guardian of the minor agrees to transport the minor to the receiving facility.

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

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59 2. The entity providing transportation may seek  
60 reimbursement for transportation expenses. The party responsible  
61 for payment for such transportation is the person receiving the  
62 transportation. The county shall seek reimbursement from the  
63 following sources in the following order:

- 64 a. From a private or public third-party payor, if the  
65 person receiving the transportation has applicable coverage.  
66 b. From the person receiving the transportation.  
67 c. From a financial settlement for medical care, treatment,  
68 hospitalization, or transportation payable or accruing to the  
69 injured party.

70 Section 2. Subsection (1) and paragraph (g) of subsection  
71 (2) of section 394.463, Florida Statutes, are amended to read:  
72 394.463 Involuntary examination.—

73 (1) CRITERIA.—

74 (a) A person older than 14 years of age may be taken to a  
75 receiving facility for involuntary examination if there is  
76 reason to believe that the person has a mental illness and  
77 because of his or her mental illness:

78 ~~(a)1.a.~~ The person has refused voluntary examination after  
79 conscientious explanation and disclosure of the purpose of the  
80 examination; or

81 ~~b.2-~~ The person is unable to determine for himself or  
82 herself whether examination is necessary; and

83 2.a.(b)1- Without care or treatment, the person is likely  
84 to suffer from neglect or refuse to care for himself or herself;  
85 such neglect or refusal poses a real and present threat of  
86 substantial harm to his or her well-being; and it is not  
87 apparent that such harm may be avoided through the help of

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88 willing family members or friends or the provision of other  
89 services; or

90 ~~b.2-~~ There is a substantial likelihood that, without care  
91 or treatment, the person will cause serious bodily harm to  
92 himself or herself or others in the near future, as evidenced by  
93 recent behavior.

94 (b)1. A minor 14 years of age or younger may be taken to a  
95 receiving facility for involuntary examination with the consent  
96 of the parent or guardian of the minor if there is reason to  
97 believe that the minor has a mental illness and because of his  
98 or her mental illness:

99 a. Without care or treatment, the minor is likely to suffer  
100 from neglect or refuse to care for himself or herself; such  
101 neglect or refusal poses a real and present threat of  
102 substantial harm to his or her well-being; and it is not  
103 apparent that such harm may be avoided through the help of  
104 willing family members or friends or the provision of other  
105 services; or

106 b. There is a substantial likelihood that, without care or  
107 treatment, the minor will cause serious bodily harm to himself  
108 or herself or others in the near future, as evidenced by recent  
109 behavior.

110 2. The consent of a parent or guardian of the minor is not  
111 required if the person who initiates the examination details in  
112 writing that at least one of the following events has occurred:

113 a. Reasonable attempts have been made to contact the  
114 parents or guardians of the minor, and the parents or guardians  
115 could not be contacted or could not take custody of the minor  
116 within a reasonable amount of time.

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117 b. The minor was considered for an involuntary examination  
 118 because he or she caused or attempted to cause serious bodily  
 119 harm to himself or herself or others or possessed an item such  
 120 as a weapon, a knife, a razor, a pill, or poison for the purpose  
 121 of conducting such harm.

122 c. The minor is in the custody of the department.

123 d. The person who initiated the involuntary examination or  
 124 the person who reported the minor's suspected mental illness to  
 125 the person authorized to initiate an involuntary examination  
 126 made a report to the central abuse hotline, pursuant to s.  
 127 39.201, based upon knowledge or suspicion of abuse, abandonment,  
 128 or neglect.

129 (2) INVOLUNTARY EXAMINATION.—

130 (g)1. The examination period must be for up to 72 hours.  
 131 For a minor older than 14 years of age, the examination shall be  
 132 initiated within 12 hours after the patient's arrival at the  
 133 facility. For a minor 14 years of age or younger, the  
 134 examination shall be initiated within 8 hours after the  
 135 patient's arrival at the facility. Within the examination period  
 136 or, if the examination period ends on a weekend or holiday, no  
 137 later than the next working day thereafter, one of the following  
 138 actions must be taken, based on the individual needs of the  
 139 patient:

140 a.1- The patient shall be released, unless he or she is  
 141 charged with a crime, in which case the patient shall be  
 142 returned to the custody of a law enforcement officer;

143 b.2- The patient shall be released, subject to subparagraph  
 144 1., for voluntary outpatient treatment;

145 c.3- The patient, unless he or she is charged with a crime,

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146 shall be asked to give express and informed consent to placement  
 147 as a voluntary patient and, if such consent is given, the  
 148 patient shall be admitted as a voluntary patient; or

149 d.4- A petition for involuntary services shall be filed in  
 150 the circuit court if inpatient treatment is deemed necessary or  
 151 with the criminal county court, as defined in s. 394.4655(1), as  
 152 applicable. When inpatient treatment is deemed necessary, the  
 153 least restrictive treatment consistent with the optimum  
 154 improvement of the patient's condition shall be made available.  
 155 When a petition is to be filed for involuntary outpatient  
 156 placement, it shall be filed by one of the petitioners specified  
 157 in s. 394.4655(4) (a). A petition for involuntary inpatient  
 158 placement shall be filed by the facility administrator.

159 2. A receiving facility must release a minor 14 years of  
 160 age or younger without delay to the minor's parent or guardian  
 161 upon request unless consent was not necessary to conduct the  
 162 examination under subparagraph (1)(b)2., the facility made a  
 163 report with the central abuse hotline, pursuant to s. 39.201,  
 164 based upon knowledge or suspicion of abuse, abandonment, or  
 165 neglect, or the facility filed a petition for involuntary  
 166 services.

167 Section 3. Paragraph (c) of subsection (2) of section  
 168 394.4599, Florida Statutes, is amended to read:

169 394.4599 Notice.—

170 (2) INVOLUNTARY ADMISSION.—

171 (c)1. A receiving facility shall give notice of the  
 172 whereabouts of a minor who is being involuntarily held for  
 173 examination pursuant to s. 394.463 to the minor's parent,  
 174 guardian, caregiver, or guardian advocate, in person or by

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175 telephone or other form of electronic communication, immediately  
 176 after the minor's arrival at the facility. The facility may  
 177 delay notification for no more than 24 hours after the minor's  
 178 arrival if the facility has submitted a report to the central  
 179 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
 180 suspicion of abuse, abandonment, or neglect and if the facility  
 181 deems a delay in notification to be in the minor's best  
 182 interest.

183 2. The receiving facility shall attempt to notify the  
 184 minor's parent, guardian, caregiver, or guardian advocate until  
 185 the receiving facility receives confirmation from the parent,  
 186 guardian, caregiver, or guardian advocate, verbally, by  
 187 telephone or other form of electronic communication, or by  
 188 recorded message, that notification has been received. Attempts  
 189 to notify the parent, guardian, caregiver, or guardian advocate  
 190 must be repeated at least once every hour during the first 12  
 191 hours after the minor's arrival and once every 24 hours  
 192 thereafter and must continue until such confirmation is  
 193 received, unless the minor is released at the end of the 72-hour  
 194 examination period, or until a petition for involuntary services  
 195 is filed with the court pursuant to s. 394.463(2)(g) l.d. ~~s.~~  
 196 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a  
 197 law enforcement agency to notify the minor's parent, guardian,  
 198 caregiver, or guardian advocate if the facility has not received  
 199 within the first 24 hours after the minor's arrival a  
 200 confirmation by the parent, guardian, caregiver, or guardian  
 201 advocate that notification has been received. The receiving  
 202 facility must document notification attempts in the minor's  
 203 clinical record.

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204 Section 4. Paragraph (a) of subsection (2) of section  
 205 790.065, Florida Statutes, is amended to read:  
 206 790.065 Sale and delivery of firearms.—  
 207 (2) Upon receipt of a request for a criminal history record  
 208 check, the Department of Law Enforcement shall, during the  
 209 licensee's call or by return call, forthwith:  
 210 (a) Review any records available to determine if the  
 211 potential buyer or transferee:  
 212 1. Has been convicted of a felony and is prohibited from  
 213 receipt or possession of a firearm pursuant to s. 790.23;  
 214 2. Has been convicted of a misdemeanor crime of domestic  
 215 violence, and therefore is prohibited from purchasing a firearm;  
 216 3. Has had adjudication of guilt withheld or imposition of  
 217 sentence suspended on any felony or misdemeanor crime of  
 218 domestic violence unless 3 years have elapsed since probation or  
 219 any other conditions set by the court have been fulfilled or  
 220 expunction has occurred; or  
 221 4. Has been adjudicated mentally defective or has been  
 222 committed to a mental institution by a court or as provided in  
 223 sub-sub-subparagraph b.(II), and as a result is prohibited by  
 224 state or federal law from purchasing a firearm.  
 225 a. As used in this subparagraph, "adjudicated mentally  
 226 defective" means a determination by a court that a person, as a  
 227 result of marked subnormal intelligence, or mental illness,  
 228 incompetency, condition, or disease, is a danger to himself or  
 229 herself or to others or lacks the mental capacity to contract or  
 230 manage his or her own affairs. The phrase includes a judicial  
 231 finding of incapacity under s. 744.331(6)(a), an acquittal by  
 232 reason of insanity of a person charged with a criminal offense,

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233 and a judicial finding that a criminal defendant is not  
234 competent to stand trial.

235 b. As used in this subparagraph, "committed to a mental  
236 institution" means:

237 (I) Involuntary commitment, commitment for mental  
238 defectiveness or mental illness, and commitment for substance  
239 abuse. The phrase includes involuntary inpatient placement as  
240 defined in s. 394.467, involuntary outpatient placement as  
241 defined in s. 394.4655, involuntary assessment and stabilization  
242 under s. 397.6818, and involuntary substance abuse treatment  
243 under s. 397.6957, but does not include a person in a mental  
244 institution for observation or discharged from a mental  
245 institution based upon the initial review by the physician or a  
246 voluntary admission to a mental institution; or

247 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
248 admission to a mental institution for outpatient or inpatient  
249 treatment of a person who had an involuntary examination under  
250 s. 394.463, where each of the following conditions have been  
251 met:

252 (A) An examining physician found that the person is an  
253 imminent danger to himself or herself or others.

254 (B) The examining physician certified that if the person  
255 did not agree to voluntary treatment, a petition for involuntary  
256 outpatient or inpatient treatment would have been filed under s.  
257 394.463(2)(g)1.d. ~~s. 394.463(2)(g)4.~~, or the examining physician  
258 certified that a petition was filed and the person subsequently  
259 agreed to voluntary treatment prior to a court hearing on the  
260 petition.

261 (C) Before agreeing to voluntary treatment, the person

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262 received written notice of that finding and certification, and  
263 written notice that as a result of such finding, he or she may  
264 be prohibited from purchasing a firearm, and may not be eligible  
265 to apply for or retain a concealed weapon or firearms license  
266 under s. 790.06 and the person acknowledged such notice in  
267 writing, in substantially the following form:

268  
269 "I understand that the doctor who examined me believes I am a  
270 danger to myself or to others. I understand that if I do not  
271 agree to voluntary treatment, a petition will be filed in court  
272 to require me to receive involuntary treatment. I understand  
273 that if that petition is filed, I have the right to contest it.  
274 In the event a petition has been filed, I understand that I can  
275 subsequently agree to voluntary treatment prior to a court  
276 hearing. I understand that by agreeing to voluntary treatment in  
277 either of these situations, I may be prohibited from buying  
278 firearms and from applying for or retaining a concealed weapons  
279 or firearms license until I apply for and receive relief from  
280 that restriction under Florida law."

281  
282 (D) A judge or a magistrate has, pursuant to sub-sub-  
283 subparagraph c.(II), reviewed the record of the finding,  
284 certification, notice, and written acknowledgment classifying  
285 the person as an imminent danger to himself or herself or  
286 others, and ordered that such record be submitted to the  
287 department.

288 c. In order to check for these conditions, the department  
289 shall compile and maintain an automated database of persons who  
290 are prohibited from purchasing a firearm based on court records

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291 of adjudications of mental defectiveness or commitments to  
292 mental institutions.

293 (I) Except as provided in sub-sub-subparagraph (II), clerks  
294 of court shall submit these records to the department within 1  
295 month after the rendition of the adjudication or commitment.  
296 Reports shall be submitted in an automated format. The reports  
297 must, at a minimum, include the name, along with any known alias  
298 or former name, the sex, and the date of birth of the subject.

299 (II) For persons committed to a mental institution pursuant  
300 to sub-sub-subparagraph b.(II), within 24 hours after the  
301 person's agreement to voluntary admission, a record of the  
302 finding, certification, notice, and written acknowledgment must  
303 be filed by the administrator of the receiving or treatment  
304 facility, as defined in s. 394.455, with the clerk of the court  
305 for the county in which the involuntary examination under s.  
306 394.463 occurred. No fee shall be charged for the filing under  
307 this sub-sub-subparagraph. The clerk must present the records to  
308 a judge or magistrate within 24 hours after receipt of the  
309 records. A judge or magistrate is required and has the lawful  
310 authority to review the records ex parte and, if the judge or  
311 magistrate determines that the record supports the classifying  
312 of the person as an imminent danger to himself or herself or  
313 others, to order that the record be submitted to the department.  
314 If a judge or magistrate orders the submittal of the record to  
315 the department, the record must be submitted to the department  
316 within 24 hours.

317 d. A person who has been adjudicated mentally defective or  
318 committed to a mental institution, as those terms are defined in  
319 this paragraph, may petition the court that made the

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320 adjudication or commitment, or the court that ordered that the  
321 record be submitted to the department pursuant to sub-sub-  
322 subparagraph c.(II), for relief from the firearm disabilities  
323 imposed by such adjudication or commitment. A copy of the  
324 petition shall be served on the state attorney for the county in  
325 which the person was adjudicated or committed. The state  
326 attorney may object to and present evidence relevant to the  
327 relief sought by the petition. The hearing on the petition may  
328 be open or closed as the petitioner may choose. The petitioner  
329 may present evidence and subpoena witnesses to appear at the  
330 hearing on the petition. The petitioner may confront and cross-  
331 examine witnesses called by the state attorney. A record of the  
332 hearing shall be made by a certified court reporter or by court-  
333 approved electronic means. The court shall make written findings  
334 of fact and conclusions of law on the issues before it and issue  
335 a final order. The court shall grant the relief requested in the  
336 petition if the court finds, based on the evidence presented  
337 with respect to the petitioner's reputation, the petitioner's  
338 mental health record and, if applicable, criminal history  
339 record, the circumstances surrounding the firearm disability,  
340 and any other evidence in the record, that the petitioner will  
341 not be likely to act in a manner that is dangerous to public  
342 safety and that granting the relief would not be contrary to the  
343 public interest. If the final order denies relief, the  
344 petitioner may not petition again for relief from firearm  
345 disabilities until 1 year after the date of the final order. The  
346 petitioner may seek judicial review of a final order denying  
347 relief in the district court of appeal having jurisdiction over  
348 the court that issued the order. The review shall be conducted

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349 de novo. Relief from a firearm disability granted under this  
 350 sub-subparagraph has no effect on the loss of civil rights,  
 351 including firearm rights, for any reason other than the  
 352 particular adjudication of mental defectiveness or commitment to  
 353 a mental institution from which relief is granted.

354 e. Upon receipt of proper notice of relief from firearm  
 355 disabilities granted under sub-subparagraph d., the department  
 356 shall delete any mental health record of the person granted  
 357 relief from the automated database of persons who are prohibited  
 358 from purchasing a firearm based on court records of  
 359 adjudications of mental defectiveness or commitments to mental  
 360 institutions.

361 f. The department is authorized to disclose data collected  
 362 pursuant to this subparagraph to agencies of the Federal  
 363 Government and other states for use exclusively in determining  
 364 the lawfulness of a firearm sale or transfer. The department is  
 365 also authorized to disclose this data to the Department of  
 366 Agriculture and Consumer Services for purposes of determining  
 367 eligibility for issuance of a concealed weapons or concealed  
 368 firearms license and for determining whether a basis exists for  
 369 revoking or suspending a previously issued license pursuant to  
 370 s. 790.06(10). When a potential buyer or transferee appeals a  
 371 nonapproval based on these records, the clerks of court and  
 372 mental institutions shall, upon request by the department,  
 373 provide information to help determine whether the potential  
 374 buyer or transferee is the same person as the subject of the  
 375 record. Photographs and any other data that could confirm or  
 376 negate identity must be made available to the department for  
 377 such purposes, notwithstanding any other provision of state law

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378 to the contrary. Any such information that is made confidential  
 379 or exempt from disclosure by law shall retain such confidential  
 380 or exempt status when transferred to the department.

381 Section 5. 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)

2/20/18

Meeting Date

270

Bill Number (if applicable)

Topic BARIA ART

Name ROY MILLER

Amendment Barcode (if applicable)

Job Title PRESIDENT

Address 111 JIMMY MANDORIA ST 4

Street

Phone \_\_\_\_\_

City

TALLAHASSEE

FL

State

32309

Zip

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.

1

# THE FLORIDA SENATE APPEARANCE RECORD

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

2/20/2018

Meeting Date

270

Bill Number (if applicable)

525166

Amendment Barcode (if applicable)

Topic Garcia Amendment to SB 270 Involuntary Examination of Minors

Name Shane Messer

Job Title Legislative Affairs Director

Address 316 East Park Ave

Street

Phone 850/322-6693

Tallahassee

FL

32301

City

State

Zip

Email shane@fccmh.org

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.

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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)

2/20/2018

270

Meeting Date

Bill Number (if applicable)

525166

Topic Garcia Amendment to SB 270 Involuntary Examination of Minors

Amendment Barcode (if applicable)

Name Jay Reeve

Job Title President and CEO, Apalachee Center FL

Address 2634 Capital Circle NE

Phone 850/694-1513

Street

Tallahassee

FL

32309

Email jayr@apalacheecenter.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.

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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)

3/20/18

Meeting Date

270

Bill Number (if applicable)

Topic Baker Act

Amendment Barcode (if applicable)

Name Nancy Daniels

Job Title Legislative Consultant

Address 103 N. Gadsden St.

Phone 850 488-6850

Tallahassee FL 32301  
City State Zip

Email ndaniels@flpda.org

Speaking:  For  Against  Information

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

Representing FLORIDA PUBLIC DEFENDER ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

220  
Bill Number (if applicable)

525106  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name FRED LOWRIE V

Job Title VP. BOYER METAL Relations

Address 7720 Washington

Phone 727-992-8508

Street

MONT RICHY FL 34688

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing OPERATION PAR

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)

2/20/18

Meeting Date

SB270

Bill Number (if applicable)

Topic Senate Children, Families, & Elder Affairs

Amendment Barcode (if applicable)

Name Michelle Protas

Job Title Legislative Intern

Address 1747 Orlando Central Pkwy

Phone 454-328-7857

Street

Orlando

City

Florida

State

32809

Zip

Email legislation@floridapta.org

Speaking:  For  Against  Information

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

Representing Florida PTA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

00 Feb 2017  
Meeting Date

070

Bill Number (if applicable)

D 525166  
Amendment Barcode (if applicable)

Topic Children's Baker Act

Name Jill Gran

Job Title Senior Policy Director

Address 2868 Mahan Dr

Phone 850 878 2196

Tallahassee FL 32308  
City State Zip

Email jill@myfbha.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.

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/20/18  
Meeting Date

SB 270  
Bill Number (if applicable)

Topic Baker Act

Amendment Barcode (if applicable)

Name Mary-Lynn Cullen

Job Title Legislative Liaison

Address 1674 University Pkwy.

Phone 941-928-0278

Street

Sarasota

City

FL

State

34243

Zip

Email aichildren@aol.com

Speaking:  For  Against  Information

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

Representing Advocacy Institute For Children

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

\_\_\_\_\_  
Meeting Date

270  
Bill Number (if applicable)

Topic \_\_\_\_\_

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Richard Chapman

Job Title Mental health counselor

Address \_\_\_\_\_  
Street

Phone 813-666-4981

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



**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:** CS/SB 634

**INTRODUCER:** Senator Steube

**SUBJECT:** Trauma-informed Services for Children

**DATE:** February 20, 2018      **REVISED:** \_\_\_\_\_

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

---

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 634 amends s. 409.1678, F.S., relating to specialized residential options for children who are victims of commercial sexual exploitation (CSE), to remove the requirement that residential treatment centers (RTC) care for CSE survivors in a manner that separates those children from children with other needs.

The bill also allows an RTC or a hospital to prioritize the services it is required to provide to commercially sexually exploited children to meet the specific needs of the child.

The bill will have no fiscal impact on state government and has an effective date of July 1, 2018.

**II. Present Situation:**

**Commercial Sexual Exploitation of Children**

Commercial Sexual Exploitation of Children (CSEC) refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything given or received by any person.<sup>1</sup> Examples of crimes and acts that constitute CSEC include:

- Child sex trafficking/the prostitution of children;

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<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Commercial Exploitation of Children*, available at: [https://www.ojjdp.gov/programs/csec\\_program.html](https://www.ojjdp.gov/programs/csec_program.html). (last visited February 14, 2018).



- Child sex tourism involving commercial sexual activity;
- The commercial production of child pornography; and
- The online transmission of live video of a child engaged in sexual activity in exchange for anything of value.<sup>2</sup>

CSEC also includes situations where a child, whether or not at the direction of any other person, engages in sexual activity in exchange for anything of value, which includes non-monetary things such as food, shelter, drugs, or protection from any person. Depending on the specific circumstances, CSEC may also occur in the context of internet-based marriage brokering, early marriage, and children performing in sexual venues.<sup>3</sup>

**Child Sexual Exploitation in Florida**

It is difficult to obtain an accurate count of CSE children because these victims are not readily identifiable.<sup>4</sup> CSE survivors often do not see themselves as victims, and do not have immediately recognizable characteristics, many do not have identification, and they are often physically or psychologically controlled by adult traffickers, as such, they rarely disclose or provide information on exploitation.<sup>5</sup>

The number of reports to the Florida Abuse Hotline (Hotline) alleging human trafficking has increased each year since FY 2010-11.<sup>6</sup>

Number of Reports of Human Trafficking <sup>7</sup> to the Florida Abuse Hotline					
FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016
480	788	935	978	1,225	1,892

**Services for Victims**

The department is responsible for the child welfare needs of human trafficking victims.<sup>8</sup> To work toward ensuring that services needed by CSE victims are available in each community, each DCF region and each community-based care lead agency (CBC) must jointly assess local service

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> The Florida Legislature Office of Program Policy Analysis & Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, (Jul. 2016), available at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1604rpt.pdf>. (last visited February 14, 2018).

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

<sup>6</sup> Florida Department of Children and Families, *Annual Human Trafficking Report 2016-2017 State Fiscal Year*, (Oct. 2017), available at:

<http://www.dcf.state.fl.us/programs/childwelfare/docs/2017LMRs/Human%20Trafficking%20Annual%20Report.pdf>. (last visited February 14, 2018).

<sup>7</sup> Human trafficking includes both the commercial sexual exploitation of children and labor trafficking.

<sup>8</sup> Section 409.996, F.S.

capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop the necessary capacity.<sup>9</sup>

In cases in which a child is alleged, suspected, or known to have been sexually exploited, DCF and community-based care lead agencies conduct multidisciplinary staffings in order to begin the process of providing services.<sup>10</sup> The staffing includes local experts in child protection, child welfare, medical professionals, and law enforcement to assess the needs of the child and determine whether the child needs to be placed and served in a specialized residential program, such as a safe house or a safe foster home.<sup>11</sup>

For children in the child welfare system, including CSE victims, DCF must develop a case plan with input from all parties to the dependency case that details the problems being addressed as well as the goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.<sup>12</sup> This case plan required by s. 39.6011, F.S. may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing.<sup>13</sup>

For CSE victims who are not part of the child welfare system, DCF or the sheriff's office providing child protective investigative services must provide a service plan to the victim's family or legal guardian.<sup>14</sup> Compliance with the service plan is voluntary for CSE victims who have not been adjudicated dependent and are not part of the child welfare system.

### **Placements for Victims**

The department is responsible for the child welfare needs of child human trafficking victims, including child CSE victims, and such services could include, in some instances, a placement in a specialized residential program, such as a safe house, a safe foster home, or a residential treatment center (RTC).

### ***Safe Houses and Safe Foster Homes***

A safe house is a group residential placement certified by the department to care for sexually exploited children,<sup>15</sup> while a safe foster home is a foster home that has been certified by the department to care for sexually exploited children.<sup>16</sup> Statute outlines a certification process to ensure that these specialized homes provide the environment and services most conducive to a victim's recovery. To be certified, a safe home or safe foster home must:<sup>17</sup>

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<sup>9</sup> Each region of the department and each community-based care lead agency must establish local protocols and procedures for working with sexually exploited children that are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a sexually exploited child. Section 409.1754(3)(c), F.S.

<sup>10</sup> Section 409.1754(2), F.S.

<sup>11</sup> Sections 39.524(1) and 409.1754(2), F.S.

<sup>12</sup> Sections 39.6011 and 39.6012, F.S.

<sup>13</sup> Section 409.1754(2)(b), F.S.

<sup>14</sup> Section 409.1754(2)(c), F.S.

<sup>15</sup> Section 409.1678(1)(b), F.S.

<sup>16</sup> Section 409.1678(1)(a), F.S.

<sup>17</sup> Section 409.1678(2), F.S.

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate;
- Serve exclusively one sex;
- Group child victims of commercial sexual exploitation by age or maturity level.
- Care for child victims of commercial sexual exploitation in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.
- Have awake staff members on duty 24 hours a day, if a safe house; and
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

Services provided must, at a minimum, include:

- Victim-witness counseling;
- Family counseling;
- Behavioral health care;
- Treatment and intervention for sexual assault;
- Education tailored to the child's individual needs, including remedial education if necessary;
- Life skills training;
- Mentoring by a survivor of sexual exploitation, if available and appropriate for the child;
- Substance abuse screening and, when necessary, access to treatment;
  - Planning services for the successful transition of each child back to the community; and
  - Activities structured in a manner that provides child victims of sexual exploitation with a full schedule.

There are currently 86 beds that are active, but not necessarily available for several reasons, including that safe houses normally serve four youth at a time, even though their capacity might be larger. The cost of the 86 beds runs from \$112.40/day to as high as \$508/day.<sup>18</sup>

### ***Residential Treatment Centers***

Residential treatment centers licensed under s. 394.875, F.S., and hospitals licensed under ch. 395, F.S., that provide residential mental health treatment, must provide specialized treatment for CSE victims who are in DCF custody and who are placed there.<sup>19</sup> These hospitals and residential treatment centers (RTCs) must meet specific statutory requirements to serve child CSE victims. Specifically, they must meet the same requirements as those for safe houses and safe foster homes, with the exception of serving exclusively one sex. CSE victims must, however, be served in single-sex groups.<sup>20</sup>

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<sup>18</sup> Department of Children and Families, 2018 Agency Legislative Bill Analysis, SB 634, November 29, 2017.

<sup>19</sup> Section 409.1678(3), F.S.

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

**III. Effect of Proposed Changes:**

**Section 1** amends s. 409.1678, F.S., relating to specialized residential options for children who are victims of commercial sexual exploitation (CSE), to remove the requirement that residential treatment centers (RTC) care for CSE survivors in a manner that separates those children from children with other needs.

The bill also allows an RTC or a hospital to prioritize among services it is required to provide to commercially sexually exploited children to meet the specific needs of the child.

**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:**

None.

**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:**

The bill substantially amends s. 394.495 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 February 20, 2018:**

The CS does the following:

- Removes the requirement that RTCs care for CSE survivors in a manner that separates those children from children with other needs.
- Allows an RTC or a hospital to prioritize among the services it is required to provide to commercially sexually exploited children to meet the specific needs of the child.

**B. Amendments:**

None.



280660

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2018	.	
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The Committee on Children, Families, and Elder Affairs (Steube) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (3) of section 409.1678, Florida  
Statutes, is amended to read:

409.1678 Specialized residential options for children who  
are victims of commercial sexual exploitation.—

(3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR  
HOSPITAL.—Residential treatment centers licensed under s.



11 394.875, and hospitals licensed under chapter 395 that provide  
12 residential mental health treatment, shall provide specialized  
13 treatment for commercially sexually exploited children in the  
14 custody of the department who are placed in these facilities  
15 pursuant to s. 39.407(6), s. 394.4625, or s. 394.467.

16 (a) The specialized treatment must meet the requirements of  
17 subparagraphs (2) (c) 1., 3., 6., and 7. ~~(2) (c) 1. and 3. 7.,~~  
18 paragraph (2) (d), and the department's treatment standards  
19 adopted pursuant to this section. However, a residential  
20 treatment center or hospital may prioritize the delivery of  
21 certain services among those required under paragraph (2) (d) to  
22 meet the specific treatment needs of the child.

23 (b) The facilities shall ensure that children are served in  
24 single-sex groups and that staff working with such children are  
25 adequately trained in the effects of trauma and sexual  
26 exploitation, the needs of child victims of commercial sexual  
27 exploitation, and how to address those needs using strength-  
28 based and trauma-informed approaches.

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

30  
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete everything before the enacting clause  
34 and insert:

35 A bill to be entitled  
36 An act relating to residential treatment center  
37 requirements; amending s. 409.1678, F.S.; eliminating  
38 certain requirements for residential treatment centers  
39 that provide services to commercially sexually



280660

40

exploited children; providing an effective date.



By Senator Steube

23-00896-18

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1 A bill to be entitled  
 2 An act relating to trauma-informed services for  
 3 children; amending s. 394.495, F.S.; prohibiting a  
 4 child who has suffered sexual exploitation from being  
 5 placed in a generic shelter setting when safe-harbor  
 6 or trauma-informed housing is not available; requiring  
 7 the Department of Children and Families to assemble a  
 8 team of specified experts to determine the safest  
 9 placement for the child; providing criteria for  
 10 placement; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Paragraph (p) of subsection (4) of section  
 15 394.495, Florida Statutes, is amended to read:  
 16 394.495 Child and adolescent mental health system of care;  
 17 programs and services.—

18 (4) The array of services may include, but is not limited  
 19 to:

20 (p) Trauma-informed services for children who have suffered  
 21 sexual exploitation as defined in s. 39.01(71)(g). If there is  
 22 no safe-harbor or trauma-informed housing available, the child  
 23 may not be placed in a generic shelter setting. The department  
 24 shall assemble a team consisting of at least two experts in  
 25 anti-trafficking and sexual violence and at least one licensed  
 26 psychiatrist or psychologist who has experience working with  
 27 children who have suffered sexual exploitation. The team shall  
 28 determine the safest placement for the child until an  
 29 appropriate out-of-home care placement option becomes available.

Page 1 of 2

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

23-00896-18

2018634\_\_

30 The child's placement must match his or her individual needs,  
 31 avoid revictimization of the child, and provide safety.  
 32 Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/20/18

Meeting Date

634

Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name ROY MILLER

Job Title PRESIDENT

Address 111 SOUTH MAGNOLIA #4

Phone 727-224-7274

TALLAHASSEE FL 32302

Email RMILLER@ANTITRAFFICKING.ORG

Speaking: [X] 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: [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.

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



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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**BILL:** HM 817

**INTRODUCER:** Representatives Harrell and Williams

**SUBJECT:** Renewal of Title IV-E Waivers for Child Welfare Services

**DATE:** February 9, 2018      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	<b>Favorable</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

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**I. Summary:**

HM 817 is a memorial to the U.S. Congress requesting legislation under which Florida’s existing Title IV-E waiver for child welfare services could be renewed in lieu of a return to traditional federal Title IV-E funding. The memorial presents the rationale for continuing the existing Title IV-E waiver beyond September 30, 2019.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress. Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

**II. Present Situation:**

**Title IV-E Funding for Child Welfare**

Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is Title IV-E of the Social Security Act. Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardianship assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who “age out” of foster care, or are expected to age out without placement in a permanent family. While Title IV-E funding is an entitlement, eligibility is limited to those children who:

- Are from a home with very low income (less than 50 percent of federal poverty level in most states);
- Have been determined by a judge to need to be in care;

- Are living in a licensed family foster home or a “child care institution;” and
- Are under 18 years old, unless the state has included older youth in its Title IV-E plan.

A Congressional Research Service analysis estimates that less than half of the children in foster care met Title IV-E foster care eligibility criteria in 2015.<sup>1</sup>

Eligible Title IV-E expenditures include:

- Foster care maintenance payments for the child’s room and board;
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care. These activities include finding a foster care placement for a child and planning services necessary to ensure the child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care;
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.

The federal government pays a share of these costs ranging from 50-83 percent, depending on the nature of the expenditure. When determining foster care maintenance payments, an additional consideration is the state’s per capita income.<sup>2</sup>

### **Title IV-E Waivers**

First authorized by Congress in 1994, the goal of permitting waivers of specific Title IV-E requirements is to allow states to demonstrate alternative and innovative practices that achieve federal child welfare policy goals in a manner that is cost neutral to the federal Treasury. Each project has a specific approval period which is typically five years, must be determined to cost the federal government no more in Title IV-E support than it would without the waiver project, and must be independently evaluated.<sup>3</sup>

Currently 26 states, including Florida, have approved child welfare demonstration projects commonly referred to as IV-E waivers. Under the terms and conditions of their specific waiver agreement, each of these jurisdictions is permitted to use Title IV-E foster care funds to provide services or assistance to children and their families, even if those children or those services or assistance would not normally be considered eligible.

Title IV-E waiver projects vary significantly in geographic and program scope. Some operate on a statewide basis, others are limited to specific regions or counties in the state. The interventions may focus on different age groups of children and different service needs or circumstances such as children:

- Entering care for the first time;

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<sup>1</sup> Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding*, CONGRESSIONAL RESEARCH SERVICE, January 10, 2017, p. 13-15, available at: <https://fas.org/sgp/crs/misc/R43458.pdf> (last accessed February 7, 2018).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

- At risk of entering care;
- Transitioning from group care to home; and
- With substance-abusing parents.<sup>4</sup>

A smaller number of projects address other issues, such as:

- Preventing or reducing the use of group care for children in foster care;
- Addressing behavioral health needs of children;
- Addressing needs of caregivers with substance use disorders; and
- Reducing placement instability for children in foster care.<sup>5</sup>

### Florida's Title IV-E Waivers

Florida's original Title IV-E waiver was effective on October 1, 2006, and was in effect for five years. Key features of the waiver were:

- A capped allocation of funds, similar to a block grant, distributed to community-based care lead agencies for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and
- Ability to serve children who did not meet Title IV-E criteria.<sup>6</sup>

The federal government extended Florida's original waiver to 2014, then approved a renewal retroactively beginning October 1, 2013. The renewal is authorized until September 30, 2018. The renewal waiver's terms and conditions include the following goals:

- Improving child and family outcomes through flexible use of Title IV-E funds;
- Providing a broader array of community-based services and increasing the number of children eligible for services; and
- Reducing administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds.<sup>7</sup>

Like the original waiver, the renewal waiver also involves a capped allocation of funds, flexibility to use funds for a wider array of services, and expanded eligibility for children.<sup>8</sup>

Under current law, the U.S. Department of Health and Human Services is not authorized to grant any new child welfare waivers, and no state may operate a waiver project after September 30,

<sup>4</sup> U.S. Department of Health and Human Services, Administration of Children and Families, Children Bureau, *Summary of Child Welfare Waiver Demonstration by Jurisdictions*, June 2016, available at: [http://www.acf.hhs.gov/sites/default/files/cb/waiver\\_summary\\_table\\_active.pdf](http://www.acf.hhs.gov/sites/default/files/cb/waiver_summary_table_active.pdf). (last visited February 7, 2018).

<sup>5</sup> James Bell and Associates, *Summary of the Title IV-E Child Welfare Waiver Demonstrations, prepared for Children's Bureau, ACYF, ACF, HHS*, August 2016, available at: [http://www.acf.hhs.gov/sites/default/files/cw\\_waiver\\_summary2016.pdf](http://www.acf.hhs.gov/sites/default/files/cw_waiver_summary2016.pdf). (last visited February 7, 2018).

<sup>6</sup> Amy C. Vargo et al., *Final Evaluation Report, IV-E Waiver Demonstration Evaluation, SFY 11-12*, March 15, 2012, available at: <http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf>. (last visited February 7, 2018).

<sup>7</sup> Personal communication from JooYeun Chang, Associate Commissioner with the Children's Bureau, to Esther Jacobo, Interim Secretary of the Department of Children and Families, available at: <http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTErms2013-2018.pdf>. (last visited February 7, 2018).

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

2019.<sup>9</sup> Therefore, Florida will revert to more restrictive Title IV-E federal funding requirements beginning in 2018, or in 2019 if the waiver is renewed for an additional year.

### **Federal Family First Prevention Services Act**

The Family First Prevention Services Act was a bipartisan bill that would reform many of the federal child welfare financing mechanisms to help better support families. The bill aimed to prevent their children from entering foster care by allowing federal reimbursement for services to families and children.<sup>10</sup> The bill also contained provisions designed to improve the well-being of children already in foster by incentivizing states to reduce placement of children in group care.

The provisions in the Act were included in the “Bipartisan Budget Act of 2018” that was enacted by Congress and signed into law by the President on February 9, 2018. This would appear to indicate that waiver extensions are unnecessary or will be considered by Congress.

### **III. Effect of Proposed Changes:**

The memorial requests that Congress amend federal law to allow for the extension of the existing Title IV-E waiver beyond September 30, 2019. An extension on the existing waiver program would give Florida the flexibility to continue alternative funding models and preserve the expanded array of services and supports that have been developed statewide. In the absence of an extension for the existing waiver, maintaining current service levels may require additional appropriations of state funds.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

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

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

None.

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

None.

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<sup>9</sup> §1130(a)(2) and (d)(2) of the Social Security Act.

<sup>10</sup> See H.R. 5456/S. 3065. H.R. 5456 by Representative Buchanan (R-FL) was introduced in the House of Representatives on June 10, 2016 and its companion was introduced in the Senate on June 16, 2016 by Senators Hatch (R-UT) and Wyden (D-OR). The bills were reintroduced in 2017.

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:**

None.

**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.



HM 817

2018

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to allow renewal of Title IV-E waivers  
 for child welfare services.

WHEREAS, one of the most important roles of government is  
 ensuring the safety and well-being of society's most vulnerable  
 members, including children, and

WHEREAS, children enter the child welfare system for many  
 reasons, such as parental substance abuse, domestic violence,  
 mental illness, and generational poverty, and the complexity of  
 cases is growing due to the interplay of these factors, and

WHEREAS, preventing child abuse, abandonment, and neglect  
 saves children from trauma and avoids costs for more intensive  
 treatment services, juvenile justice interventions, public  
 benefits expenditures, and other social services, and

WHEREAS, with the federal funding flexibility provided by  
 Florida's Title IV-E waiver for child welfare services,  
 professionals working closely with children and families can  
 tailor services to best meet individual needs, regardless of the  
 level of involvement in the child welfare system, thus making  
 the most effective and efficient use of funding, and

WHEREAS, Florida has been a national leader in innovative  
 child welfare service provision through a community-based system  
 of care and flexible funding streams, providing communities with

HM 817

2018

the responsibility, authority, and resources to care for their  
 own children, and

WHEREAS, while the federal Child and Family Services Review  
 found that Florida exceeds national standards with respect to  
 certain indicators and systemic factors, the state still faces  
 challenges in meeting other requirements and would benefit from  
 continued flexibility in federal funding to most effectively  
 meet these challenges, and

WHEREAS, Florida's Title IV-E waiver will expire September  
 30, 2018, and federal law requires all waiver operations to  
 terminate by September 30, 2019, such that Florida will soon  
 revert to more restrictive funding limitations unless Congress  
 takes action, and

WHEREAS, widespread support exists nationally to transform  
 the current Title IV-E funding approach to emphasize prevention  
 and greater provision of a wider array of services tailored to  
 meet individual families' needs so that children may be safe  
 while avoiding the trauma of placement outside the home when  
 possible, which is what Florida's waiver currently allows, and

WHEREAS, meeting traditional Title IV-E obligations will  
 force significant changes to Florida's child welfare system,  
 requiring professionals to spend time revising policies and  
 processes instead of working to meet the needs of children and  
 families, NOW, THEREFORE,

HM 817

2018

51 Be It Resolved by the Legislature of the State of Florida:

52

53       That the Legislature of the State of Florida requests the  
54 Congress of the United States to amend federal law to allow the  
55 Secretary of the Department of Health and Human Services to  
56 renew existing Title IV-E waivers to extend beyond September 30,  
57 2019, giving Florida the flexibility to continue providing an  
58 expanded array of community-based programs and support to  
59 children who are in or who are at risk of entering out-of-home  
60 placement and their families.

61       BE IT FURTHER RESOLVED that copies of this memorial be  
62 dispatched to the President of the United States, to the  
63 President of the United States Senate, to the Speaker of the  
64 United States House of Representatives, and to each member of  
65 the Florida delegation to the United States Congress.



# CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Children, Families, and Elder Affairs Committee

Judge:

Started: 2/20/2018 11:10:15 AM

Ends: 2/20/2018 11:35:20 AM Length: 00:25:06

11:10:17 AM Call to order  
11:10:24 AM Roll Call  
11:10:31 AM Quorum present  
11:10:43 AM Tab 1 SB 270  
11:10:45 AM Sen Steube  
11:12:28 AM AM 525166  
11:12:30 AM Sen Garcia  
11:13:49 AM Shane Messer, FL Council for Behavioral Healthcare, WIS  
11:14:25 AM Jay Reeve, FL Council for Behavioral Healthcare, Speaks in Support  
11:16:18 AM Sen Torres Question  
11:16:54 AM Jay Reeve  
11:17:01 AM Sen Torres Question  
11:17:12 AM Jay Reeve  
11:17:55 AM Sen Garcia Question  
11:18:04 AM Jay Reeve  
11:19:11 AM Nancy Daniels, FL Public Defender Assoc., WIS  
11:19:17 AM Thad Lowery, Operation FAR, WIS  
11:19:22 AM Michelle Protas, Florida PTA, WIS  
11:19:31 AM Jill Gran, Florida Behavioral Health Association, WIS  
11:19:35 AM Mary-Lynn Cullen, Advocacy Institute for Children, WIS  
11:19:41 AM Roy Miller, The Children's Campaign, WIS  
11:20:14 AM AM 525166 Adopted  
11:20:52 AM Richard Chapman, Mental Health Counselor, Speaks in support  
11:24:56 AM Roll Call  
11:25:07 AM SB 270 Recorded Favorably  
11:25:16 AM Tab 2 SB 634  
11:25:20 AM Sen Steube  
11:26:02 AM AM 280660  
11:26:07 AM Sen Steube  
11:26:25 AM Sen Torres Question  
11:26:58 AM Sen Steube  
11:27:13 AM Sen Torres Question  
11:27:39 AM Sen Steube  
11:28:12 AM AM 280660 Adopted  
11:28:27 AM Roy Miller, The Children's Campaign, WIS  
11:28:33 AM Roll Call  
11:28:57 AM CS/SB 634 Recorded Favorably  
11:29:05 AM Tab 3 HM 817  
11:29:20 AM Sen Garcia  
11:29:41 AM Roll Call  
11:29:55 AM HM 817 Recorded Favorably  
11:29:59 AM Sen Garcia

**11:30:50 AM** Sen Broxson  
**11:30:56 AM** Sen Campbell  
**11:31:30 AM** Sen Torres  
**11:32:58 AM** Sen Garcia  
**11:35:13 AM** Adjourned