

<b>Tab 1</b>	<b>SB 476</b> by <b>Perry (CO-INTRODUCERS) Taddeo, Stewart, Book, Gruters, Hooper, Flores;</b> (Identical to H 00567) Child Restraint Requirements						
<b>Tab 2</b>	<b>SB 1188</b> by <b>Gruters;</b> (Identical to H 01167) Courts						
<b>Tab 3</b>	<b>SB 1280</b> by <b>Rouson (CO-INTRODUCERS) Rader;</b> (Identical to H 00491) Controlled Substance Prescribing						
<b>Tab 4</b>	<b>CS/SB 1222</b> by <b>MS, Harrell (CO-INTRODUCERS) Mayfield;</b> (Similar to CS/CS/H 00365) Services for Veterans and Their Families						
<b>Tab 5</b>	<b>SB 1432</b> by <b>Baxley;</b> (Compare to CS/H 01209) Foster Parents						
166660	D	S	RCS	CF, Baxley	Delete everything after	04/09 03:19 PM	
<b>Tab 6</b>	<b>SB 1492</b> by <b>Book;</b> (Similar to H 01305) Government-sponsored Recreation Programs						
465640	A	S	RCS	CF, Book	Delete L.37 - 51:	04/09 10:11 AM	
<b>Tab 7</b>	<b>SB 1592</b> by <b>Harrell;</b> (Compare to CS/H 01349) Assisted Living Facilities						
458958	D	S	RCS	CF, Harrell	Delete everything after	04/09 03:22 PM	
854610	AA	S	RCS	CF, Harrell	Delete L.374:	04/09 03:22 PM	
<b>Tab 8</b>	<b>CS/SB 1650</b> by <b>HP, Albritton;</b> (Similar to H 07099) Child Welfare						
546646	A	S	RCS	CF, Albritton	Delete L.47 - 819:	04/09 03:01 PM	
231468	AA	S	RCS	CF, Book	Delete L.469 - 471:	04/09 03:01 PM	

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

**CHILDREN, FAMILIES, AND ELDER AFFAIRS**  
**Senator Book, Chair**  
**Senator Mayfield, Vice Chair**

**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

**MEMBERS:** Senator Book, Chair; Senator Mayfield, Vice Chair; Senators Bean, Harrell, Rader, Torres, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 476</b> Perry (Identical H 567)	Child Restraint Requirements; Increasing the age of children for whom operators of motor vehicles must provide protection by using a crash-tested, federally approved child restraint device; increasing the age of children for whom a separate carrier, an integrated child seat, or a child booster seat may be used, etc.  IS     03/26/2019 Favorable CF     04/08/2019 Favorable RC	Favorable Yeas 6 Nays 0
2	<b>SB 1188</b> Gruters (Identical H 1167)	Courts; Specifying that certain exemptions from court-related fees and charges apply to certain entities; requiring the court to waive any court costs or filing fees for certain proceedings involving public guardians; providing that a certain examination report related to annual guardianship plans may be prepared by a physician assistant or an advanced practice registered nurse, etc.  JU     03/25/2019 Favorable CF     04/08/2019 Favorable RC	Favorable Yeas 6 Nays 0
3	<b>SB 1280</b> Rouson (Identical H 491)	Controlled Substance Prescribing; Revising the definition of the term "acute pain" to exclude pain related to sickle-cell anemia; excluding the treatment of such pain from limitations on the prescription of an opioid drug, etc.  HP     04/01/2019 Favorable CF     04/08/2019 Favorable RC	Favorable Yeas 6 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, April 8, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 1222</b> Military and Veterans Affairs and Space / Harrell (Similar CS/CS/H 365)	Services for Veterans and Their Families; Requiring the Department Veterans' Affairs to establish the Florida Veterans' Care Coordination Program to provide veterans and their families with behavioral health care referral and care coordination services; requiring the department to contract with a certain nonprofit entity to enter into agreements with Florida 211 Network participants to provide such services, etc.  MS 03/26/2019 Fav/CS CF 04/08/2019 Favorable AP	Favorable Yeas 6 Nays 0
5	<b>SB 1432</b> Baxley (Compare CS/H 1209)	Foster Parents; Establishing certain rights for foster parents; providing requirements for the Department of Children and Families relating to foster parents; specifying that child abuse, abandonment, or neglect investigations involving a foster parent must be conducted according to certain specifications; authorizing the department to request a background screening of a foster parent during certain emergency situations, etc.  CF 04/08/2019 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0
6	<b>SB 1492</b> Book (Similar H 1305)	Government-sponsored Recreation Programs; Revising the definition of the term "child care facility" to exclude government-sponsored recreation programs; defining the term "government-sponsored recreation program", etc.  CF 03/25/2019 Temporarily Postponed CF 04/08/2019 Fav/CS GO RC	Fav/CS Yeas 6 Nays 0
7	<b>SB 1592</b> Harrell (Compare CS/H 1349, CS/H 7019, CS/S 184)	Assisted Living Facilities; Clarifying that specified provisions of law do not apply to assisted living facilities and prohibiting the Agency for Health Care Administration from citing facilities or imposing fines on such facilities under those provisions; encouraging facilities to take certain measures to provide for the general security of residents, staff, and the facility; requiring an owner's or administrator's determination of an individual's appropriateness of admission to include a medical examination and to follow specified guidelines, etc.  CF 04/08/2019 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Children, Families, and Elder Affairs

Monday, April 8, 2019, 4:00—6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>CS/SB 1650</b> Health Policy / Albritton (Similar H 7099)	Child Welfare; Requiring that the order for placement of a child in shelter care contain a written finding specifying that the Department of Children and Families has placement and care responsibility for certain children; revising eligibility for the Relative Caregiver Program; revising when a court must return a child to the custody of his or her parents after making certain determinations, etc.  HP 03/25/2019 Fav/CS CF 04/08/2019 Fav/CS AP	Fav/CS Yeas 6 Nays 0
9	Presentation on Suicide Prevention		Presented
Other Related Meeting Documents			

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**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: SB 476

INTRODUCER: Senator Perry and others

SUBJECT: Child Restraint Requirements

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
2.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 476 amends current law relating to child restraint requirements while transporting a child in a motor vehicle being operated on Florida's roads. The bill increases from age five years or younger, to age six years or younger, the age of child which must be protected by properly using a crash-tested, federally-approved child restraint device. The bill also increases from age four through five years, to age four through six years, the age of a child for which use of a separate carrier, an integrated child seat, or a child booster seat is authorized.

The bill appears to present no fiscal impact to state revenues or expenditures.

The bill takes effect July 1, 2019.

**II. Present Situation:**

**Child Passenger Safety**

The focus on child passenger safety continues to be in the forefront of motor vehicle safety concerns. According to the National Conference of State Legislatures:

In America, four children die and 490 are injured in motor vehicle crashes every day. It is the leading cause of death for children between the ages of 2 and 14. ... Children are at a much greater risk for death or injury when they ride unrestrained or in the wrong type of restraint.

More than half of children killed in crashes are totally unrestrained. When child safety seats are used correctly, they can reduce fatal injuries by just over 70 percent for infants and by 54 percent for toddlers, according to NHTSA. All 50 states, the District of Columbia, Puerto Rico and the U.S. territories have some

form of child safety seat law. NHTSA recommends that state child passenger laws cover children up to age 16 in every seating position. ...

While every state has a law, there is variation in the age and size requirements. Some laws cover children only up to a certain age (usually age four), while others allow use of adult safety belts to restrain children.<sup>1, 2</sup>

For children that are restrained at the time of a motor vehicle crash, NHTSA recognizes as the primary reasons for injuries to children:

- Prematurely turning a child forward, moving from harnessed safety seats to booster seats, and moving from booster seats to adult safety belts,
- Misuse of safety restraints and seat belts, and
- Children seated in the front seat of the vehicle.<sup>2</sup>

### **Child Restraint Devices or “Car Seats” and U.S.D.O.T. Recommendations**

Car seats available on the market offer a variety of choices. The best choice, according to NHTSA, is a selection based on a given child’s age and size, which complies with the specific car seat manufacturer’s instructions for height and weight limits, and is properly installed in accordance with the vehicle’s owner’s manual. Further, for maximum safety, NHTSA recommends keeping a child in a car seat for as long as possible, provided the child does not exceed the manufacturer’s height and weight limitations. NHTSA also recommends keeping a child in the back seat at least through the age of 12.<sup>3</sup>

Car seats are generally available in four types, with variations in each type:

- Rear-facing car seats have a harness and, in a crash, cradles and moves with a child to reduce the stress to the child’s neck and spinal cord,
- Forward-facing car seats have a harness and tether that limits a child’s forward movement during a crash,
- Booster seats position the seat belt so that it fits properly over the stronger parts of a child’s body, and
- Seat belts.<sup>4</sup>

NHTSA recommends that a child from birth through 12 months should always ride in a rear-facing car seat, noting that convertible and all-in-one versions of these seats usually have higher height and weight limits for the rear-facing position, which facilitates keeping a child in a rear-facing position for a longer period of time.<sup>5</sup>

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<sup>1</sup> NCSL, *Occupant Protection/Safety (Seat) Belts and Child Passengers, Child Passenger Safety Overview*, available at <http://www.ncsl.org/research/transportation/occupant-protection-safety-belts-and-child-passen.aspx#other> (last viewed April 4, 2019).

<sup>2</sup> NHTSA, the National Highway Traffic Safety Administration, is part of the U.S.D.O.T. See the U.S.D.O.T.’s website available at <https://www.transportation.gov/administrations> (last viewed April 4, 2019).

<sup>3</sup> NHTSA, *Car Seats and Booster Seats*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec> (last viewed April 4, 2019).

<sup>4</sup> *Id.*

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

For children one through three years old, NHTSA suggests keeping a child in a rear-facing seat until the child reaches the top height or weight limit indicated by the car seat's manufacturer. Once either limit is exceeded, NHTSA recommends a forward-facing seat with a harness and tether.<sup>6</sup>

For children four through seven years, NHTSA advises a child should be kept in a forward-facing car seat with a harness and tether until the child reaches the top height or weight limit set by the car seat's manufacturer. Again, once either limit is exceeded, the child should be transported in a booster seat, but NHTSA recommends the booster seat still be installed properly in the back seat of the vehicle.<sup>7</sup>

For children eight through 12 years, NHTSA recommends keeping a child in a booster seat until the child is big enough to fit in a seat belt properly. Proper fit in a seat belt means that the lap belt lies snugly across the upper thighs, not the stomach, and the shoulder belt lies snugly across the shoulder and chest, not across the neck or face. NHTSA notes the child should still ride in the back seat of the vehicle "because it's safer there."<sup>8</sup>

## **Florida Law**

### ***Safety Belt Usage Under 18***

Section 316.614(4)(a), F.S., prohibits a person from operating a motor vehicle or autocycle<sup>9</sup> in this state unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device, if applicable.

### ***Child Restraint Requirements***

Section 316.613, F.S., requires every operator of a motor vehicle<sup>10</sup> operated on the roadways, streets, or highways of this state to provide for protection of a child who is five years of age or younger by properly using a crash-tested, federally approved child restraint device:

- For children through three years of age, the device must be a separate carrier or a vehicle manufacturer's integrated child seat.

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<sup>6</sup> *Id.*

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

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

<sup>9</sup> An autocycle is "a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration." Section 316.003(2), F.S.

<sup>10</sup> Section 316.003(42), F.S., defines "motor vehicle," except for purposes of the payment of tolls, as "a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped." As used in s. 316.613, F.S., the term "motor vehicle" does not include:

- A school bus as defined in s. 316.003, F.S.
- A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), F.S., or in conjunction with school activities.
- A farm tractor or implement of husbandry.
- A truck having a gross vehicle weight rating of more than 26,000 pounds.
- A motorcycle, moped, or bicycle.

- For children aged four through five years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement does not apply when a safety belt is used as required in s. 316.614(4)(a), F.S., and the child:
  - Is being transported gratuitously by an operator who is not a member of the child's immediate family;
  - Is being transported in a medical emergency situation involving the child; or
  - Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

A person who violates the provisions of s. 316.613, F.S., commits a moving violation punishable by a penalty of \$60.<sup>11</sup> In addition, the violator will have three points assessed against his or her driver license. Instead of the \$60 penalty and the assessment of points, a violator may elect to participate in a child restraint safety program, with the approval of the court with jurisdiction over the violation. After completing the program, the court may waive the \$60 penalty and any associated court costs, and must waive the assessment of points.

Current law also addresses use of safety belts or other restraint systems on school buses and on child-care facility vehicles.

### ***School Buses***

Section 316.6145, F.S., requires each school bus<sup>12</sup> purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts or with any other federally approved restraint system in a number sufficient to allow each student being transported to use a separate safety belt or restraint system. Enacted in 1999, the statute requires each school district to prioritize the allocation of buses equipped with safety belts or restraint systems to children in elementary schools.<sup>13</sup> However, the provisions of s. 316.613, F.S., do not apply to school buses, as they are excluded from the definition of "motor vehicle" for purposes of that section.<sup>14</sup>

### ***Child Care Facility Vehicles***

Section 402.305(1), F.S., requires the Florida Department of Children and Families (FDCF) to establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served. Section 402.305(10), F.S., requires the minimum standards, among other items, to include requirements

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<sup>11</sup> Section 318.18(3)(a), F.S.

<sup>12</sup> As used in that section, "school bus" means one that is owned, leased, operated, or contracted by a school district.

<sup>13</sup> Section 1006.25(2), F.S., requires each school bus regularly used for the transportation of prekindergarten disability program and K-12 public school students to and from school or to and from school activities, and owned, operated, rented, contracted, or leased by any district school board to comply with the applicable federal motor vehicle safety standards. Subsection (4) of that section requires students be transported only in designated seating positions, except in specified emergency situations, and use the occupant crash protection system provided by the manufacturer. The Department of Education posts on its website guidelines providing "clarification and interpretation of the NHTSA Guidelines, and additional background and Department of Education recommendations regarding technical and operational issues associated with transporting pre-school age students." See Florida Department of Education, *Florida Guidelines for Seating of Pre-school Age Children in School Buses*, available at <http://www.fldoe.org/schools/healthy-schools/transportation/> (last viewed April 4, 2019).

<sup>14</sup> Section 316.613(2)(a), F.S.



for child restraints or seat belts in vehicles used by child care facilities<sup>15</sup> and large family child care homes<sup>16</sup> to transport children.

Pursuant to that direction, the FDCF's Florida Administrative Code Rule 65C-22.001(6)(e)<sup>17</sup> requires each child transported in a child care facility vehicle or a large family child care home vehicle to be in an individual, factory-installed seat belt or a federally approved child restraint.

### III. Effect of Proposed Changes:

The bill amends s. 316.613, F.S., increasing from five years of age or younger, to six years of age or younger, the requirement to provide for protection of a child by properly using a crash-tested, federally approved child restraint device. The bill also increases from age four through five years, to age four through six years, the authorization to use a separate carrier, an integrated child seat, or a child booster seat. Children being transported in a child restraint device in compliance with the current provisions of s. 316.613(1) and (1)(a)2., F.S., must be kept in that (or another) compliant device for one additional year. This result may or may not be consistent with NHTSA's recommendations focusing on the actual weight and height of the child being transported.

The requirement to protect children aged through three years with a separate carrier or a vehicle manufacturer's integrated child seat remains unchanged.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>15</sup> Section 402.302(1), F.S., defines "child care" to mean "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." Subsection (2) of that section defines "child care facility" to include "any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit."

<sup>16</sup> Section 402.302, F.S., defines "large family child care home" to mean "an occupied resident in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation, with one of the two personnel being the owner or occupant of the residence."

<sup>17</sup> See Florida Department of Children and Families, *Chapter 65C-22 Florida Administrative Code Child Care Standards*, available online at <http://ccrain.fl-dcf.org/documents/2/470.pdf> (last viewed April 2, 2019).

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.613.

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

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

None.

**B. Amendments:**

None.

By Senator Perry

8-00927-19

2019476\_\_

1 A bill to be entitled  
 2 An act relating to child restraint requirements;  
 3 amending s. 316.613, F.S.; increasing the age of  
 4 children for whom operators of motor vehicles must  
 5 provide protection by using a crash-tested, federally  
 6 approved child restraint device; increasing the age of  
 7 children for whom a separate carrier, an integrated  
 8 child seat, or a child booster seat may be used;  
 9 providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13 Section 1. Paragraph (a) of subsection (1) of section  
 14 316.613, Florida Statutes, is amended to read:

15 316.613 Child restraint requirements.—

16 (1) (a) Every operator of a motor vehicle as defined in this  
 17 section, while transporting a child in a motor vehicle operated  
 18 on the roadways, streets, or highways of this state, shall, if  
 19 the child is 6 ~~5~~ years of age or younger, provide for protection  
 20 of the child by properly using a crash-tested, federally  
 21 approved child restraint device.

22 1. For children aged through 3 years, such restraint device  
 23 must be a separate carrier or a vehicle manufacturer's  
 24 integrated child seat.

25 2. For children aged 4 through 6 ~~5~~ years, a separate  
 26 carrier, an integrated child seat, or a child booster seat may  
 27 be used. However, the requirement to use a child restraint  
 28 device under this subparagraph does not apply when a safety belt  
 29 is used as required in s. 316.614(4) (a) and the child:

Page 1 of 2

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

8-00927-19

2019476\_\_

30 a. Is being transported gratuitously by an operator who is  
 31 not a member of the child's immediate family;  
 32 b. Is being transported in a medical emergency situation  
 33 involving the child; or  
 34 c. Has a medical condition that necessitates an exception  
 35 as evidenced by appropriate documentation from a health care  
 36 professional.  
 37 Section 2. This act shall take effect July 1, 2019.

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)

4-2-19

Meeting Date

~~476~~ 476  
Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name FELY CURVA, Ph.D.

Job Title Senior Partner, Curva & Assoc., LLC

Address 1212 Piedmont Dr.

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Tallahassee

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32312

City

State

Zip

Email Fely.Curva@gmail.com

Speaking:  For  Against  Information

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

Representing Budd Bell Clearinghouse on Human Services

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

SB 476

Bill Number (if applicable)

Topic Child Restraint Requirements

Name LINDA ALEXIENOK

Job Title Ex. Director

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Phone 425-2600

TALL FL 32301 City State Zip

Email lalexienok@iamforkids.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] 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

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/8/19

Meeting Date

SB 476

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Khanh-Lien Banks (Con Lynn)

Job Title Resolutions

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City

State

Zip

Email resolutions@floridapta.org

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida PTA

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

04/08/2019

Meeting Date

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

476

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Traci Deen

Job Title Chair, Junior Leagues of Florida

Address 87 Columbia Drive

Street

Phone 786-271-3113

Tampa

FL

33606

City

State

Zip

Email jlflspac@gmail.com

Speaking:  For  Against  Information

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

Representing Junior Leagues of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

4.8.19

*Meeting Date*

476

*Bill Number (if applicable)*

Topic Child Restraints Requirements

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

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Phone 850.510.9922

*Street*

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32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/8/19

Meeting Date

SB 476

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Mary Lynn Cullen

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State

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Zip

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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.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

April 8 2019  
Meeting Date

476  
Bill Number (if applicable)

Topic Child Restraints

Amendment Barcode (if applicable)

Name Doug Bell

Job Title \_\_\_\_\_

Address 119 S. Monroe  
Street

Phone 205 9000

TLH  
City State Zip

Email doug.bell@mkdfirm.com

Speaking:  For  Against  Information

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

Representing Florida Chapter, American Academy of Pediatrics

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

4-8-19

Meeting Date

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

1492

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name TRUDY NOVICKI

Job Title PRESIDENT/CEO

Address 300 W PENNSACOLA ST.

Phone 786-360-9485

Street

TALLAHASSEE FL 32301

Email TNOVICKI@IMPACT.ORG

City

State

Zip

Speaking:  For  Against  Information

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

Representing FLORIDA IMPACT TO END HUNGER

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)

4/8/19

Meeting Date

1492

Bill Number (if applicable)

Topic Government Sponsored Recreation Programs

Amendment Barcode (if applicable)

Name Lisa Early

Job Title Families, Parks and Recreation Dept, Director

Address 595 N. Primrose Drive

Phone 321 239 7855

City Orlando State FL Zip 32803

Email lisa.early@cityoforlando.net

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

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

Representing City of Orlando

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

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

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

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4/8/19  
Meeting Date

1492  
Bill Number (if applicable)

Topic Government Sponsored Recreation Programs

Amendment Barcode (if applicable)

Name Alexandra Temes

Job Title Center Manager

Address 6123 La Costa Drive  
Street

Phone 407 760 6417

Orlando FL 32807  
City State Zip

Email alexandra.temes@cityoforlando.net

Speaking:  For  Against  Information

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

Representing City of Orlando

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)

4.8.19

Meeting Date

11650 C1

Bill Number (if applicable)

231468 AA

Amendment Barcode (if applicable)

Topic CHILD WELFARE

Name VICTORIA ZEPP

Job Title CHIEF POLICY & RESEARCH

Address

Street

TLH

FL

State

32301

Zip

Phone 888/561-1102

Email VICTORIA@FLCHILDREN.ORG

Speaking:  For  Against  Information

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

Representing FL COALITION 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2019  
Meeting Date

Bill Number (if applicable)

231 468

Amendment Barcode (if applicable)

BY BOOK  
FOR 16504

Topic Child Welfare

Name Georgia McKeown

Job Title Senior Advisor / Consultant

Address 501 E PARK AVE

Phone 904 303 1611

Tallahassee, FL 32301

Email georgiameteam@jb.com

City State Zip

Speaking:  For  Against  Information

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

Representing Family Support Services of North Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

4/8/19

Meeting Date

Bill Number (if applicable)

Topic Seat Belts

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.

Phone

Street

Largo

FL

State

33773

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  
COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 476  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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

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BILL: SB 1188

INTRODUCER: Senator Gruters

SUBJECT: Courts

DATE: April 5, 2019

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

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

---

**I. Summary:**

SB 1188 assists public guardians as they seek to meet the needs of their incapacitated wards.

The bill clarifies that public guardians are exempted from paying any court-related fees or charges normally assessed by clerks for accessing public records. The bill also requires courts to waive court costs and filing fees in proceedings involving the appointment of a public guardian or the estate of a public guardian's ward. Currently, courts have the discretion to waive those costs and fees.

Finally, the bill allows additional medical personnel, physician assistants and advance practice registered nurses, to conduct the required annual medical exam of a ward and prepare a report of the exam for the court. Currently, only physicians are allowed to conduct the exams and prepare the reports.

The bill will have an indeterminate fiscal impact and has an effective date of July 1, 2019.

**II. Present Situation:**

**Public Guardians**

A public guardian is appointed to provide guardianship services to an incapacitated person if there is no family member, friend, or other person willing and qualified to serve.<sup>1</sup> Public

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<sup>1</sup> Section 744.2007(1), F.S.

guardians generally and primarily serve incapacitated people who have limited financial means.<sup>2,3</sup>

### **Circuit Court Clerks' Duty to Provide Access to Public Records and Waive Fees**

The clerks of the circuit courts are required by s. 28.345(1), F.S., to provide public guardians and other entities access to public records, upon request, and without charge.<sup>4</sup> Additionally, s. 28.345(2), F.S., exempts a public guardian, when acting in an official capacity, from all court-related fees and charges normally assessed by the clerks.<sup>5</sup> While these two provisions make clear that a public guardian is entitled to free access to public records and that no fees or charges will be assessed against them for those records, the peculiar wording of s. 28.345(3), F.S., has created confusion among some clerks in the state.

Section 28.345(3), F.S. states that the exemptions from fees or charges “apply only to state agencies and state entities and the party represented by the agency or entity.” Several circuit court clerks have determined that public guardians are not state agencies or state entities, and are therefore required to pay the fees or charges for the public records they request. Other circuits read the statute differently and do not charge fees to the public guardians.

### **Court Discretion to Waive Costs and Filing Fees for Matters Involving Public Guardians**

Florida's extensive guardianship laws are contained in ch. 744, F.S. The provisions dealing with the costs of public guardians provide that all costs of administration, including filing fees, shall be paid from the office of the public guardian and no costs of administration, including filing fees, shall be recovered from the assets or income of a ward.<sup>6</sup> An additional statute provides that a court *may* waive any court costs or filing fees in any proceeding for appointment of a public guardian or in any proceeding involving the estate of a ward for whom a public guardian has been appointed.<sup>7</sup> The court's ability to waive fees is permissive and not mandatory, such that the decision to impose or waive fees rests with the discretion of the court.

### **Annual Guardianship Plan and Physician's Report**

Each guardian of the person must file with the court an annual guardianship plan that updates information about the ward's condition, including the ward's current needs and how those needs will be met in the coming year. The plan for an adult ward, if applicable, must include certain information concerning medical and mental health conditions as well as treatment and rehabilitation needs of the ward including:

- A resume of any professional medical treatment received during the preceding year.

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<sup>2</sup> Section 744.2007(3), F.S.

<sup>3</sup> The Executive Director of the Office of Public and Professional Guardians, after consulting the chief judge and other circuit judges and appropriate people, may establish an office of public guardian within a county or judicial circuit and provide a list of people best qualified to serve as public guardian. Section 744.2006, F.S.

<sup>4</sup> Those additional entities include the state attorney, public defender, guardian ad litem, attorney ad litem, criminal conflict and civil regional counsel, and private court-appointed counsel paid by the state, and to authorized staff acting on their behalf Section 28.345(1), F.S.

<sup>5</sup> Court-related fees and charges are also waived for judges and court staff acting on their behalf as well as state agencies. Section 28.345(2), F.S.

<sup>6</sup> Section 744.2008(1), F.S.

<sup>7</sup> Section 744.2008(2), F.S.

- A report by a physician who examined the ward at least 90 days before the beginning of the reporting period and which contains an evaluation of the ward's condition and current capacity.
- The plan for providing medical, mental health, and rehabilitative services for the coming year.

Proponents of this bill assert that at least 95 percent of the public guardians' wards live in nursing homes where physicians seldom visit. However, because the statute specifically requires a physician's report, courts will not accept the signature of a physician's assistant or an advanced practice registered nurse even though these professionals appear to be authorized to conduct these examinations within the scope of their practices.

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

#### **Clarifying Language for Court-related Fees and Charges**

The bill adds language to s. 28.345(3), F.S., to clarify that public guardians are exempted from the clerks' assessment of fees and charges. This is accomplished by stating that the "entities listed in subsections (1) and (2)," the provisions where public guardians are specifically named, are exempted from fees or charges. This should resolve any ambiguity as to whether the public guardians are exempt from the fees and charges normally assessed by the clerks of courts.

#### **Court's Discretion to Waive Court Costs and Filing Fees**

Section 744.2008(2), F.S., is amended to mandate that a court "shall" waive any court costs or filing fees in proceedings for the appointment of a public guardian or in a proceeding involving the estate of a ward for whom a public guardian has been appointed. Accordingly, courts will be prohibited from imposing court costs or filing fees under those circumstances.

#### **Annual Guardianship Plan and Physician's Report**

The annual guardianship plan detailing a ward's needs and how those needs will be met is amended to permit a physician assistant or an advanced practice registered nurse to examine the ward and complete the report. The physician assistant must be acting pursuant to s. 458.347(4)(d), F.S., or s. 459.022(4)(d), F.S., under the supervision of a licensed physician, pursuant to a written protocol, and limited to the supervising physician's practice in connection with a county health department. The advanced practice registered nurse must operate within an established protocol and on site where the advanced practice registered nurse practices.<sup>8</sup>

By increasing the scope of who may examine the ward and determine his or her level of capacity for the annual report, the public guardian will be better able to meet the ward's needs and comply with the requirements of the guardianship statutes.

The bill takes effect July 1, 2019.

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<sup>8</sup> The advanced practice registered nurse may prescribe, dispense, or administer certain drugs, initiate appropriate therapies, perform additional functions as permitted by rule, order diagnostic tests and therapies, and order medications for administration to a patient in certain facilities. Section 464.012 (3), F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill will likely have a negative fiscal impact due to a loss of revenues to clerks and to the state court system to the extent that the bill waives fees and costs applied to public guardians. However, the bill may result in reduced costs for the annual medical exams for wards.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 28.345, 744.2008, and 744.3675.

**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.

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

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By Senator Gruters

23-00616A-19

20191188\_\_

A bill to be entitled

An act relating to courts; amending s. 28.345, F.S.; specifying that certain exemptions from court-related fees and charges apply to certain entities; amending s. 744.2008, F.S.; requiring the court to waive any court costs or filing fees for certain proceedings involving public guardians; amending s. 744.3675, F.S.; providing that a certain examination report related to annual guardianship plans may be prepared by a physician assistant or an advanced practice registered nurse; providing an effective date.

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

Section 1. Section 28.345, Florida Statutes, is amended to read:

28.345 State access to records; exemption from court-related fees and charges.—

(1) Notwithstanding any other provision of law, the clerk of the circuit court shall, upon request, provide access to public records without charge to the state attorney, public defender, guardian ad litem, public guardian, attorney ad litem, criminal conflict and civil regional counsel, and private court-appointed counsel paid by the state, and to authorized staff acting on their behalf. The clerk of court may provide the requested public record in an electronic format in lieu of a paper format if the requesting entity is capable of accessing such public record electronically.

(2) Notwithstanding any other provision of this chapter or

Page 1 of 3

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

23-00616A-19

20191188\_\_

law to the contrary, judges and those court staff acting on behalf of judges, state attorneys, guardians ad litem, public guardians, attorneys ad litem, court-appointed private counsel, criminal conflict and civil regional counsel, public defenders, and state agencies, while acting in their official capacity, are exempt from all court-related fees and charges assessed by the clerks of the circuit courts.

(3) The exemptions from fees or charges provided in this section apply only to entities listed in subsections (1) and (2), state agencies and state entities, and the party represented by the agency or entity.

Section 2. Subsection (2) of section 744.2008, Florida Statutes, is amended to read:

744.2008 Costs of public guardian.—

(2) In any proceeding for appointment of a public guardian, or in any proceeding involving the estate of a ward for whom a public guardian has been appointed guardian, the court shall ~~may~~ waive any court costs or filing fees.

Section 3. Paragraph (b) of subsection (1) of section 744.3675, Florida Statutes, is amended to read:

744.3675 Annual guardianship plan.—Each guardian of the person must file with the court an annual guardianship plan which updates information about the condition of the ward. The annual plan must specify the current needs of the ward and how those needs are proposed to be met in the coming year.

(1) Each plan for an adult ward must, if applicable, include:

(b) Information concerning the medical and mental health conditions and treatment and rehabilitation needs of the ward,

Page 2 of 3

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

23-00616A-19

20191188\_\_

59 including:

60 1. A resume of any professional medical treatment given to  
61 the ward during the preceding year.

62 2. The report of a physician, a physician assistant acting  
63 pursuant to s. 458.347(4)(d) or s. 459.022(4)(d), or an advanced  
64 practice registered nurse acting pursuant to s. 464.012(3), who  
65 examined the ward no more than 90 days before the beginning of  
66 the applicable reporting period. The report must contain an  
67 evaluation of the ward's condition and a statement of the  
68 current level of capacity of the ward.

69 3. The plan for providing medical, mental health, and  
70 rehabilitative services in the coming year.

71 Section 4. This act shall take effect July 1, 2019.



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4.8.19

*Meeting Date*

1188

*Bill Number (if applicable)*

Topic Courts

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

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)

4/8/2019

1188

*Meeting Date*

*Bill Number (if applicable)*

Topic SB 1188

*Amendment Barcode (if applicable)*

Name Bryan Cherry

Job Title Lobbyist

Address 150 South Monroe Street, STE 303

Phone (850) 544-5673

*Street*

Tallahassee

FL

32301

Email bryan@pinpointresults.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Guardian Coalition

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

4/8/19

*Meeting Date*

1188

*Bill Number (if applicable)*

Topic Courts

*Amendment Barcode (if applicable)*

Name Corinne (core-n) Mixon

Job Title Lobbyist

Address 511 N. Adams Street

Phone 8507665795

*Street*

Tallahassee

FL

32301

Email corinnemixon@gmail.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Academy of Physician Assistants

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1188  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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

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BILL: SB 1280

INTRODUCER: Senator Rouson

SUBJECT: Controlled Substance Prescribing

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<b>Favorable</b>
2.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 1280 amends s. 456.44, F.S., to exempt sickle-cell anemia from the definition of “acute pain.” This change would no longer require a prescribing practitioner to meet the three-day or seven-day supply limits when prescribing a Schedule II opioid controlled substance for the treatment of sickle-cell anemia.

The bill is not expected to have a fiscal impact and has an effective date of July 1, 2019.

**II. Present Situation:**

**History of the Opioid Crisis in Florida**

In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates. This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive.<sup>1</sup> Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.<sup>2</sup>

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing,

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<sup>1</sup> Id.

<sup>2</sup> Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, THE NEW YORK TIMES (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited on April 4, 2019).

and dispensing controlled substances.<sup>3</sup> Between 2010 and 2014, deaths from prescription drugs dropped but deaths from illegal opioids, such as heroin, began to rise.<sup>4</sup>

In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100. Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).<sup>5</sup>

Early in 2017, the federal Centers for Disease Control and Prevention (CDC) declared the opioid crisis an epidemic, and, shortly thereafter, on May 3, 2017, Governor Rick Scott signed executive order 17-146 declaring the opioid epidemic a public health emergency in Florida.

### ***House Bill 21 Prescription Supply Limits***

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. Among its numerous provisions, HB 21 restricted the length of prescriptions for Schedule II opioid medications for the treatment of acute pain to three days or up to seven days if medically necessary. HB 21 also defined “acute pain” to mean the normal, predicted, physiological, and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness. The bill excluded pain related to cancer, a terminal condition, palliative care, or a serious traumatic injury from being considered acute pain.

### **Sickle-Cell Anemia**

Sickle cell disease, also known as Sickle-Cell Anemia, is a group of inherited red blood cell disorders. Early signs and symptoms of sickle cell disease include swelling of the hands and feet; symptoms of anemia, including fatigue, or extreme tiredness; and jaundice. Over time, sickle cell disease can lead to complications such as infections, delayed growth, and episodes of pain, called pain crises. Most children who have sickle cell disease are pain-free between crises, but adolescents and adults may also suffer with chronic, ongoing pain. Over a lifetime, sickle cell disease can harm a patient’s spleen, brain, eyes, lungs, liver, heart, kidneys, penis, joints, bones, or skin.

A blood and bone marrow transplant is currently the only approved cure for sickle cell disease, and only a small number of people who have sickle disease are able to have the transplant. There

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<sup>3</sup> See chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.

<sup>4</sup> Supra note 3

<sup>5</sup> Attorney General’s Opioid Working Group, *Florida’s Opioid Epidemic: Recommendations and Best Practices* (March 1, 2019), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf), (last visited on April 4, 2019).

are effective treatments that can reduce symptoms and prolong life. Early diagnosis and regular medical care to prevent complications also contribute to improved well-being. Sickle cell disease is a life-long illness and the severity of the disease varies widely from person to person.<sup>6</sup>

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

SB 1280 amends s. 456.44, F.S., to exempt sickle-cell anemia from the definition of “acute pain.” This change would no longer require a prescribing practitioner to observe the three-day or seven-day supply limits when prescribing a Schedule II opioid controlled substance for the treatment of sickle-cell anemia.

The bill has an effective date of July 1, 2019.

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

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

#### **E. Other Constitutional Issues:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

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<sup>6</sup> See National Heart, Lung, and Blood Institute within the National Institutes of Health, *Sickle Cell Disease*, available at <https://www.nhlbi.nih.gov/health-topics/sickle-cell-disease>, (last visited on April 4, 2019).

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 456.44 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



By Senator Rouson

19-01495-19

20191280\_\_

1 A bill to be entitled  
 2 An act relating to controlled substance prescribing;  
 3 amending s. 456.44, F.S.; revising the definition of  
 4 the term "acute pain" to exclude pain related to  
 5 sickle-cell anemia; excluding the treatment of such  
 6 pain from limitations on the prescription of an opioid  
 7 drug; providing an effective date.  
 8  
 9 Be It Enacted by the Legislature of the State of Florida:  
 10  
 11 Section 1. Paragraph (a) of subsection (1) of section  
 12 456.44, Florida Statutes, is amended, and subsection (5) of that  
 13 section is republished, to read:  
 14 456.44 Controlled substance prescribing.—  
 15 (1) DEFINITIONS.—As used in this section, the term:  
 16 (a) "Acute pain" means the normal, predicted,  
 17 physiological, and time-limited response to an adverse chemical,  
 18 thermal, or mechanical stimulus associated with surgery, trauma,  
 19 or acute illness. The term does not include pain related to:  
 20 1. Cancer.  
 21 2. A terminal condition. For purposes of this subparagraph,  
 22 the term "terminal condition" means a progressive disease or  
 23 medical or surgical condition that causes significant functional  
 24 impairment, is not considered by a treating physician to be  
 25 reversible without the administration of life-sustaining  
 26 procedures, and will result in death within 1 year after  
 27 diagnosis if the condition runs its normal course.  
 28 3. Palliative care to provide relief of symptoms related to  
 29 an incurable, progressive illness or injury.

Page 1 of 2

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

19-01495-19

20191280\_\_

30 4. A traumatic injury with an Injury Severity Score of 9 or  
 31 greater.  
 32 5. Sickle-cell anemia.  
 33 (5) PRESCRIPTION SUPPLY.—  
 34 (a) For the treatment of acute pain, a prescription for an  
 35 opioid drug listed as a Schedule II controlled substance in s.  
 36 893.03 or 21 U.S.C. s. 812 may not exceed a 3-day supply, except  
 37 that up to a 7-day supply may be prescribed if:  
 38 1. The prescriber, in his or her professional judgment,  
 39 believes that more than a 3-day supply of such an opioid is  
 40 medically necessary to treat the patient's pain as an acute  
 41 medical condition;  
 42 2. The prescriber indicates "ACUTE PAIN EXCEPTION" on the  
 43 prescription; and  
 44 3. The prescriber adequately documents in the patient's  
 45 medical records the acute medical condition and lack of  
 46 alternative treatment options that justify deviation from the 3-  
 47 day supply limit established in this subsection.  
 48 (b) For the treatment of pain other than acute pain, a  
 49 prescriber must indicate "NONACUTE PAIN" on a prescription for  
 50 an opioid drug listed as a Schedule II controlled substance in  
 51 s. 893.03 or 21 U.S.C. s. 812.  
 52 Section 2. This act shall take effect July 1, 2019.

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)

4.8.19

*Meeting Date*

1280

*Bill Number (if applicable)*

Topic Controlled Substance Prescribing

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1280  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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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 1222

INTRODUCER: Military and Veterans Affairs and Space Committee and Senator Harrell and others

SUBJECT: Services for Veterans and Their Families

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1222 creates the Florida Veterans' Care Coordination Program (Program), to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a caller to a separate veteran-dedicated support line receives assistance and support from a trained fellow veteran.

The bill requires the Florida Department of Veterans' Affairs (FDVA) to establish the Program. To provide services, the FDVA will contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the Alliance of Information and Referral Services. The contracting entity will enter into agreements with Florida 211 Network participants to provide services to veterans.

The bill models the Program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the Florida Department of Veterans' Affairs (FDVA) in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

The bill specifies goals, services, and follow-up requirements.

The FDVA must compile data collected by the Florida 211 Network into a report for the Governor, President of the Senate, and Speaker of the House of Representatives by December 15, 2020.

The bill has a significant fiscal impact on state government. Annual recurring costs are estimated at \$2 million from the General Revenue Fund.

## II. Present Situation:

### Veterans and Mental Health and/or Substance Abuse

More than 1.5 million veterans currently live in Florida, making the state the third largest population of veterans nationally.<sup>1</sup> Veterans face unique challenges, and some struggle with mental health and substance abuse.

Posttraumatic Stress Disorder (PTSD) is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event, including war or combat.<sup>2</sup>

The National Center for PTSD, U.S. Department of Veterans Affairs (VA), lists the percentage of veterans with PTSD by service era:

- Between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have PTSD in a given year.
- About 12 percent of veterans who served in the Gulf War have PTSD in a given year.
- About 15 percent of veterans of the Vietnam War were diagnosed with PTSD at the time of the most recent study in the late 1980's. However, it is estimated that about 30 percent of veterans of the Vietnam War have had PTSD in their lifetimes.<sup>3</sup>

A strong association exists between PTSD and substance abuse disorders (SUD) amongst veterans. Statistics show:

- More than two in 10 veterans with PTSD also have SUD;
- Almost one in three veterans seeking treatment for SUD also have PTSD;
- About one in 10 veterans returning from the wars in Iraq and Afghanistan seen at the VA have problems with alcohol or other drugs.<sup>4</sup>

Suicide rates for veterans continue to be a cause of national concern:

- More than 6,000 veterans committed suicide each year from 2008 to 2016.
- In 2016, the suicide rate was 1.5 times greater for veterans than for non-veteran adults, after adjusting for age and gender.

From 2005 to 2016, the increase in suicide rate among veterans in Veterans Hospital Administration (VHA) care was lower than among veterans not in VHA care.<sup>5</sup>

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<sup>1</sup> Florida Department of Veterans' Affairs, *Our Veterans*, available at <http://floridavets.org/our-veterans/> (last visited March 19, 2019).

<sup>2</sup> American Psychiatric Association, *What is Posttraumatic Stress Disorder?*, available at <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited March 14, 2019).

<sup>3</sup> National Center for PTSD, U.S. Dep't of Veterans Affairs, *How Common is PTSD in Veterans?*, available at [https://www.ptsd.va.gov/understand/common/common\\_veterans.asp](https://www.ptsd.va.gov/understand/common/common_veterans.asp) (last visited March 14, 2019).

<sup>4</sup> National Center for PTSD, U.S. Dep't of Veterans Affairs, *PTSD and Substance Abuse in Veterans*, available at [https://www.ptsd.va.gov/understand/related/substance\\_abuse\\_vet.asp](https://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp) (last visited March 14, 2019).

<sup>5</sup> Office of Mental Health and Suicide Prevention, U.S. Dep't of Veterans Affairs, *VA National Suicide Data Report 2005-2016*, available at [https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP\\_National\\_Suicide\\_Data\\_Report\\_2005-2016\\_508.pdf](https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP_National_Suicide_Data_Report_2005-2016_508.pdf) (last visited March 14, 2019).

## **Florida Alliance of Information and Referral Services (FLAIRS)**

Each year, 16 million people in the United States call 2-1-1 for help with basic needs like food and shelter, and emergency needs, such as mental health, addiction, and suicide intervention.<sup>6</sup> The Florida Alliance of Information and Referral Services (FLAIRS) is the 211 collaborative organization for the state responsible for designing, studying, and implementing the Florida 211 Network.<sup>7</sup> The mission of the FLAIRS is to strengthen the health and human service information and referral provider network in the state through advocacy, coordination, and education.<sup>8</sup>

The Florida 211 Network, established in s. 408.918, F.S., operates as the single point of coordination for information and referral of health and human services.<sup>9</sup> As of February 20, 2017, 22 Florida 211 Network providers operate across the state.<sup>10</sup>

To participate in the Florida 211 Network, a 211 provider must be fully accredited by the National Alliance of Information and Referral Services or have received approval to operate, pending accreditation from its affiliate, the FLAIRS.<sup>11</sup>

## **The Council on Accreditation**

The Council on Accreditation (COA) is an international accrediting entity that accredits private and public organizations and programs that provide human services.<sup>12</sup> The COA specifically accredits entities providing child welfare, behavioral health, and community-based social services.<sup>13</sup>

## **Pilot Program and Statewide Expansion**

### ***Pilot Program***

In 2014, the Crisis Center of Tampa Bay launched a pilot program through its existing 211 Network to offer a separate dedicated phone line for state veterans in need of support. The Program expanded existing 211 services, including behavioral health care service referrals, to veterans in Hillsborough, Pasco, Pinellas, Polk, and Manatee counties.<sup>14</sup>

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<sup>6</sup> The Florida Alliance of Information and Referral Services (FLAIRS), *211 Counts.org*, available at <http://www.flairs.org/211counts/> (last visited March 15, 2019). For a breakdown of needs by center on the FLAIRS website, see *What are the Most Pressing Needs for Your Community?*, available at <https://211counts.org/home/index> (last visited March 15, 2019).

<sup>7</sup> Section 408.918(3), F.S.

<sup>8</sup> The Florida Alliance of Information and Referral Services (FLAIRS), *Mission*, available at <http://www.flairs.org/mission/> (last visited March 14, 2019).

<sup>9</sup> Section 408.918(1), F.S.

<sup>10</sup> The Florida Alliance of Information and Referral Services (FLAIRS), *Florida 2-1-1 Network Map*, available at <http://www.flairs.org/wp-content/uploads/sites/13/2017/03/FL-211-providers-and-coverage-areas-022717.pdf> (last visited March 15, 2019).

<sup>11</sup> Section 408.918(2), F.S.

<sup>12</sup> Council on Accreditation, available at <http://coanet.org/home/> (last visited March 25, 2019).

<sup>13</sup> Council on Accreditation, available at <http://coanet.org/about/whats-new/about-coa/> (last visited March 25, 2019).

<sup>14</sup> Specific Appropriation 595, ch. 2014-51, L.O.F., available at <http://laws.flrules.org/2014/51> (last visited March 20, 2019).

Under the Crisis Center’s Peer-to-Peer Care Coordination model, callers to the support line talk to a fellow veteran and access:

- Comprehensive information and referral to VA-funded services and other services based in the community;
- Assistance and support by the fellow veteran; and
- Care coordination services, such as navigating the system, advocacy, and ongoing support.<sup>15</sup>

***History of Funding for the Pilot Program***

Since the launch of the pilot program, funding has been provided as follows:

- July 2014 - June 2015: The 2014 Legislature provided an appropriation of \$150,000 in nonrecurring funds to the Crisis Center of Tampa Bay to create the pilot program. With the appropriation, in August 2014, the Crisis Center of Tampa Bay expanded its services to veterans and hired veterans to answer crisis calls. The Crisis Center launched the Florida Veterans Support Line in November 2014. The DCF has continued the annual appropriation of \$150,000 to continue the pilot program, from July 2015 to the present time.<sup>16</sup>
- July 2017 - June 2018: The Legislature funded \$400,000 in nonrecurring dollars from general revenue through the FDVA for statewide expansion of the dedicated call line and a marketing campaign to inform the public about the call line. Funding was not allotted for statewide Peer-to-Peer Care Coordination.<sup>17</sup>
- September 2018 - September 2019: The FDVA provided \$1 million in funding for the statewide program, including Peer-to-Peer Care Coordination. To ensure full statewide implementation, the DCF matched the FDVA’s funding through a federal grant.<sup>18</sup>

***Use of the Program by Veterans***

Since the Crisis Center implemented the pilot program in 2014, veteran and veteran family participation has steadily increased.

<b>Region Served</b>	<b>Fiscal Year</b>	<b>Veterans Served</b>	<b>Services Referred</b>	<b>Suicide Concerns</b>	<b>Peer-to-Peer Care Coordination - Crisis Center of Tampa Bay Only</b>
5 Counties	2014-2015	1,135	925	179	626
5 Counties	2015-2016	1,315	1,478	207	750
5 Counties	2016-2017	3,420	3,641	538	768
Statewide	2017-2018	28,962	49,932	396 - Crisis Center of	880 <sup>19</sup>

<sup>15</sup> Crisis Center of Tampa Bay, *Florida Veterans Support Line*, available at <https://www.crisiscenter.com/what-we-do/2-1-1-contact-center/florida-veterans-support-line/> (last visited March 15, 2019).

<sup>16</sup> Crisis Center of Tampa Bay, *Overview of Current Funding* (on file with the Senate Committee on Military and Veterans Affairs and Space).

<sup>17</sup> *Id.*, The nonrecurring \$400,000 is provided in Specific Appropriation 575 of ch. 2017-70, L.O.F., available at <http://laws.flrules.org/2017/70> (last visited March 20, 2019).

<sup>18</sup> Crisis Center of Tampa Bay, *supra* note 13.

<sup>19</sup> Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs and Space).

				Tampa Bay only	
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**III. Effect of Proposed Changes:**

CS/SB 1222 creates the Florida Veterans’ Care Coordination Program (Program) as a statewide program, to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a veteran who calls a dedicated support line receives assistance and support from a trained fellow veteran.

The bill requires the Florida Department of Veterans’ Affairs (FDVA) to establish the Program. To provide services, the FDVA will contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the National Alliance of Information and Referral Services. The entity will enter into agreements with Florida 211 Network participants to provide services to veterans.

The bill models the Program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the FDVA in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

**Program Goals and Services**

Program goals are to:

- Prevent suicide by veterans; and to
- Increase the use by veterans of programs and services provided by the VA and other available community-based programs and services.

Program services will include:

- Telephonic peer support, crisis intervention, and information on referral resources;
- Treatment coordination, including coordination of follow-up care;
- Assessment of suicide risk as part of an immediate needs assessment, including safety planning and support;
- Promotion of the safety and wellness of veterans and their families, including continuous safety planning and support;
- Resource coordination, including data analysis, to facilitate acceptance, enrollment, and attendance of veterans and their families in programs and services provided by the VA and other available community-based programs and services.

The bill requires program teams to:

- Document calls and data, and track the number and nature of requests from veterans and family members;
- Follow up with callers to determine if they have pursued referrals and whether additional help is needed; and
- Implement communication strategies to educate veterans and their families about programs and services provided by the VA and other community-based programs and services.

To educate others about the Program:



- Florida 211 network participants will establish and maintain a database of services available locally.
- Both the FDVA and its contractor will work with managing entities to educate service providers about the Florida Veterans Support line and the Program.

### **Data Collection and Report**

Florida 211 Network participants must provide all collected data to the FDVA. By December 15, 2020, the FDVA will then submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.

The report must include:

- The nature, number, and outcome of each call received;
- Demographic information on each caller; and
- Follow-up by the program team, including timeliness and positive outcomes.

To fully implement the Program statewide, the bill will require an annual recurring amount of \$2 million from the General Revenue Fund. The bill does not provide for funding.

The bill takes effect July 1, 2019.

## **IV. Constitutional Issues:**

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the State Constitution.

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

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Veterans and their families may financially benefit from having greater access to treatments and services specifically designed for veterans with mental health or substance abuse issues, including programs offered through the United States Department of Veterans Affairs and community-based services.

**C. Government Sector Impact:**

The bill requires the FDVA to provide statewide dedicated behavioral healthcare referral services, as well as mental health and substance abuse services to veterans and their families through the state's 211 Network. Therefore, the bill has a significant fiscal impact on state government. Annual recurring costs are estimated at \$2 million from the General Revenue Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 394.9087, 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 for SB 1222 on March 26, 2019:**

- Requires the Department of Veterans' Affairs (FDVA), rather than the Department of Children and Families (DCF), to establish the Florida Veterans' Care Coordination Program (Program) and to provide the report to the Governor, President of the Senate, and the Speaker of the House of Representatives;
- Requires Florida 211 Network participants to maintain a database of veteran-specific services available on a local basis;
- Requires the contracting entity to be non-profit, accredited by the Council on Accreditation, fully accredited by the National Alliance of Information and Referral Services, and to have statewide phone capacity; and

- Requires the FDVA and its contractor to work with managing entities to educate service providers about the Program.

B. Amendments:

None.

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

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By the Committee on Military and Veterans Affairs and Space; and  
Senators Harrell and Mayfield

583-03494-19

20191222c1

1 A bill to be entitled  
2 An act relating to services for veterans and their  
3 families; creating s. 394.9087, F.S.; requiring the  
4 Department Veterans' Affairs to establish the Florida  
5 Veterans' Care Coordination Program to provide  
6 veterans and their families with behavioral health  
7 care referral and care coordination services;  
8 requiring the department to contract with a certain  
9 nonprofit entity to enter into agreements with Florida  
10 211 Network participants to provide such services;  
11 providing program goals; providing for the statewide  
12 delivery of specified services by program teams;  
13 requiring Florida 211 Network participants to collect  
14 program implementation data and submit such data to  
15 the department; requiring the department to submit a  
16 report to the Governor and Legislature; providing an  
17 effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Section 394.9087, Florida Statutes, is created  
22 to read:

23 394.9087 Florida Veterans' Care Coordination Program.—

24 (1) The Department of Veterans' Affairs shall establish the  
25 Florida Veterans' Care Coordination Program. The Department of  
26 Veterans' Affairs shall contract with a nonprofit entity that is  
27 accredited by the Council on Accreditation, is fully accredited  
28 by the National Alliance of Information and Referral Services,  
29 and has statewide phone capacity to serve veterans, to enter

Page 1 of 5

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

583-03494-19

20191222c1

30 into agreements with Florida 211 Network participants to provide  
31 veterans and their families in this state with dedicated  
32 behavioral health care referral services, especially mental  
33 health and substance abuse services. The Department of Veterans'  
34 Affairs shall model the program after the proof-of-concept pilot  
35 program established in 2014 by the Crisis Center of Tampa Bay  
36 and the Department of Veterans' Affairs in Hillsborough, Pasco  
37 Pinellas, Polk, and Manatee counties.

38 (2) The goals of the program are to:

39 (a) Prevent suicides by veterans.

40 (b) Increase veterans' use of programs and services  
41 provided by the United States Department of Veterans Affairs.

42 (c) Increase the number of veterans who use other available  
43 community-based programs and services.

44 (3) The program must be available statewide. Program  
45 services must be provided by program teams operated by Florida  
46 211 Network participants, as authorized by s. 408.918. A Florida  
47 211 Network participant may provide services in more than one  
48 geographic area under a single contract.

49 (4) The program teams shall provide referral and care  
50 coordination services to veterans and their families and expand  
51 the existing Florida 211 Network to include the optimal range of  
52 veterans' service organizations and programs. Florida 211  
53 Network participants in the Florida Veterans' Care Coordination  
54 Program must include:

55 (a) Telephonic peer support, crisis intervention, and the  
56 communication of information on referral resources.

57 (b) Treatment coordination, including coordination of  
58 followup care.

Page 2 of 5

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

583-03494-19

20191222c1

59 (c) Suicide risk assessment.

60 (d) Promotion of the safety and wellness of veterans and  
61 their families, including continuous safety planning and  
62 support.

63 (e) Resource coordination, including data analysis, to  
64 facilitate acceptance, enrollment, and attendance of veterans  
65 and their families in programs and services provided by the  
66 United States Department of Veterans Affairs and other available  
67 community-based programs and services.

68 (f) Immediate needs assessments, including safety planning  
69 and support.

70 (5) To enhance program services, program teams shall:

71 (a) Track the number of requests from callers who are  
72 veterans or members of a veteran's family.

73 (b) Follow up with callers who are veterans or members of a  
74 veteran's family to determine whether they have acted on the  
75 referrals or received the assistance needed and whether  
76 additional referral or advocacy is needed.

77 (c) Develop and implement communication strategies, such as  
78 media promotions, public service announcements, print and  
79 Internet articles, and community presentations, to inform  
80 veterans and their families about available programs and  
81 services provided by the United States Department of Veterans  
82 Affairs and other available community-based programs and  
83 services.

84 (d) Document all calls and capture all necessary data to  
85 improve outreach to veterans and their families and report such  
86 data to the contracted entity.

87 (6) Florida 211 Network participants in the Florida

583-03494-19

20191222c1

88 Veterans' Care Coordination Program shall maintain a database of  
89 veteran-specific services available in the communities served by  
90 the programs. The Department of Veterans' Affairs and its  
91 selected contractor shall work with managing entities as defined  
92 in s. 394.9082(2)(e) to educate service providers about the  
93 Florida Veterans Support Line and Veterans Care Coordination  
94 Program.

95 (7) Florida 211 Network participants shall collect data on  
96 the program and submit such data to the Department of Veterans'  
97 Affairs in the format prescribed by the Department of Veterans'  
98 Affairs. The Department of Veterans' Affairs shall use such data  
99 to prepare a report for submittal to the Governor, the President  
100 of the Senate, and the Speaker of the House of Representatives  
101 by December 15, 2020. The report must include:

102 (a) The number of calls received.

103 (b) Demographic information for each caller, including, but  
104 not limited to, the caller's military affiliation, the caller's  
105 veteran status, and whether the caller is receiving services  
106 provided by the United States Department of Veterans Affairs or  
107 other available community-based programs and services.

108 (c) The nature of each call, including, but not limited to,  
109 the concerns prompting the call and the services requested.

110 (d) The outcome of each call, including, but not limited  
111 to, the services for which referrals were made and the  
112 organizations to which the caller was referred.

113 (e) Services received as a result of each call.

114 (f) Information regarding followup by the program team,  
115 including, but not limited to, the percentage of calls receiving  
116 followup and the outcome of followup.

583-03494-19

20191222c1

117 (g) Information regarding the program's impact on each  
118 caller's quality of life and on the avoidance of negative  
119 outcomes, including arrest and suicide.

120 (h) Each caller's level of satisfaction with program  
121 services.

122 Section 2. This act shall take effect July 1, 2019.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** CS/SB 1222  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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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 1432

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Baxley

SUBJECT: Foster Parents

DATE: April 9, 2019

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

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

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**I. Summary:**

CS/SB 1432 creates a new section in the Florida Statutes to establish specified rights for foster parents. The bill provides Legislative intent that foster parents play an integral, indispensable, and vital role of the state's child welfare system and acknowledges the need for foster parents to be active and participating members of this system. As such, the bill requires the Department of Children and Families (DCF or department) and community-based care lead agencies (CBCs) to implement the following policies related to foster parents:

- Providing an explanation of the role of the department and the child's biological family as it relates to the services provided to the child.
- Providing training and support to foster parents.
- Disclosing all relevant information regarding a child and the child's family's background.
- Providing a means for the caregiver to contact the department at all times for the purposes of receiving assistance.
- Allowing a foster parent to refuse a placement or request, with reasonable notice to the department, removal of a child.
- Providing the foster parent with an explanation of any plan concerning the placement of a child in the caregiver's home.
- Giving at least seven days' notice of any meeting or court hearings related to a child in the caregiver's care and allowing the caregiver to attend at the discretion of the court.
- Allowing the caregiver to communicate with professionals who work with the child.
- Providing information regarding the child's progress after a child leaves foster care to the extent the department has the information.
- Considering the caregiver as a placement option if a child who was formerly placed with the caregiver re-enters out-of-home care.
- Providing the caregiver with a period of respite after reasonable notice to the department.
- Allowing a foster parent to submit factually based written statements to the court as provided by law.



The bill requires the department to provide its mediation policy to foster parents and permits the foster parent to file a petition for mediation if not so informed. The bill requires the department to adopt rules as necessary to implement the Foster Parent Bill of Rights.

The bill has no fiscal impact on the state and has an effective date of July 1, 2019.

## II. Present Situation:

### The Child Welfare System

The child welfare system is typically defined as a group of services designed to promote the well-being of children by ensuring safety, achieving permanency, and strengthening families to be able to care for their children successfully.<sup>1</sup> The primary responsibility for child welfare services rests with the States. Child welfare systems are complex, vary from state to state and generally:

- Receive and investigate reports of known or suspected child abuse, abandonment, and neglect;
- Provide services to families that need assistance in the protection and care of their children;
- Arrange for children to live with relatives or with foster families when they are not safe at home; and
- Arrange for reunification, adoption, or other permanent family connections in order for children to safely leave foster care.<sup>2</sup>

### Privatization of Child Welfare

The Florida Legislature first began the initiative to outsource or privatize the administration of child welfare services in 1996.<sup>3</sup> At that time the legislature required the department to contract with established community-based care (CBC) organizations to establish pilot projects for the provision of foster care and “related services.”<sup>4,5</sup> The stated intent of this legislation was to strengthen the support and commitment of communities to their local children; to promote the reunification of families and the care of children and their families; and to realize efficiencies and increased accountability in delivering services to abused, neglected, or abandoned children. In 1998<sup>6</sup>, the legislature required the department to privatize the provision of all foster care and related services statewide. The transition was completed in the 2004-20005, fiscal year..

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<sup>1</sup> Child Welfare Information Gateway, *How the Child System Works*, Available at: <https://www.childwelfare.gov/pubPDFs/cpswork.pdf#page=1&view=Introduction> (Last visited April 3, 2019).

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

<sup>3</sup> Chapter 96-402, L.O.F.

<sup>4</sup> *Id.*

<sup>5</sup> The term “related services” includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification.

<sup>6</sup> Chapter 98-180, L.O.F. The department was also required to submit a plan by July 1, 1999, to the Governor and Legislature, explaining how they would implement privatization statewide by January 1, 2003. This implementation date was subsequently extended, then deleted from statute.

As the result of this privatization, responsibilities that are traditionally placed with the state child welfare agency now belong to the community-based lead agencies (CBCs).

### **Foster Parents and Family Foster Homes**

Foster care is care provided to a child in a foster family or boarding home, group home, agency boarding home, or child care institution.<sup>7</sup> A family foster home is defined as a licensed private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs.<sup>8</sup> Foster homes are licensed and inspected regularly.<sup>9</sup>

The department contracts with CBC partner agencies. The community-based lead agencies are responsible for recruiting and training foster families.<sup>10</sup>

To qualify as a potential foster parent, applicants must go through a rigorous interview process, complete a training program, and participate in a home inspection and background check.<sup>11</sup> Foster parents are expected to:

- Provide parenting that consists of a loving commitment to the child and the child's safety and wellbeing;
- Provide opportunities to develop the child's interests and skills;
- Care for the child in light of the child's culture, religion, ethnicity, special physical or psychological needs and unique situations;
- Assist the biological parents in improving their ability to care for and protect their children and to provide continuity for the child;
- Assist the child in visitation and other forms of communication with his or her biological family;
- Obtain and maintain records that are important to the child's wellbeing, such as medical records and records of achievements;
- Advocate for children in their care with the child welfare system, the court, and community agencies, such as schools, child care, and health providers;
- Participate fully in the child's medical, psychological, and dental care as they would for their biological child; and
- Support the child's school success by participating in school activities and meetings.<sup>12</sup>

When Florida codified the principles of the Quality Parenting Initiative in 2013, current law now contains requirements for caregivers, the department, the CBCs, and other agency staff.<sup>13</sup> These responsibilities are the same as those required in the bill.

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<sup>7</sup> Section. 39.01(3), F.S.

<sup>8</sup> The Department of Children and Families, Community-Based Care, Available at: <http://www.myflfamilies.com/service-programs/community-basedcare> (last visited April 3, 2019).

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

<sup>10</sup> Florida Department of Children and Families, Fostering Definitions, Available at: <http://www.dcf.state.fl.us/service-programs/fostercare/definitions.shtml> (Last visited April 3, 2019).

<sup>11</sup> Section 409.175, F.S.

<sup>12</sup> Florida Department of Children and Families, *Partnership Plan for Children in Out-of-Home Care*, Available at: <http://centerforchildwelfare.fmhi.usf.edu/kb/OOHPublications/PartnershipPlan.pdf> (Last visited April 3, 2019).

<sup>13</sup> Section 409.145, F.S.

## Quality Parenting Initiative

The Quality Parenting Initiative (QPI), is an approach to strengthening foster care by focusing on excellent parenting for all children in the child welfare system. It was started in 2008 in Florida, and as of 2018, over 75 jurisdictions in 10 states have adopted the QPI approach.<sup>14</sup> Florida codified the basic tenets of the program in 2013.<sup>15</sup>

In order to achieve well-being, all children need excellent parenting. When parents can't care for their children, the foster parent or relative caregiver must be able to provide the loving, committed, skilled care that the child needs, working with the child welfare system, to ensure children in out-of-home thrive. Both the caregiver's parenting skills and the system's policies and practices should be based on child development research, information and tools. QPI is based on five core principles:

- Excellent parenting is the most important service we can provide to children in out-of-home care. Children need families;
- Child development and trauma research indicates that children need constant, consistent, effective parenting to grow and reach their full potential;
- Each community must define excellent parenting for itself;
- Policy and practice must be changed to align with that definition; and
- Participants in the system are in the best position to recommend and implement that change.<sup>16</sup>

When QPI is successfully implemented it gives caregivers a voice in the child welfare system. They become a part of a team to support children in their care. Caregivers receive the support and training they need to work with children and families, understand what is expected of them, and know what to expect from the system. Systems are then better able to select and retain enough excellent caregivers to meet the needs of each child for a home and family. When these changes are accomplished, outcomes for children, youth and families will improve.<sup>17</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 39.4087, F.S., relating to rights of foster parents, department requirements and background screenings during an emergency, to create a new section in the Florida Statutes to establish specified rights for foster parents. The bill also provides roles and responsibilities required of the department and CBCs related to foster parents. Those requirements include, but are not limited to:

- Providing an explanation of the role of the department and the child's biological family as it relates to the services provided to the child.
- Providing training and support to foster parents.
- Disclosing all relevant information regarding a child and the child's family's background.

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<sup>14</sup> Youth Law Center, *What is QPI* Available at: <http://www.qpi4kids.org/pages/whatIsQPI.html> (Last visited April 4, 2019).

<sup>15</sup> Chapter 2013-178, L.O.F.

<sup>16</sup> Youth Law Center, *What is QPI* Available at: <http://www.qpi4kids.org/pages/whatIsQPI.html> (Last visited April 4, 2019).

<sup>17</sup> *Id.*

- Providing a means for the caregiver to contact the department at all times for the purposes of receiving assistance.
- Allowing a foster parent to refuse a placement or request, with reasonable notice to the department, removal of a child.
- Providing the foster parent with an explanation of any plan concerning the placement of a child in the caregiver's home.
- Giving at least seven days' notice of any meeting or court hearings related to a child in the caregiver's care and allowing the caregiver to attend at the discretion of the court.
- Allowing the caregiver to communicate with professionals who work with the child.
- Providing information regarding the child's progress after a child leaves foster care to the extent the department has the information.
- Considering the caregiver as a placement option if a child who was formerly placed with the caregiver re-enters out-of-home care.
- Providing the caregiver with a period of respite after reasonable notice to the department.
- Allowing a foster parent to submit factually based written statements to the court as provided by law.

The bill requires the department to provide its mediation policy to foster parents. The bill requires the department to adopt rules as necessary to implement the Foster Parent Bill of Rights.

**Section 2** provides an effective date of July 1, 2019.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

There are some issues related to the implementation of the requirements of the bill:

- Lines 88-92 of the bill create s. 39.4087(2)(p), F.S., which requires the foster parent be given at least 7 days' notice of any meeting or court hearing relating to a child in his or her care. For a court hearing that is held on an emergency basis, the department would be unable to comply with the requirement.
- Lines of 93-96 of the bill create s. 39.4087(2)(q), F.S., which requires the department, upon request by a foster parent, to provide information relating to a child's progress after the child has left the foster parent's home. Section 39.202(1), F.S., establishes the confidentiality of all records held by the department in order to protect the rights of the child and the child's parents. Section 39.202(2)(t), F.S., permits access to the records to the person with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, F.S., an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, F.S., preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents. The statute currently does not allow access to such records for former caregivers.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates s. 39.4087 of the Florida Statutes.

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

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

**CS by Children, Families, and Elder Affairs on April 8, 2019:**

- Clarifies that the responsibilities for implementing the rights of foster parents are the responsibility of both the department and the CBCs.
- Removes provisions in some of the rights of foster parents to conform with current laws and practice.
- Removes the requirement that all child abuse, abandonment and neglect investigations involving a foster parent be conducted pursuant to part III of chapter 39, F.S., relating to child protective investigations.
- Removes the provision that requires a Level 2 background screening for adults in foster home during an emergency.
- Requires the department to provide a foster parent with information regarding the department's mediation policy and permits a foster parent to file for mediation if not so informed.
- Requires the department to establish rules to implement the Foster Parent Bill of Rights.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 39.4087, Florida Statutes, is created to  
read:

39.4087 Bill of rights for foster parents.-

(1) SHORT TITLE.-This act may be cited as the "Foster  
Parent Bill of Rights."

(2) LEGISLATIVE INTENT.-The Legislature finds that foster



166660

11 parents providing care for children who are in the custody of  
12 the department play an integral, indispensable, and vital role  
13 in the state's effort to care for dependent children displaced  
14 from their homes. The Legislature further finds that it is in  
15 the best interest of the state's child welfare system to  
16 acknowledge foster parents as active and participating members  
17 of this system and to support them through a bill of rights for  
18 foster parents who care for children in the custody of the  
19 department through direct approval and placement by the  
20 department.

21 (3) BILL OF RIGHTS.—To the extent not otherwise prohibited  
22 by general law, the department shall implement each of the  
23 following policies. With respect to the placement of any foster  
24 child with a foster parent that is contracted directly with the  
25 department, or through an agency that contracts with the  
26 department to place children in foster care:

27 (a) The department shall treat a foster parent with  
28 dignity, respect, and trust, and shall consider a foster parent  
29 as a member of the professional team caring for foster children.

30 (b) The department shall provide a foster parent with a  
31 clear explanation and understanding of the role of the  
32 department and the role of the members of the child's birth  
33 family.

34 (c) A foster parent may continue his or her own family  
35 values and routines.

36 (d) A foster parent shall be provided training and support  
37 for the purposes of improving skills in providing daily care,  
38 meeting the special needs of the child in foster care, and  
39 having a better understanding of the rights and responsibilities





166660

40 of the foster parent.

41 (e) Before the placement of a child in foster care, the  
42 department shall inform the foster parent of issues relative to  
43 the child that may jeopardize the health and safety of the  
44 foster family or alter the manner in which foster care should be  
45 administered.

46 (f) The department shall fully disclose to the foster  
47 parent any information regarding past or pending charges of  
48 delinquency as a juvenile; criminal charges, if charged as an  
49 adult; and previous hospitalizations, whether due to mental or  
50 physical issues, of the foster child.

51 (g) The department shall provide a means by which the  
52 foster parent can contact the department 24 hours a day, 7 days  
53 a week for the purpose of receiving assistance.

54 (h) The department shall provide the foster parent timely  
55 and adequate financial reimbursement.

56 (i) The department shall provide a clear, written  
57 explanation of the plan concerning the placement of a child in  
58 the foster parent's home. For emergency placements, the  
59 department shall provide such explanation as soon as reasonably  
60 possible.

61 (j) Before placement in a foster home, unless there is the  
62 need for an emergency placement, the department shall allow the  
63 foster parent to review written information concerning the child  
64 and allow the foster parent to assist in determining if the  
65 prospective foster family is the proper placement for the child.

66 (k) The department shall allow the foster parent to refuse  
67 placement in his or her home, or to request, upon reasonable  
68 notice to the department, the removal of a child from his or her



166660

69 home for good reason, without threat of reprisal, unless  
70 otherwise stipulated by contract or policy.

71 (l) The department shall inform a foster parent of  
72 decisions made by the court or the licensed child-placing agency  
73 concerning the child.

74 (m) The department shall allow the foster parent to  
75 communicate with any person who works directly with the foster  
76 child, such as therapists, physicians, and teachers, with  
77 written consent of the person.

78 (n) Unless otherwise prohibited by law, a foster parent has  
79 the right to full disclosure of all medical, psychological, and  
80 behavioral issues of the child in his or her care. The  
81 department shall provide all information regarding the child and  
82 the child's family background and health history in a timely  
83 manner to the foster parent.

84 (o) The department shall provide timely written  
85 notification of changes to the case plan or termination of the  
86 placement, and the reasons for the changes or termination of  
87 placement.

88 (p) The department shall notify the foster parent of all  
89 court hearings and any meeting pertaining to the child in his or  
90 her care at least 7 days before such hearing or meeting. The  
91 foster parent is permitted to attend such hearings or meetings  
92 at the discretion of the court.

93 (q) The department shall provide, upon request by the  
94 foster parent, information regarding the child's progress after  
95 a child leaves foster care, to the extent the department is in  
96 possession of such information at the time of the request.

97 (r) The department shall take into consideration whether a



166660

98 foster family is an appropriate permanent placement for the  
99 child, if the child has been in the foster family's care for 12  
100 months or longer.

101 (s) The department shall consider a former foster family as  
102 a placement option when a foster child reenters foster care.

103 (t) A foster parent may take a period of respite where the  
104 department may not place foster children within the home upon  
105 reasonable notice to the department.

106 (u) A foster parent may submit factually based written  
107 statements relevant to the case to the court, as provided by  
108 law.

109 (4) MEDIATION.—The department shall provide a foster parent  
110 with information regarding the department's mediation policy. A  
111 foster parent may file for mediation upon a violation of this  
112 section.

113 (5) RULES.—The department shall adopt rules to implement  
114 this section.

115 Section 2. This act shall take effect July 1, 2019.

116  
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause  
120 and insert:

121 A bill to be entitled  
122 An act relating to foster parents; creating s.  
123 39.4087, F.S.; providing a short title; providing  
124 legislative intent; creating a bill of rights for  
125 foster parents; providing for mediation; requiring the  
126 Department of Children and Families to adopt rules;



166660

127

providing an effective date.

By Senator Baxley

12-01102-19

20191432\_\_

A bill to be entitled

An act relating to foster parents; creating s. 39.4087, F.S.; establishing certain rights for foster parents; providing requirements for the Department of Children and Families relating to foster parents; specifying that child abuse, abandonment, or neglect investigations involving a foster parent must be conducted according to certain specifications; authorizing an accused foster parent to select a member of a local agency to advocate for the foster parent during such investigation; authorizing the foster parent to contact certain persons or the department when he or she believes there has been a violation of the act; requiring the department to review and respond to a foster parent's contact in order to resolve disputes; authorizing the department to request a background screening of a foster parent during certain emergency situations; prohibiting the placement of a child in, or requiring the immediate removal of a child from, a home if the foster parent refuses such screening; providing an effective date.

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

Section 1. Section 39.4087, Florida Statutes, is created to read:

39.4087 Rights of foster parents; department requirements; background screenings during emergency situations.-

(1) A foster parent is entitled to certain rights,

Page 1 of 7

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

12-01102-19

20191432\_\_

including, but not limited to, all of the following:

(a) The right to maintain his or her family values or routines without interruption.

(b) The right to timely and adequate payment for providing foster care services.

(c) The right to full disclosure of any medical, psychological, or behavioral issues of a child in his or her care.

(d) The right to submit factually based written statements to the court, as provided by law.

(e) The right to receive a traveling file for a child placed in his or her care and written copies of updated documents, including the treatment plan and any subsequent revisions to a document, on a timely basis.

(f) The right to intervene in a termination of parental rights proceeding, as provided by law.

(2) The department shall do all of the following:

(a) Treat a foster parent with dignity, respect, and trust.

(b) Provide a foster parent with a clear explanation of the role of the department and the role of the foster child's biological family as it relates to the delivery of child welfare services.

(c) Provide a foster parent with training and support for the purposes of improving skills in providing daily care and meeting any special needs of a foster child.

(d) Disclose to a foster parent any issues relating to a child which may jeopardize the health and safety of the foster parent or the foster parent's family or alter the manner in which the foster parent would normally provide foster care. The

Page 2 of 7

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

12-01102-19 20191432\_\_

59 department must also disclose any delinquency or criminal record  
60 of the child and any instances where the child has been  
61 hospitalized due to mental or physical illness.

62 (e) Provide a means by which a foster parent may contact  
63 the department, 24 hours a day, 7 days a week, for the purposes  
64 of receiving assistance from the department.

65 (f) Provide a clear and written explanation to a foster  
66 parent of any plan concerning the placement of a child in the  
67 foster parent's home. If a plan was not developed before the  
68 placement, the department must provide a clear and written  
69 explanation to the foster parent once the plan is developed.

70 (g) Allow a foster parent to review information about a  
71 child and assist with the determination of whether the child  
72 should be placed with the foster parent. During an emergency  
73 situation that requires immediate care, the department must  
74 provide such information to the foster parent when it becomes  
75 available.

76 (h) Allow a foster parent to refuse placement or, upon  
77 reasonable notice to the department, to request the removal of a  
78 foster child from the foster parent's home, without retaliation,  
79 unless otherwise provided for by contract.

80 (i) Inform a foster parent of any decision made by a court  
81 or child care agency which concerns a child in the foster  
82 parent's care.

83 (j) Solicit and consider input from a foster parent on a  
84 foster child's case plan.

85 (k) Allow a foster parent to communicate with professionals  
86 who work with the foster child, including, but not limited to,  
87 therapists, physicians, and teachers.

12-01102-19 20191432\_\_

88 (l) Provide, in a timely manner, all information regarding  
89 a child and the child's family's background and health history.  
90 The department shall also provide any additional information  
91 known by the department which is relevant to the care of the  
92 child. A foster parent must maintain the confidentiality of any  
93 confidential information that is shared unless sharing it is  
94 necessary to promote or protect the health and welfare of the  
95 child.

96 (m) Give a foster parent at least 7 days' notice of any  
97 meeting or court hearing relating to a child in his or her care.  
98 The notice must include, but need not be limited to, the name of  
99 the judge or hearing officer, the location of the hearing, and  
100 the docket number. If the department is also providing such  
101 information to a child's biological parent, the foster parent  
102 must receive notice at the same time as the biological parent.  
103 The foster parent may attend such hearings.

104 (n) Upon request by a foster parent, provide information  
105 known to the department relating to a child's progress after the  
106 child has left the foster parent's home.

107 (o) Provide training to foster parents relating to  
108 obtaining support and understanding the rights and  
109 responsibilities of a foster parent.

110 (p) Consider a foster parent as the first choice for  
111 permanent placement of a child if the child was placed with the  
112 foster parent for at least 1 year.

113 (q) Consider a foster parent as a placement option if a  
114 child who was formerly placed with the foster parent re-enters  
115 foster care.

116 (r) Upon reasonable notice from a foster parent, and as

12-01102-19 20191432\_\_

117 determined by department rule, allow a foster parent a period of  
 118 respite that is free from placement of foster children in the  
 119 foster parent's home. The department must follow up with the  
 120 foster parent a minimum of every two months during such period.

121 (s) Upon request, provide a foster parent with copies of  
 122 all information relating to the foster parent in the  
 123 department's records.

124 (t) Advise a foster parent of mediation services available  
 125 to him or her by publishing information on such services in  
 126 departmental policy manuals and on the department's website.

127 (u) No later than at the time the foster care contract is  
 128 signed, inform the foster parent in writing of all information  
 129 that is available to the department regarding any:

130 1. Pending petitions or adjudications of delinquency when  
 131 the conduct constituting the delinquent act, if committed by an  
 132 adult, would constitute murder in the first degree, murder in  
 133 the second degree, rape, robbery, or kidnapping;

134 2. Behavioral issues that may affect the care and  
 135 supervision of the child;

136 3. History of physical or sexual abuse;

137 4. Special medical or psychological needs of the child; and

138 5. Current infectious diseases the child has.

139 (3) Child abuse, abandonment, or neglect investigations  
 140 involving a foster parent or parents shall be conducted pursuant  
 141 to part III of this chapter. A foster parent under investigation  
 142 may select a member of an appropriate local agency to act as an  
 143 advocate for the foster parent. The advocate must be allowed to  
 144 be present at all portions of the investigation where the  
 145 accused foster parent is also present. The advocate must

12-01102-19 20191432\_\_

146 maintain the confidentiality of any confidential information  
 147 received.

148 (4) (a) If a foster parent believes that the department, an  
 149 employee of the department, an agency under contract with the  
 150 department, or an employee of such agency has violated this  
 151 section, and that the violation has harmed or could harm a child  
 152 who is or was in the custody of the department or that the  
 153 violation inhibited the foster parent's ability to meet the  
 154 child's needs as set forth in the case plan, the foster parent  
 155 may notify the child's case manager and the case manager must  
 156 make every attempt to resolve the dispute.

157 (b) If a foster parent believes the dispute has not been  
 158 adequately resolved by the case manager, the foster parent may  
 159 contact the case manager's supervisor. If the contact is in  
 160 writing, the foster parent may copy the department on the  
 161 communication and the department shall maintain a record of any  
 162 such communication received.

163 (c) If a foster parent believes that the case manager's  
 164 supervisor did not adequately resolve the dispute, the foster  
 165 parent may contact the department and the department must  
 166 conduct a review and respond to the foster parent in writing no  
 167 later than 30 days after being contacted.

168 (5) During an emergency situation that requires immediate  
 169 placement, the department may request each adult in a foster  
 170 home under consideration for placement to undergo a level 2  
 171 background screening as described in s. 435.04. If such  
 172 background screening request is refused, the child may not be  
 173 placed in the home or, if already placed in the home, must be  
 174 removed immediately.

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175

Section 2. This act shall take effect July 1, 2019.



### The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1432  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS	4/08/2019 Amendment 166660 <sup>1</sup>					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>	RCS	-				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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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 1492

INTRODUCER: Children, Families, and Elder Affairs and Senator Book

SUBJECT: Government-sponsored Recreation Programs

DATE: April 9, 2019

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

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

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**I. Summary:**

CS/SB 1492 revises the definition of the term “child care facility” to exclude government-sponsored recreation programs. The bill allows counties or other municipalities to create and operate recreation programs for children at least five years old and requires such programs to offer 4 programming hours per day and to adopt standards of care specifying staffing ratios, minimum staff qualifications, health and safety standards, and level 2 background screening requirement for all staff and volunteers. The bill also requires such programs to notify parents of all children participating in the program that the program is not state-licensed, and the program may not advertise itself as a child care facility. The bill requires the program to provide all parents with the county or municipality’s standards of care. Finally, the bill allows government-sponsored recreation programs to obtain licensure as child-care facilities through the Department of Children and Families (DCF).

The bill may have an indeterminate fiscal impact and has an effective date of July 1, 2019.

**II. Present Situation:**

**Child Care**

Child care is defined as the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.<sup>1</sup>

Child care is typically thought of as care and supervision for children under school age. Legislative intent related to child care finds that many parents with children under age 6 are

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<sup>1</sup> Section 402.302, F.S.

employed outside the home.<sup>2</sup> The definition of child care does not specify a maximum or minimum age.

Florida law and administrative rules related to child care recognize that families may also have a need for care and supervision for children of school age:

- A school-age child care program is defined as any licensed child care facility serving school-aged children<sup>3</sup> or any before and after school programs that are licensed as a child care facility and serve only school-aged children.<sup>4</sup>
- Any of the after school programs accepting children under the age of the school-age child must be licensed.<sup>5</sup>
- An after school program serving school-age children is not required to be licensed if the program provides after school care exclusively for children in grades six and above and complies with the minimum background screening requirements.<sup>6</sup>

### **Child Care Facilities**

The term “child care facility” is defined to include any child care center or child care arrangement that cares for more than five children unrelated to the operator and receives a payment, fee, or grant for the children receiving care, wherever the facility is operated and whether it is operated for profit or not for profit.<sup>7</sup> The definition excludes the following:

- Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;
- Summer camps having children in full-time residence;
- Summer day camps;
- Bible schools normally conducted during vacation periods; and
- Operators of transient establishments, as defined in chapter 509, F.S.,<sup>8</sup> which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel are screened according to the level 2 screening requirements of chapter 435, F.S.<sup>9</sup>

Every child care facility in the state is required to have a license that is renewed annually. The Department of Children and Families (DCF or department) or the local licensing agencies<sup>10</sup> approved by the department are the entities responsible for the licensure of such child care facilities.<sup>11</sup>

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

<sup>3</sup> Chapter 65C-22.008, F.A.C. “School-age child” means a child who is at least five years of age by September 1st of the beginning of the school year and who attends kindergarten through grade five.

<sup>4</sup> *Id.*

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

<sup>6</sup> *Id.*

<sup>7</sup> Section 402.302, F.S.

<sup>8</sup> “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

<sup>9</sup> Section 402.302, F.S.

<sup>10</sup> Currently, there are 5 counties that regulate child care programs: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

<sup>11</sup> Section 402.308, F.S.

### **Additional Exemptions**

In 1974 and in 1987, the legislature created additional exceptions to the stated intent to protect the health, safety, and well-being of the children by allowing specified entities to care for children without meeting state licensure standards. Child care facilities that are an integral part of church or parochial schools and meet specified criteria are exempt from licensing standards but must conduct background screening of their personnel. Failure by a facility to comply with such screening requirements shall result in the loss of the facility's exemption from licensure.<sup>12</sup>

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

**Section 1** amends s. 402.302, F.S., related to child care facilities, by adding a definition for "government-sponsored recreation programs." The bill defines a government-sponsored recreation program as a recreation program for school-age children that:

- offers no more than 4 hours of programming per day, however the program may extend its operating hours in order to provide services before school and on teacher planning days, holidays, and breaks that occur during the school year;
- is operated by a county or municipality that has adopted standards of care by ordinance for the program, which include, but are not limited to, staffing ratios, minimum staff qualifications, level 2 background screening, including a check of the child abuse and neglect and sexual predator registries, for all staff and volunteers, and minimum facility, health, and safety standards;
- has been certified by the county or municipality for compliance with such standards of care;
- provides notice to the parents of all participating children that the program is not state-licensed or advertised as a child care facility and provides them with the county's or municipality's standards of care; and
- Does not receive funding through the Child Care Development Block Grant of 2014, cannot contract to provide a school readiness program, and cannot have a Gold Seal Quality Care designation.

The bill exempts government-sponsored recreation programs from licensure requirements of child care facilities regulated by DCF.

**Section 2** amends s. 39.201, F.S., relating to mandatory reports of child abuse, to correct a cross-reference.

**Section 3** amends s. 402.305, F.S., relating to licensing standards of child care facilities, to correct a cross-reference.

**Section 4** amends s. 1002.82, F.S., relating to powers and duties of the Office of Early Learning, to correct a cross-reference.

**Section 5** provides an effective date of July 1, 2019.

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<sup>12</sup> Section 402.316, F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The Florida Department of Law Enforcement may be impacted through requiring level 2 background screenings for employees of government-sponsored recreation programs. FDLE, however, is authorized to collect a fee to pay for such screenings.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 402.302, 39.201, 402.305, and 1002.82 of the Florida Statutes.

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

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

**CS by Children, Families, and Elder Affairs on April 8, 2019:**

- The CS allows government-sponsored recreation programs to become licensed as child-care facilities by DCF if they so choose rather than making exemption mandatory.
- The CS provides that background screening of government-sponsored recreation programs must be equivalent to those used to screen employees of licensed child-care facilities.
- The CS provides that a government-sponsored recreation program may extend its operating hours in order to provide services before school and on teacher planning days, holidays, and breaks that occur during the school year.
- The CS provides that government-sponsored recreation programs may not receive funding through the Child Care Development Block Grant of 2014, cannot contract to provide a school readiness program, and cannot have a Gold Seal Quality Care designation.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 37 - 51

and insert:

(9) "Government-sponsored recreation program" means an afterschool recreation program for school-age children which has organized, regularly scheduled activities, including educational or enrichment activities, and which meets all of the following requirements:

(a) Offers not more than 4 hours of programming per day.



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11 However, the program may extend its hours in order to provide  
12 services before school and on teacher planning days, holidays,  
13 and intercessions that occur during the school district's  
14 official calendar year.

15 (b) Is operated by a county or a municipality that has  
16 adopted for the program by ordinance standards of care, which  
17 include, but are not limited to, meeting minimum staff-to-  
18 children ratios in accordance with s. 402.305(4) and rules  
19 adopted by the department thereunder; ensuring that all  
20 personnel meet the requirements of ss. 402.302, 402.305, and  
21 402.3055; meeting minimum facility, health, and safety  
22 standards, including annual fire inspections conducted by the  
23 city or county Fire Marshal; ensuring annual health inspections  
24 are conducted by the Department of Health; conducting regular  
25 inspection, cleaning, repair, and maintenance of buildings,  
26 grounds, and equipment; ensuring at least one staff person  
27 trained in cardiopulmonary resuscitation is present at all times  
28 when children are present; setting standards related to the  
29 provision of food; training program employees regarding working  
30 with school-age children; engaging in activities designed to  
31 address the ages, interests, and abilities of participants;  
32 carrying out annual inspections of vehicles transporting  
33 children; enforcing regulations related to the number of  
34 children in vehicles in accordance with vehicle capacity and  
35 searching vehicles after use to ensure no children are left in  
36 the vehicle; ensuring custodial parents or guardians have  
37 reasonable access to children while the children are in care;  
38 developing age-appropriate policies relating to child discipline  
39 practices and making such policies available to parents or





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40 guardians at the time of registration.

41 (c) Has been certified by the county or municipality as  
42 compliant with such standards of care and provides annual  
43 attestation to the department of compliance with such standards  
44 of care.

45 (d) Provides notice to the parent or guardian of each child  
46 participating in the program that the program is not state-  
47 licensed or advertised as a child care facility and provides  
48 them with the county's or municipality's standards of care.

49 (e) Does not receive funding through the Child Care  
50 Development Block Grant of 2014, does not contract to provide a  
51 school readiness program pursuant to s. 1002.88, and does not  
52 have a Gold Seal Quality Care designation pursuant to s.  
53 402.281.

54 Section 2. Subsections (1) and (3) of section 402.316,  
55 Florida Statutes, are amended to read:

56 402.316 Exemptions.—

57 (1) The provisions of ss. 402.301-402.319, except for the  
58 requirements regarding screening of child care personnel, do  
59 ~~shall~~ not apply to a government-sponsored recreation program or  
60 to a child care facility that ~~which~~ is an integral part of  
61 church or parochial schools conducting regularly scheduled  
62 classes, courses of study, or educational programs accredited  
63 by, or by a member of, an organization that ~~which~~ publishes and  
64 requires compliance with its standards for health, safety, and  
65 sanitation. However, such facilities shall meet minimum  
66 requirements of the applicable local governing body as to  
67 health, sanitation, and safety and shall meet the screening  
68 requirements pursuant to ss. 402.305 and 402.3055. Failure by a



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69 facility to comply with such screening requirements shall result  
70 in the loss of the facility's exemption from licensure.

71 (3) Any government-sponsored recreation program or child  
72 care facility covered by the exemption provisions of subsection  
73 (1) may waive the exemption, but desiring to be included in this  
74 act, is authorized to do so by submitting notification to the  
75 department. Once licensed, such a program or facility may not  
76 cannot withdraw from its waiver of the exemption, and except for  
77 the requirements regarding screening of child care personnel,  
78 must continue to comply with ss. 402.301-402.319, in order to  
79 continue in operation ~~the act and continue to operate.~~

80  
81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete line 7

84 and insert:

85 program"; amending s. 402.316, F.S.; providing an  
86 exemption for government-sponsored recreation programs  
87 from specified child care facility requirements;  
88 providing that an otherwise exempt government-  
89 sponsored recreation program may waive the exemption  
90 by notifying the department; providing that such a  
91 program may not withdraw its waiver of the exemption  
92 and continue to operate; amending ss. 39.201, 402.305,  
93 and 1002.82,

94

By Senator Book

32-00788A-19

20191492\_\_

A bill to be entitled

An act relating to government-sponsored recreation programs; amending s. 402.302, F.S.; revising the definition of the term "child care facility" to exclude government-sponsored recreation programs; defining the term "government-sponsored recreation program"; amending ss. 39.201, 402.305, and 1002.82, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (9) through (18) of section 402.302, Florida Statutes, are redesignated as subsections (10) through (19), respectively, a new subsection (9) is added to that section, and paragraph (f) is added to subsection (2) of that section, to read:

402.302 Definitions.—As used in this chapter, the term:

(2) "Child care facility" includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

- (a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;
- (b) Summer camps having children in full-time residence;
- (c) Summer day camps;
- (d) Bible schools normally conducted during vacation

Page 1 of 4

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

32-00788A-19

20191492\_\_

periods; ~~and~~

(e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435; and

(f) Government-sponsored recreation programs.

(9) "Government-sponsored recreation program" means a recreation program for school-age children which meets all of the following requirements:

(a) Offers no more than 4 hours of programming per day.

(b) Is operated by a county or municipality that has adopted standards of care by ordinance for the program, which include, but are not limited to, staffing ratios, minimum staff qualifications, level 2 background screening for all staff and volunteers, and minimum facility, health, and safety standards.

(c) Has been certified by the county or municipality for compliance with such standards of care.

(d) Provides notice to the parents of each child participating in the program that the program is not state-licensed or advertised as a child care facility and provides them with the county's or municipality's standards of care.

Section 2. Subsection (6) of section 39.201, Florida Statutes, is amended to read:

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

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h) or s. 402.302(16) ~~s. 402.302(15)~~.

Page 2 of 4

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

32-00788A-19

20191492\_\_

59 Information in the central abuse hotline and the department's  
 60 automated abuse information system may be used by the  
 61 department, its authorized agents or contract providers, the  
 62 Department of Health, or county agencies as part of the  
 63 licensure or registration process pursuant to ss. 402.301-  
 64 402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q),  
 65 the information in the central abuse hotline may also be used by  
 66 the Department of Education for purposes of educator  
 67 certification discipline and review.

68 Section 3. Paragraph (a) of subsection (2) of section  
 69 402.305, Florida Statutes, is amended to read:

70 402.305 Licensing standards; child care facilities.-

71 (2) PERSONNEL.—Minimum standards for child care personnel  
 72 shall include minimum requirements as to:

73 (a) Good moral character based upon screening as defined in  
 74 s. 402.302(16) ~~s. 402.302(15)~~. This screening shall be conducted  
 75 as provided in chapter 435, using the level 2 standards for  
 76 screening set forth in that chapter, and include employment  
 77 history checks, a search of criminal history records, sexual  
 78 predator and sexual offender registries, and child abuse and  
 79 neglect registry of any state in which the current or  
 80 prospective child care personnel resided during the preceding 5  
 81 years.

82 Section 4. Paragraph (y) of subsection (2) of section  
 83 1002.82, Florida Statutes, is amended to read:

84 1002.82 Office of Early Learning; powers and duties.-

85 (2) The office shall:

86 (y) Establish staff-to-children ratios that do not exceed  
 87 the requirements of s. 402.302(8) or (12) ~~s. 402.302(8) or (11)~~

Page 3 of 4

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

32-00788A-19

20191492\_\_

88 or s. 402.305(4), as applicable, for school readiness program  
 89 providers.

90 Section 5. This act shall take effect July 1, 2019.

Page 4 of 4

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

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** SB 1492  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS	4/08/2019 Amendment 465640 <sup>1</sup>					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>	RCS	-				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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

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

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

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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 1592

INTRODUCER: Children, Families, and Elder Affairs and Senator Harrell

SUBJECT: Assisted Living Facilities

DATE: April 9, 2019

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

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

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**I. Summary:**

CS/SB 1592 makes a number of changes relating to assisted living facilities (ALFs). The bill authorizes and encourages the use of safety devices to protect residents in ALFs. The bill updates the fire safety code that all ALFs must meet. The bill clarifies the administration of the core training requirements for ALF staff and administrators. The bill provides requirements for the medical examination that residents must undergo to determine appropriate placement in an ALF. The bill requires ALFs to provide information on the Long-Term Care Ombudsman Program when providing a notice for eviction.

The bill does not have a fiscal impact and has an effective date of July 1, 2019.

**II. Present Situation:**

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>1</sup> A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.<sup>2</sup> Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.<sup>3</sup>

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.<sup>4</sup> The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.<sup>5</sup> If, as

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<sup>1</sup> Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

<sup>2</sup> Section 429.02(17), F.S.

<sup>3</sup> Section 429.02(1), F.S.

<sup>4</sup> For specific minimum standards see Fla. Admin. Code R 58A-5.0182.

<sup>5</sup> Section 429.26, F.S., and Fla. Admin. Code R 58A-5.0181.

determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.<sup>6</sup>

There are 3,081 licensed ALFs in Florida having a total of 106,016 beds.<sup>7</sup> An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow an ALF to provide additional care. These specialty licenses include limited nursing services (LNS),<sup>8</sup> limited mental health services (LMH),<sup>9</sup> and extended congregate care services (ECC).<sup>10</sup>

## **ALF Staff Training**

### *Administrators and Managers*

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the Department of Elder Affairs (DOEA),<sup>11</sup> that are intended to assist ALFs in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.<sup>12</sup>

The current ALF core training requirements established by the DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming an ALF administrator or manager. The minimum passing score for the competency test is 75 percent.<sup>13</sup>

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years.<sup>14</sup> A newly-hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.<sup>15</sup>

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<sup>6</sup> Section 429.28, F.S.

<sup>7</sup> Agency for Health Care Administration, Health Care Finder see <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx>, (last visited April 3, 2019).

<sup>8</sup> Section 429.07(3)(c), F.S.

<sup>9</sup> Section 429.075, F.S.

<sup>10</sup> Section 429.07(3)(b), F.S.

<sup>11</sup> Fla. Admin. Code R. 58A-5.0191.

<sup>12</sup> Section 429.52(1), F.S.

<sup>13</sup> Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

<sup>14</sup> Fla. Admin. Code R. 58A-5.0191(1)(c).

<sup>15</sup> Fla. Admin. Code R. 58A-5.0191.

### ***Staff with Direct Care Responsibilities***

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents.<sup>16</sup> Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least one hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on “do not resuscitate” orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer’s disease, if applicable.

### **Inspections and Surveys**

The AHCA is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license;
- Prior to biennial renewal of a license;
- When there is a change of ownership;
- To monitor ALFs licensed to provide LNS or ECC services;
- To monitor ALFs cited in the previous year for a class I or class II violation or for four or more uncorrected class III violations;
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents;
- If the AHCA has reason to believe an ALF is violating a provision of part III of ch. 429, F.S., relating to adult day care centers or an administrative rule;
- To determine if cited deficiencies have been corrected; or
- To determine if an ALF is operating without a license.<sup>17</sup>

An applicant for licensure renewal is eligible for an abbreviated biennial survey by the AHCA if the applicant does not have any:

- Class I, class II, or uncorrected class III violations;
- Confirmed complaints from the long-term care ombudsman council which were reported to the AHCA by the council; or
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.<sup>18</sup>

An abbreviated survey allows for a quicker and less intrusive survey by narrowing the range of items the AHCA must inspect.<sup>19</sup> The AHCA must expand an abbreviated survey or conduct a full survey if violations that threaten or potentially threaten the health, safety, or security of residents are identified during an abbreviated survey.<sup>20</sup>

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<sup>16</sup> *Id.*

<sup>17</sup> Section 429.34, F.S.

<sup>18</sup> Fla. Admin. Code R. 58A-5.033(1).

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

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



### III. Effect of Proposed Changes:

**Section 1** amends s. 429.02, providing definitions for part I of chapter 429, F.S., governing ALFs to add a definition of “assistive device.” The term is defined as any device to help a resident perform an activity of daily living, but does not include lifts such as a total body lift or a chair lift. The bill revises the definition of a “physical restraint” to exclude devices that the resident is able to remove themselves.

**Section 2** amends s. 429.11, F.S., relating to obtaining an initial ALF license, to update the term occupational license with the term “business tax receipt” to reflect the current terminology used by local governments.

**Section 3** amends s. 429.176, F.S., relating to change of administrators in an ALF to require new administrators provide documentation that they meet educational requirements (GED or high school diploma) and have completed the core competency training and passed the test.

**Section 4** amends s. 429.23, F.S., relating to risk management and quality assurance for ALFs. The bill clarifies the requirement that ALFs investigate adverse incidences in the facility and make a report to the agency. The bill encourages ALFs to use safety devices to improve the safety of the facility residents and staff. Safety devices are not defined in the bill.

**Section 5** amends s. 429.255, F.S., relating to use of ALF staff and emergency care. The bill clarifies that a resident or resident’s representative may contract with a third party for services to be provided at the ALF. The third party must coordinate care with the ALF and the ALF must document such services.

**Section 6** amends s. 429.256, F.S., relating to assistance with self-administration of medication. The bill requires that the ALF confirm that the medication is for the resident and advise the resident of the name and purpose of the medication.

**Section 7** amends s. 429.26, F.S., relating to the appropriate placement of residents in an ALF. The bill adds that in addition to the ALF owner’s assessment of the needs of a prospective resident, there must be a medical examination. The bill specifies the requirements for the medical examination. AHCA must develop a form for the medical examination and certain information must be collected, including whether the resident needs 24-hour nursing care. The bill allows an ALF to retain a resident that receives health care services from a third party provider, and a resident who requires safety or assistive devices. The bill allows placement of an ALF resident that requires 24-hour nursing care if they are a hospice patient.

The bill allows the placement of a resident who is bed ridden for 7 or less consecutive days in an ALF. For ALFs with a specialty license for Extended Congregate Care, to retain a resident who is bed ridden for 14 or less consecutive days. These changes would allow ALF residents needing more acute care to be served in an ALF rather than a nursing home. Currently persons who require 24-hour nursing care would need to be placed in a nursing home.

**Section 8** amends s. 429.28, F.S., relating to the ALF residents bill of rights. The bill requires that the written notice to residents who are to be evicted include information on obtaining

assistance from the Long-Term Care Ombudsman Program. The bill states that it is a right for a resident to live in an ALF that meets the uniform fire safety standards in s. 633.206, F.S., and environmental practices established under ss. 381.006, 318.0072, and 381.0098, F.S. The bill also requires that visitors comply with the AFL's security procedures.

**Section 9** amends s. 429.41, F.S., relating to licensure standards. The bill revises legislative intent that licensure standards "promote" rather than "ensure" quality care for residents. The bill adds legislative intent that safety devices are allowed in ALFs. The bill provides intent that the licensing standards "promote," rather than "ensure," that the physical plant provides for the health and safety of the residents.

The bill removes references to national fire safety standards. Instead, sections 8 and 10 of the bill require an ALF to meet the uniform fire safety standards in s. 633.206, F.S. The bill deletes an outdated requirement for the Department of Elder Affairs to provide copies of proposed rules to the Legislature.

The bill requires AHCA to use an abbreviated inspection under certain circumstances. Current law allows AHCA discretion on when to use an abbreviated inspection. The bill also changes the criteria for using an abbreviated inspection from having no confirmed complaints to the long-term care ombudsman to having no confirmed complaints that led to a licensure violation. Some ombudsman complaints are confirmed but when AHCA investigates, the circumstances have changed and no licensure violation is found.

**Section 10** creates s. 429.435, F.S., to establish uniform fire safety standards for ALFs. The bill requires the State Fire Marshal to establish such fire safety standards for ALFs and provides certain requirements. A fire safety evacuation test must be made by the fire marshal within 6 months of an ALF opening. Named national fire safety standards must be used in developing the uniform ALF fire safety standards. A local government may only charge a fee that would cover the cost for an inspection of a ALF sprinkler system. Local fire marshals must annually inspect ALFs for compliance with fire safety standards. ALFs operating before July 1, 2016 may continue to be regulated by the previous fire safety standards.

**Section 11** amends s. 429.52, F.S., relating to ALF staff training. The bill clarifies the educational requirements and core training requirements. Current rule requires a GED or high school diploma.<sup>21</sup> The bill requires training for the assistance with self-administration of medication occur before staff provides such assistance. The bill requires the Department of Elder Affairs to develop rules regarding the administration of the training competency test and an outline of the training curriculum. The rules must also provide for the removal of core trainers.

**Section 12** amends s. 429.07, F.S., establishing a license fee for ALFs. The bill corrects a cross-reference for the required medical examination of ALF residents.

**Section 13** provides an effective date of July 1, 2019.

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<sup>21</sup> Agency for Health Care Administration bill analysis, dated March 11, 2019. On file with the Committee on Children, Families and Elder Affairs.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 429.02, 429.07, 429.11, 429.176, 429.23, 429.255, 429.256, 429.26, 429.28, 429.41, and 429.52.

This bill creates section 429.435 of the Florida Statutes.

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

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

**CS by Children, Families, and Elder Affairs on April 8, 2019:**

- The CS removes changes to s. 429.19, F.S., relating to ALF violations of licensure standards and fines, to clarify that ALFs are not to be fined under parts II, III, and IV of chapter 400. Part II of that chapter governs nursing homes, part III governs home health agencies, and part IV governs hospice providers.
- The CS amends s. 429.02, providing definitions for part I of chapter 429, F.S., governing ALFs to add a definition of “assistive device.” The term is defined as any device to help a resident perform an activity of daily living, but does not include lifts such as a total body lift or a chair lift. The bill revises the definition of a “physical restraint” to exclude devices that the resident is able to remove themselves.
- The CS amends s. 429.176, F.S., relating to change of administrators in an ALF to require new administrators provide documentation that they meet educational requirements (GED or high school diploma) and has completed the core competency training and passed the test.
- The CS removes language that would have eliminated the educational requirements of ALF administrators.
- The bill requires that the written notice to residents who are to be evicted include information on obtaining assistance from the Long-Term Care Ombudsman Program.

**B. Amendments:**

None.



458958

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
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The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (6) through (27) of section 429.02, Florida Statutes, are redesignated as subsections (7) through (28), respectively, present subsections (13), (18), and (27) of that section are amended, and a new subsection (6) is added to that section, to read:

429.02 Definitions.—When used in this part, the term:



458958

11           (6) "Assistive device" means any device designed or adapted  
12 to help a resident perform an action, a task, an activity of  
13 daily living, or a transfer; prevent a fall; or recover from a  
14 fall. The term does not include a total body lift or a motorized  
15 sit-to-stand lift, with the exception of a chair lift or  
16 recliner lift that a resident is able to operate independently.

17           (14)~~(13)~~ "Limited nursing services" means acts that may be  
18 performed by a person licensed under part I of chapter 464.  
19 Limited nursing services shall be for persons who meet the  
20 admission criteria ~~established by the department~~ for assisted  
21 living facilities and shall not be complex enough to require 24-  
22 hour nursing supervision and may include such services as the  
23 application and care of routine dressings, and care of casts,  
24 braces, and splints.

25           (19)~~(18)~~ "Physical restraint" means a device that ~~which~~  
26 physically limits, restricts, or deprives an individual of  
27 movement or mobility, including, ~~but not limited to, a half-bed~~  
28 ~~rail, a full-bed rail, a geriatric chair, and a posey restraint.~~  
29 ~~The term "physical restraint" shall also include any device that~~  
30 is ~~which was~~ not specifically manufactured as a restraint but is  
31 ~~which has been~~ altered, arranged, or otherwise used for that  
32 ~~this~~ purpose. The term does ~~shall~~ not include any device that  
33 the resident chooses to use and is able to remove or avoid  
34 independently, or any bandage material used for the purpose of  
35 binding a wound or injury.

36           (27) "Twenty-four-hour nursing supervision" means services  
37 that are ordered by a physician for a resident whose condition  
38 requires the supervision of a physician and continued monitoring  
39 of vital signs and physical status. Such services shall be:



458958

40 medically complex enough to require constant supervision,  
41 assessment, planning, or intervention by a nurse; required to be  
42 performed by or under the direct supervision of licensed nursing  
43 personnel or other professional personnel for safe and effective  
44 performance; required on a daily basis; and consistent with the  
45 nature and severity of the resident's condition or the disease  
46 state or stage.

47 Section 2. Subsection (7) of section 429.11, Florida  
48 Statutes, is amended to read:

49 429.11 Initial application for license; provisional  
50 license.-

51 (7) A county or municipality may not issue a business tax  
52 receipt ~~an occupational license~~ that is being obtained for the  
53 purpose of operating a facility regulated under this part  
54 without first ascertaining that the applicant has been licensed  
55 to operate such facility at the specified location or locations  
56 by the agency. The agency shall furnish to local agencies  
57 responsible for issuing business tax receipts ~~occupational~~  
58 ~~licenses~~ sufficient instruction for making such determinations.

59 Section 3. Section 429.176, Florida Statutes, is amended to  
60 read:

61 429.176 Notice of change of administrator.-If, during the  
62 period for which a license is issued, the owner changes  
63 administrators, the owner must notify the agency of the change  
64 within 10 days and provide documentation within 90 days that the  
65 new administrator meets educational requirements and has  
66 completed the applicable core educational and core competency  
67 test requirements under s. 429.52. A facility may not be  
68 operated for more than 120 consecutive days without an



458958

69 administrator who has completed the core training and core  
70 competency test ~~educational~~ requirements.

71 Section 4. Subsections (3) through (9) of section 429.23,  
72 Florida Statutes, are amended to read:

73 429.23 Internal risk management and quality assurance  
74 program; adverse incidents and reporting requirements.—

75 (3) Licensed facilities shall initiate an investigation  
76 ~~provide~~ within 24 hours after ~~1 business day after~~ the  
77 occurrence of an adverse incident, ~~by electronic mail,~~  
78 ~~facsimile, or United States mail, a preliminary report to the~~  
79 ~~agency on all adverse incidents specified under this section.~~  
80 The facility must complete the investigation and submit a report  
81 to the agency within 15 days after the occurrence of the adverse  
82 incident. The report must include information regarding the  
83 identity of the affected resident, the type of adverse incident,  
84 and the result ~~status~~ of the facility's investigation of the  
85 incident.

86 ~~(4) Licensed facilities shall provide within 15 days, by~~  
87 ~~electronic mail, facsimile, or United States mail, a full report~~  
88 ~~to the agency on all adverse incidents specified in this~~  
89 ~~section. The report must include the results of the facility's~~  
90 ~~investigation into the adverse incident.~~

91 ~~(5) Each facility shall report monthly to the agency any~~  
92 ~~liability claim filed against it. The report must include the~~  
93 ~~name of the resident, the dates of the incident leading to the~~  
94 ~~claim, if applicable, and the type of injury or violation of~~  
95 ~~rights alleged to have occurred. This report is not discoverable~~  
96 ~~in any civil or administrative action, except in such actions~~  
97 ~~brought by the agency to enforce the provisions of this part.~~





458958

98            ~~(4)(6)~~ Abuse, neglect, or exploitation must be reported to  
99 the Department of Children and Families as required under  
100 chapter 415.

101            ~~(5)(7)~~ The information reported to the agency pursuant to  
102 subsection (3) which relates to persons licensed under chapter  
103 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall  
104 be reviewed by the agency. The agency shall determine whether  
105 any of the incidents potentially involved conduct by a health  
106 care professional who is subject to disciplinary action, in  
107 which case the provisions of s. 456.073 apply. The agency may  
108 investigate, as it deems appropriate, any such incident and  
109 prescribe measures that must or may be taken in response to the  
110 incident. The agency shall review each incident and determine  
111 whether it potentially involved conduct by a health care  
112 professional who is subject to disciplinary action, in which  
113 case the provisions of s. 456.073 apply.

114            ~~(6)(8)~~ If the agency, through its receipt of the adverse  
115 incident report ~~reports~~ prescribed in this part or through any  
116 investigation, has reasonable belief that conduct by a staff  
117 member or employee of a licensed facility is grounds for  
118 disciplinary action by the appropriate board, the agency shall  
119 report this fact to such regulatory board.

120            ~~(7)(9)~~ The adverse incident report ~~reports and preliminary~~  
121 ~~adverse incident reports~~ required under this section is ~~are~~  
122 confidential as provided by law and are not discoverable or  
123 admissible in any civil or administrative action, except in  
124 disciplinary proceedings by the agency or appropriate regulatory  
125 board.

126            Section 5. Paragraphs (a) and (b) of subsection (1) of



458958

127 section 429.255, Florida Statutes, are amended, and paragraph  
128 (d) is added to that subsection, to read:

129 429.255 Use of personnel; emergency care.—

130 (1)(a) Persons under contract to the facility, facility  
131 staff, or volunteers, who are licensed according to part I of  
132 chapter 464, or those persons exempt under s. 464.022(1), and  
133 others as defined by rule, may administer medications to  
134 residents, take residents' vital signs, manage individual weekly  
135 pill organizers for residents who self-administer medication,  
136 give prepackaged enemas ordered by a physician, observe  
137 residents, document observations on the appropriate resident's  
138 record, and report observations to the resident's physician,~~and~~  
139 ~~contract or allow residents or a resident's representative,~~  
140 ~~designee, surrogate, guardian, or attorney in fact to contract~~  
141 ~~with a third party, provided residents meet the criteria for~~  
142 ~~appropriate placement as defined in s. 429.26.~~ Nursing  
143 assistants certified pursuant to part II of chapter 464 may take  
144 residents' vital signs as directed by a licensed nurse or  
145 physician.

146 (b) All staff of ~~in~~ facilities licensed under this part  
147 shall exercise their professional responsibility to observe  
148 residents, to document observations on the appropriate  
149 resident's record, and to report the observations to the  
150 resident's physician. However, the owner or administrator of the  
151 facility shall be responsible for determining that the resident  
152 receiving services is appropriate for residence in the facility.

153 (d) A resident or a resident's representative, designee,  
154 surrogate, guardian, or attorney in fact may contract for  
155 services with a third party, provided the resident meets the



458958

156 criteria for continued residency as provided in s. 429.26. The  
157 third party must communicate with the facility regarding the  
158 resident's condition and the services being provided. The  
159 facility must document that it received such communication.

160 Section 6. Subsection (2), paragraph (b) of subsection (3),  
161 and paragraphs (e), (f), and (g) of subsection (4) of section  
162 429.256, Florida Statutes, are amended to read:

163 429.256 Assistance with self-administration of medication.—

164 (2) Residents who are capable of self-administering their  
165 own medications without assistance shall be encouraged and  
166 allowed to do so. However, an unlicensed person may, consistent  
167 with a dispensed prescription's label or the package directions  
168 of an over-the-counter medication, assist a resident whose  
169 condition is medically stable with the self-administration of  
170 routine, regularly scheduled medications that are intended to be  
171 self-administered. Assistance with self-medication by an  
172 unlicensed person may occur only upon a documented request by,  
173 and the written informed consent of, a resident or the  
174 resident's surrogate, guardian, or attorney in fact. For the  
175 purposes of this section, self-administered medications include  
176 both legend and over-the-counter oral dosage forms, topical  
177 dosage forms and topical skin, ophthalmic, otic, and nasal  
178 dosage forms, including patches, solutions, suspensions, sprays,  
179 and inhalers.

180 (3) Assistance with self-administration of medication  
181 includes:

182 (b) In the presence of the resident, confirming that the  
183 medication is intended for that resident, orally advising the  
184 resident of the medication name and purpose ~~reading the label,~~



458958

185 opening the container, removing a prescribed amount of  
186 medication from the container, and closing the container.

187 (4) Assistance with self-administration does not include:

188 (e) The use of irrigations or debriding agents used in the  
189 treatment of a skin condition.

190 (f) Assisting with rectal, urethral, or vaginal  
191 preparations.

192 (g) Assisting with medications ordered by the physician or  
193 health care professional with prescriptive authority to be given  
194 "as needed," unless the order is written with specific  
195 parameters that preclude independent judgment on the part of the  
196 unlicensed person, and the at the request of a competent  
197 resident requesting the medication is aware of his or her need  
198 for the medication and understands the purpose of taking the  
199 medication.

200 Section 7. Section 429.26, Florida Statutes, is amended to  
201 read:

202 429.26 Appropriateness of placements; examinations of  
203 residents.—

204 (1) The owner or administrator of a facility is responsible  
205 for determining the appropriateness of admission of an  
206 individual to the facility and for determining the continued  
207 appropriateness of residence of an individual in the facility. A  
208 determination must ~~shall~~ be based upon an evaluation ~~assessment~~  
209 of the strengths, needs, and preferences of the resident, a  
210 medical examination, the care and services offered or arranged  
211 for by the facility in accordance with facility policy, and any  
212 limitations in law or rule related to admission criteria or  
213 continued residency for the type of license held by the facility



458958

214 under this part. The following criteria apply to the  
215 determination of appropriateness for residency and continued  
216 residency of an individual in a facility:

217 (a) A facility may admit or retain a resident who receives  
218 a health care service or treatment that is designed to be  
219 provided within a private residential setting if all  
220 requirements for providing that service or treatment are met by  
221 the facility or a third party.

222 (b) A facility may admit or retain a resident who requires  
223 the use of assistive devices.

224 (c) A facility may admit or retain an individual receiving  
225 hospice services if the arrangement is agreed to by the facility  
226 and the resident, additional care is provided by a licensed  
227 hospice, and the resident is under the care of a physician who  
228 agrees that the physical needs of the resident can be met at the  
229 facility. A facility may not retain a resident who requires 24-  
230 hour nursing supervision, except for a resident who is enrolled  
231 in hospice services pursuant to part IV of chapter 400. The  
232 resident must have a plan of care that delineates how the  
233 facility and the hospice will meet the scheduled and unscheduled  
234 needs of the resident.

235 (d)1. Except as provided in paragraph (c), a facility may  
236 not admit or retain a resident who is bedridden. For purposes of  
237 this paragraph, the term "bedridden" means that a resident is  
238 confined to bed because of the inability to:

239 a. Move, turn, or reposition without total physical  
240 assistance;

241 b. Transfer to a chair or wheelchair without total physical  
242 assistance;



458958

243 c. Sit safely in a chair or wheelchair without personal  
244 assistance or a physical restraint.

245 2. A resident may continue to reside in a facility if,  
246 during residency, he or she is bedridden for no more than 7  
247 consecutive days.

248 3. If a facility is licensed to provide extended congregate  
249 care, a resident may continue to reside in a facility if, during  
250 residency, he or she is bedridden for no more than 14  
251 consecutive days.

252 (2) A resident may not be moved from one facility to  
253 another without consultation with and agreement from the  
254 resident or, if applicable, the resident's representative or  
255 designee or the resident's family, guardian, surrogate, or  
256 attorney in fact. In the case of a resident who has been placed  
257 by the department or the Department of Children and Families,  
258 the administrator must notify the appropriate contact person in  
259 the applicable department.

260 (3)~~(2)~~ A physician, physician assistant, or advanced  
261 practice registered nurse practitioner who is employed by an  
262 assisted living facility to provide an initial examination for  
263 admission purposes may not have financial interest in the  
264 facility.

265 (4)~~(3)~~ Persons licensed under part I of chapter 464 who are  
266 employed by or under contract with a facility shall, on a  
267 routine basis or at least monthly, perform a nursing assessment  
268 of the residents for whom they are providing nursing services  
269 ordered by a physician, except administration of medication, and  
270 shall document such assessment, including any substantial  
271 changes in a resident's status which may necessitate relocation



458958

272 to a nursing home, hospital, or specialized health care  
273 facility. Such records shall be maintained in the facility for  
274 inspection by the agency and shall be forwarded to the  
275 resident's case manager, if applicable.

276 (5)(4) If possible, Each resident must shall have been  
277 examined by a licensed physician, a licensed physician  
278 assistant, or a licensed advanced practice registered nurse  
279 practitioner within 60 days before admission to the facility or  
280 within 30 days after admission to the facility, except as  
281 provided in s. 429.07. The information from the medical  
282 examination must be recorded on the practitioner's form or on a  
283 form adopted by agency rule. The signed and completed medical  
284 examination form, signed by the practitioner, must report shall  
285 be submitted to the owner or administrator of the facility, who  
286 shall use the information contained therein to assist in the  
287 determination of the appropriateness of the resident's admission  
288 to or and continued stay in the facility. The medical  
289 examination form becomes report shall become a permanent part of  
290 the facility's record of the resident at the facility and must  
291 shall be made available to the agency during inspection or upon  
292 request. An assessment that has been completed through the  
293 Comprehensive Assessment and Review for Long-Term Care Services  
294 (CARES) Program fulfills the requirements for a medical  
295 examination under this subsection and s. 429.07(3)(b)6.

296 (6) The medical examination form submitted under subsection  
297 (5) must include the following information relating to the  
298 resident:

299 (a) Height, weight, and known allergies.

300 (b) Significant medical history and diagnoses.



458958

301 (c) Physical or sensory limitations, including the need for  
302 fall precautions or recommended use of assistive devices.

303 (d) Cognitive or behavioral status and a brief description  
304 of any behavioral issues known or ascertained by the examining  
305 practitioner, including any known history of wandering or  
306 elopement.

307 (e) Nursing, treatment, or therapy service requirements.

308 (f) Whether assistance is needed for ambulating, eating,  
309 and transferring.

310 (g) Special dietary instructions.

311 (h) Whether he or she has any communicable diseases,  
312 including necessary precautions.

313 (i) Whether he or she is bedridden and the status of any  
314 pressure sores that he or she has.

315 (j) Whether the resident needs 24-hour nursing or  
316 psychiatric care.

317 (k) A list of current prescribed medications as known or  
318 ascertained by the examining practitioner and whether the  
319 resident can self-administer medications, needs assistance, or  
320 needs medication administration.

321 ~~(5) Except as provided in s. 429.07, if a medical~~  
322 ~~examination has not been completed within 60 days before the~~  
323 ~~admission of the resident to the facility, a licensed physician,~~  
324 ~~licensed physician assistant, or licensed nurse practitioner~~  
325 ~~shall examine the resident and complete a medical examination~~  
326 ~~form provided by the agency within 30 days following the~~  
327 ~~admission to the facility to enable the facility owner or~~  
328 ~~administrator to determine the appropriateness of the admission.~~  
329 ~~The medical examination form shall become a permanent part of~~





458958

330 ~~the record of the resident at the facility and shall be made~~  
331 ~~available to the agency during inspection by the agency or upon~~  
332 ~~request.~~

333 (7)~~(6)~~ Any resident accepted in a facility and placed by  
334 ~~the department or~~ the Department of Children and Families must  
335 ~~shall~~ have been examined by medical personnel within 30 days  
336 before placement in the facility. The examination must ~~shall~~  
337 include an assessment of the appropriateness of placement in a  
338 facility. The findings of this examination must ~~shall~~ be  
339 recorded on the examination form provided by the agency. The  
340 completed form must ~~shall~~ accompany the resident and ~~shall~~ be  
341 submitted to the facility owner or administrator. Additionally,  
342 in the case of a mental health resident, the Department of  
343 Children and Families must provide documentation that the  
344 individual has been assessed by a psychiatrist, clinical  
345 psychologist, clinical social worker, or psychiatric nurse, or  
346 an individual who is supervised by one of these professionals,  
347 and determined to be appropriate to reside in an assisted living  
348 facility. The documentation must be in the facility within 30  
349 days after the mental health resident has been admitted to the  
350 facility. An evaluation completed upon discharge from a state  
351 mental hospital meets the requirements of this subsection  
352 related to appropriateness for placement as a mental health  
353 resident providing it was completed within 90 days prior to  
354 admission to the facility. The ~~applicable~~ Department of Children  
355 and Families shall provide to the facility administrator any  
356 information about the resident which ~~that~~ would help the  
357 administrator meet his or her responsibilities under subsection  
358 (1). Further, Department of Children and Families personnel



458958

359 shall explain to the facility operator any special needs of the  
360 resident and advise the operator whom to call should problems  
361 arise. The ~~applicable~~ Department of Children and Families shall  
362 advise and assist the facility administrator when ~~where~~ the  
363 special needs of residents who are recipients of optional state  
364 supplementation require such assistance.

365 (8) ~~(7)~~ The facility shall ~~must~~ notify a licensed physician  
366 in writing when a resident exhibits signs of dementia or  
367 cognitive impairment or has a change of condition in order to  
368 rule out the presence of an underlying physiological condition  
369 that may be contributing to such dementia or impairment. The  
370 notification must occur within 30 days after the acknowledgment  
371 of such signs by facility staff. If an underlying condition is  
372 determined to exist, the facility must notify the resident's  
373 representative or designee in writing of the need for health  
374 care services and may assist in making appointments for ~~shall~~  
375 ~~arrange, with the appropriate health care provider, the~~  
376 necessary care and services to treat the condition.

377 (9) ~~(8)~~ The Department of Children and Families may require  
378 an examination for supplemental security income and optional  
379 state supplementation recipients residing in facilities at any  
380 time and shall provide the examination whenever a resident's  
381 condition requires it. Any facility administrator; personnel of  
382 the agency, the department, or the Department of Children and  
383 Families; or a representative of the State Long-Term Care  
384 Ombudsman Program who believes a resident needs to be evaluated  
385 shall notify the resident's case manager, who shall take  
386 appropriate action. A report of the examination findings must  
387 ~~shall~~ be provided to the resident's case manager and the



458958

388 facility administrator to help the administrator meet his or her  
389 responsibilities under subsection (1).

390 ~~(9) A terminally ill resident who no longer meets the~~  
391 ~~criteria for continued residency may remain in the facility if~~  
392 ~~the arrangement is mutually agreeable to the resident and the~~  
393 ~~facility; additional care is rendered through a licensed~~  
394 ~~hospice, and the resident is under the care of a physician who~~  
395 ~~agrees that the physical needs of the resident are being met.~~

396 (10) Facilities licensed to provide extended congregate  
397 care services shall promote aging in place by determining  
398 appropriateness of continued residency based on a comprehensive  
399 review of the resident's physical and functional status; the  
400 ability of the facility, family members, friends, or any other  
401 pertinent individuals or agencies to provide the care and  
402 services required; and documentation that a written service plan  
403 consistent with facility policy has been developed and  
404 implemented to ensure that the resident's needs and preferences  
405 are addressed.

406 ~~(11) No resident who requires 24-hour nursing supervision,~~  
407 ~~except for a resident who is an enrolled hospice patient~~  
408 ~~pursuant to part IV of chapter 400, shall be retained in a~~  
409 ~~facility licensed under this part.~~

410 Section 8. Paragraphs (a) and (k) of subsection (1) and  
411 subsection (3) of section 429.28, Florida Statutes, are amended  
412 to read:

413 429.28 Resident bill of rights.—

414 (1) No resident of a facility shall be deprived of any  
415 civil or legal rights, benefits, or privileges guaranteed by  
416 law, the Constitution of the State of Florida, or the



458958

417 Constitution of the United States as a resident of a facility.  
418 Every resident of a facility shall have the right to:

419 (a) Live in a safe and decent living environment, free from  
420 abuse, exploitation, and neglect.

421 (k) At least 45 days' notice of relocation or termination  
422 of residency from the facility unless, for medical reasons, the  
423 resident is certified by a physician to require an emergency  
424 relocation to a facility providing a more skilled level of care  
425 or the resident engages in a pattern of conduct that is harmful  
426 or offensive to other residents. In the case of a resident who  
427 has been adjudicated mentally incapacitated, the guardian shall  
428 be given at least 45 days' notice of a nonemergency relocation  
429 or residency termination. Reasons for relocation must ~~shall~~ be  
430 set forth in writing and provided to the resident or the  
431 resident's legal representative. The written notice must contain  
432 the following disclosure in 12-point uppercase type:

433 THE STATE LONG-TERM CARE OMBUDSMAN PROGRAM PROVIDES  
434 SERVICES THAT ASSIST IN PROTECTING THE HEALTH, SAFETY,  
435 WELFARE, AND RIGHTS OF RESIDENTS. FOR ASSISTANCE,  
436 CONTACT THE OMBUDSMAN PROGRAM TOLL-FREE AT 1-888-831-  
437 0404 OR VIA E-MAIL AT LTCOPInformer@elderaffairs.org.

438 In order for a facility to terminate the residency of an  
439 individual without notice as provided herein, the facility shall  
440 show good cause in a court of competent jurisdiction.

441 (3) (a) The agency shall conduct a survey to determine  
442 general compliance with ~~facility standards and compliance with~~  
443 residents' rights as a prerequisite to initial licensure or  
444 licensure renewal. ~~The agency shall adopt rules for uniform~~  
445 ~~standards and criteria that will be used to determine compliance~~



458958

446 ~~with facility standards and compliance with residents' rights.~~

447 (b) In order to determine whether the facility is  
448 adequately protecting residents' rights, the licensure renewal  
449 ~~biennial~~ survey must ~~shall~~ include private informal  
450 conversations with a sample of residents and consultation with  
451 the ombudsman council in the district in which the facility is  
452 located to discuss residents' experiences within the facility.

453 Section 9. Section 429.41, Florida Statutes, is amended to  
454 read:

455 429.41 Rules establishing standards.—

456 (1) It is the intent of the Legislature that rules  
457 published and enforced pursuant to this section shall include  
458 criteria by which a reasonable and consistent quality of  
459 resident care and quality of life may be ensured and the results  
460 of such resident care may be demonstrated. Such rules shall also  
461 promote ~~ensure~~ a safe and sanitary environment that is  
462 residential and noninstitutional in design or nature and may  
463 allow for technological advances in the provision of care,  
464 safety, and security, including the use of devices, equipment  
465 and other security measures related to wander management,  
466 emergency response, staff risk management, and the general  
467 safety and security of residents, staff, and the facility. It is  
468 further intended that reasonable efforts be made to accommodate  
469 the needs and preferences of residents to enhance the quality of  
470 life in a facility. ~~Uniform firesafety standards for assisted~~  
471 ~~living facilities shall be established by the State Fire Marshal~~  
472 ~~pursuant to s. 633.206.~~ The agency, in consultation with the  
473 department, may adopt rules to administer the requirements of  
474 part II of chapter 408. ~~In order to provide safe and sanitary~~



458958

475 ~~facilities and the highest quality of resident care~~  
476 ~~accommodating the needs and preferences of residents,~~ The  
477 department, in consultation with the agency, the Department of  
478 Children and Families, and the Department of Health, shall adopt  
479 ~~rules, policies, and procedures~~ to administer this part, which  
480 must include reasonable and fair minimum standards in relation  
481 to:

482 (a) The requirements for ~~and~~ maintenance and the sanitary  
483 condition of facilities, not in conflict with, or duplicative  
484 of, the requirements in chapter 553 or chapter 381, relating to  
485 furnishings for resident bedrooms or sleeping areas, locking  
486 devices, linens, laundry services ~~plumbing, heating, cooling,~~  
487 ~~lighting, ventilation, living space,~~ and similar physical plant  
488 standards ~~other housing conditions,~~ which will promote ensure  
489 the health, safety, and welfare ~~comfort~~ of residents suitable to  
490 the size of the structure. The rules must clearly delineate the  
491 respective responsibilities of the agency's licensure and survey  
492 staff and the county health departments and ensure that  
493 inspections are not duplicative. The agency may collect fees for  
494 food service inspections conducted by county health departments  
495 and may transfer such fees to the Department of Health.

496 ~~1. Firesafety evacuation capability determination. An~~  
497 ~~evacuation capability evaluation for initial licensure shall be~~  
498 ~~conducted within 6 months after the date of licensure.~~

499 ~~2. Firesafety requirements.~~

500 ~~a. The National Fire Protection Association, Life Safety~~  
501 ~~Code, NFPA 101 and 101A, current editions, shall be used in~~  
502 ~~determining the uniform firesafety code adopted by the State~~  
503 ~~Fire Marshal for assisted living facilities, pursuant to s.~~



458958

504 ~~633.206.~~

505 ~~b. A local government or a utility may charge fees only in~~  
506 ~~an amount not to exceed the actual expenses incurred by the~~  
507 ~~local government or the utility relating to the installation and~~  
508 ~~maintenance of an automatic fire sprinkler system in a licensed~~  
509 ~~assisted living facility structure.~~

510 ~~e. All licensed facilities must have an annual fire~~  
511 ~~inspection conducted by the local fire marshal or authority~~  
512 ~~having jurisdiction.~~

513 ~~d. An assisted living facility that is issued a building~~  
514 ~~permit or certificate of occupancy before July 1, 2016, may at~~  
515 ~~its option and after notifying the authority having~~  
516 ~~jurisdiction, remain under the provisions of the 1994 and 1995~~  
517 ~~editions of the National Fire Protection Association, Life~~  
518 ~~Safety Code, NFPA 101, and NFPA 101A. The facility opting to~~  
519 ~~remain under such provisions may make repairs, modernizations,~~  
520 ~~renovations, or additions to, or rehabilitate, the facility in~~  
521 ~~compliance with NFPA 101, 1994 edition, and may utilize the~~  
522 ~~alternative approaches to life safety in compliance with NFPA~~  
523 ~~101A, 1995 edition. However, a facility for which a building~~  
524 ~~permit or certificate of occupancy is issued before July 1,~~  
525 ~~2016, that undergoes Level III building alteration or~~  
526 ~~rehabilitation, as defined in the Florida Building Code, or~~  
527 ~~seeks to utilize features not authorized under the 1994 or 1995~~  
528 ~~editions of the Life Safety Code must thereafter comply with all~~  
529 ~~aspects of the uniform firesafety standards established under s.~~  
530 ~~633.206, and the Florida Fire Prevention Code, in effect for~~  
531 ~~assisted living facilities as adopted by the State Fire Marshal.~~

532 ~~3. Resident elopement requirements. Facilities are required~~



458958

533 ~~to conduct a minimum of two resident elopement prevention and~~  
534 ~~response drills per year. All administrators and direct care~~  
535 ~~staff must participate in the drills which shall include a~~  
536 ~~review of procedures to address resident elopement. Facilities~~  
537 ~~must document the implementation of the drills and ensure that~~  
538 ~~the drills are conducted in a manner consistent with the~~  
539 ~~facility's resident elopement policies and procedures.~~

540 (b) The preparation and annual update of a comprehensive  
541 emergency management plan. Such standards must be included in  
542 the rules adopted by the department after consultation with the  
543 Division of Emergency Management. At a minimum, the rules must  
544 provide for plan components that address emergency evacuation  
545 transportation; adequate sheltering arrangements; postdisaster  
546 activities, including provision of emergency power, food, and  
547 water; postdisaster transportation; supplies; staffing;  
548 emergency equipment; individual identification of residents and  
549 transfer of records; communication with families; and responses  
550 to family inquiries. The comprehensive emergency management plan  
551 is subject to review and approval by the local emergency  
552 management agency. During its review, the local emergency  
553 management agency shall ensure that the following agencies, at a  
554 minimum, are given the opportunity to review the plan: the  
555 Department of Elderly Affairs, the Department of Health, the  
556 Agency for Health Care Administration, and the Division of  
557 Emergency Management. Also, appropriate volunteer organizations  
558 must be given the opportunity to review the plan. The local  
559 emergency management agency shall complete its review within 60  
560 days and either approve the plan or advise the facility of  
561 necessary revisions.





458958

562 (c) The number, training, and qualifications of all  
563 personnel having responsibility for the care of residents. The  
564 rules must require adequate staff to provide for the safety of  
565 all residents. Facilities licensed for 17 or more residents are  
566 required to maintain an alert staff for 24 hours per day.

567 ~~(d) All sanitary conditions within the facility and its~~  
568 ~~surroundings which will ensure the health and comfort of~~  
569 ~~residents. The rules must clearly delineate the responsibilities~~  
570 ~~of the agency's licensure and survey staff, the county health~~  
571 ~~departments, and the local authority having jurisdiction over~~  
572 ~~firesafety and ensure that inspections are not duplicative. The~~  
573 ~~agency may collect fees for food service inspections conducted~~  
574 ~~by the county health departments and transfer such fees to the~~  
575 ~~Department of Health.~~

576 ~~(d)(e)~~ License application and license renewal, transfer of  
577 ownership, proper management of resident funds and personal  
578 property, surety bonds, resident contracts, refund policies,  
579 financial ability to operate, and facility and staff records.

580 ~~(e)(f)~~ Inspections, complaint investigations, moratoriums,  
581 classification of deficiencies, ~~levying~~ and enforcement of  
582 penalties, ~~and use of income from fees and fines.~~

583 ~~(f)(g)~~ The enforcement of the resident bill of rights  
584 specified in s. 429.28.

585 ~~(g)(h)~~ The care ~~and maintenance~~ of residents provided by  
586 the facility, which must include, but is not limited to:

- 587 1. The supervision of residents;  
588 2. The provision of personal services;  
589 3. The provision of, or arrangement for, social and leisure  
590 activities;



458958

591           4. The assistance in making arrangements ~~arrangement~~ for  
592 appointments and transportation to appropriate medical, dental,  
593 nursing, or mental health services, as needed by residents;  
594           5. The management of medication stored within the facility  
595 and as needed by residents;  
596           6. The dietary ~~nutritional~~ needs of residents;  
597           7. Resident records; ~~and~~  
598           8. Internal risk management and quality assurance; and  
599           9. The requirements for using medical diagnostic testing  
600 equipment that is designed for a residential setting and is used  
601 at the point of care delivery, including equipment to test  
602 cholesterol, blood glucose level, and blood pressure.  
603           (h) ~~(i)~~ Facilities holding a limited nursing, extended  
604 congregate care, or limited mental health license.  
605           (i) ~~(j)~~ The establishment of specific criteria to define  
606 appropriateness of resident admission and continued residency in  
607 a facility holding a standard, limited nursing, extended  
608 congregate care, and limited mental health license.  
609           (j) ~~(k)~~ The use of physical or chemical restraints. The use  
610 of geriatric chairs or posey restraints is prohibited. Other  
611 physical restraints may be used in accordance with agency rules  
612 when ordered ~~is limited to half-bed rails as prescribed and~~  
613 ~~documented~~ by the resident's physician and consented to by ~~with~~  
614 ~~the consent~~ of the resident or, if applicable, the resident's  
615 representative or designee or the resident's surrogate,  
616 guardian, or attorney in fact. Such rules must specify  
617 requirements for care planning, staff monitoring, and periodic  
618 review. The use of chemical restraints is limited to prescribed  
619 dosages of medications authorized by the resident's physician



458958

620 and must be consistent with the resident's diagnosis. Residents  
621 who are receiving medications that can serve as chemical  
622 restraints must be evaluated by their physician at least  
623 annually to assess:

- 624 1. The continued need for the medication.
- 625 2. The level of the medication in the resident's blood.
- 626 3. The need for adjustments in the prescription.

627 (k) ~~(l)~~ The establishment of specific resident elopement  
628 drill requirements policies and procedures on resident  
629 elopement. Facilities shall conduct a minimum of two resident  
630 elopement drills each year. All administrators and direct care  
631 staff shall participate in the drills, which must include a  
632 review of the facility's procedures to address resident  
633 elopement. Facilities shall document participation in the  
634 drills.

635 (2) In adopting any rules pursuant to this part, the  
636 department, in conjunction with the agency, shall make distinct  
637 standards for facilities based upon facility size; the types of  
638 care provided; the physical and mental capabilities and needs of  
639 residents; the type, frequency, and amount of services and care  
640 offered; and the staffing characteristics of the facility. Rules  
641 developed pursuant to this section may not restrict the use of  
642 shared staffing and shared programming in facilities that are  
643 part of retirement communities that provide multiple levels of  
644 care and otherwise meet the requirements of law and rule. If a  
645 continuing care facility licensed under chapter 651 or a  
646 retirement community offering multiple levels of care licenses a  
647 building or part of a building designated for independent living  
648 for assisted living, staffing requirements established in rule



458958

649 apply only to residents who receive personal, limited nursing,  
650 or extended congregate care services under this part. Such  
651 facilities shall retain a log listing the names and unit number  
652 for residents receiving these services. The log must be  
653 available to surveyors upon request. ~~Except for uniform~~  
654 ~~firesafety standards,~~ The department shall adopt by rule  
655 separate and distinct standards for facilities with 16 or fewer  
656 beds and for facilities with 17 or more beds. The standards for  
657 facilities with 16 or fewer beds must be appropriate for a  
658 noninstitutional residential environment; however, the structure  
659 may not be more than two stories in height and all persons who  
660 cannot exit the facility unassisted in an emergency must reside  
661 on the first floor. The department, in conjunction with the  
662 agency, may make other distinctions among types of facilities as  
663 necessary to enforce this part. Where appropriate, the agency  
664 shall offer alternate solutions for complying with established  
665 standards, based on distinctions made by the department and the  
666 agency relative to the physical characteristics of facilities  
667 and the types of care offered.

668 (3) ~~The department shall submit a copy of proposed rules to~~  
669 ~~the Speaker of the House of Representatives, the President of~~  
670 ~~the Senate, and appropriate committees of substance for review~~  
671 ~~and comment prior to the promulgation thereof.~~ Rules promulgated  
672 by the department must ~~shall~~ encourage the development of  
673 homelike facilities which promote the dignity, individuality,  
674 personal strengths, and decisionmaking ability of residents.

675 (4) The agency, in consultation with the department, may  
676 waive rules promulgated pursuant to this part in order to  
677 demonstrate and evaluate innovative or cost-effective congregate



458958

678 care alternatives which enable individuals to age in place. Such  
679 waivers may be granted only in instances where there is  
680 reasonable assurance that the health, safety, or welfare of  
681 residents will not be endangered. To apply for a waiver, the  
682 licensee shall submit to the agency a written description of the  
683 concept to be demonstrated, including goals, objectives, and  
684 anticipated benefits; the number and types of residents who will  
685 be affected, if applicable; a brief description of how the  
686 demonstration will be evaluated; and any other information  
687 deemed appropriate by the agency. Any facility granted a waiver  
688 shall submit a report of findings to the agency and the  
689 department within 12 months. At such time, the agency may renew  
690 or revoke the waiver or pursue any regulatory or statutory  
691 changes necessary to allow other facilities to adopt the same  
692 practices. The department may by rule clarify terms and  
693 establish waiver application procedures, criteria for reviewing  
694 waiver proposals, and procedures for reporting findings, as  
695 necessary to implement this subsection.

696 (5) The agency may use an abbreviated biennial standard  
697 licensure inspection that consists of a review of key quality-  
698 of-care standards in lieu of a full inspection in a facility  
699 that has a good record of past performance. However, a full  
700 inspection must be conducted in a facility that has a history of  
701 class I or class II violations, uncorrected class III  
702 violations, or a violation resulting from a complaint referred  
703 by the State Long-Term Care Ombudsman Program to a regulatory  
704 agency confirmed ombudsman council complaints, or confirmed  
705 licensure complaints, within the previous licensure period  
706 immediately preceding the inspection or if a potentially serious



458958

707 problem is identified during the abbreviated inspection. The  
708 agency, ~~in consultation with the department,~~ shall adopt by rule  
709 ~~develop~~ the key quality-of-care standards ~~with input from the~~  
710 ~~State Long Term Care Ombudsman Council and representatives of~~  
711 ~~provider groups for incorporation into its rules.~~

712 Section 10. Section 429.435, Florida Statutes, is created  
713 to read:

714 429.435 Uniform firesafety standards.-Uniform firesafety  
715 standards for assisted living facilities and a residential board  
716 and care occupancy shall be established by the State Fire  
717 Marshal pursuant to s. 633.206.

718 (1) EVACUATION CAPABILITY.-A firesafety evacuation  
719 capability determination shall be conducted within 6 months  
720 after the date of initial licensure, if required.

721 (2) FIRESAFETY REQUIREMENTS.-

722 (a) The National Fire Protection Association, Life Safety  
723 Code, NFPA 101 and 101A, current editions, must be used in  
724 determining the uniform firesafety code adopted by the State  
725 Fire Marshal for assisted living facilities, pursuant to s.  
726 633.206.

727 (b) A local government or a utility may charge fees that do  
728 not exceed the actual costs incurred by the local government or  
729 the utility for the installation and maintenance of an automatic  
730 fire sprinkler system in a licensed assisted living facility  
731 structure.

732 (c) All licensed facilities must have an annual fire  
733 inspection conducted by the local fire marshal or authority  
734 having jurisdiction.

735 (d) An assisted living facility that was issued a building



458958

736 permit or certificate of occupancy before July 1, 2016, at its  
737 option and after notifying the authority having jurisdiction,  
738 may remain under the provisions of the 1994 and 1995 editions of  
739 the National Fire Protection Association, Life Safety Code, NFPA  
740 101 and 101A. A facility opting to remain under such provisions  
741 may make repairs, modernizations, renovations, or additions to,  
742 or rehabilitate, the facility in compliance with NFPA 101, 1994  
743 edition, and may utilize the alternative approaches to life  
744 safety in compliance with NFPA 101A, 1995 edition. However, a  
745 facility for which a building permit or certificate of occupancy  
746 was issued before July 1, 2016, which undergoes Level III  
747 building alteration or rehabilitation, as defined in the Florida  
748 Building Code, or which seeks to utilize features not authorized  
749 under the 1994 or 1995 editions of the Life Safety Code shall  
750 thereafter comply with all aspects of the uniform firesafety  
751 standards established under s. 633.206, and the Florida Fire  
752 Prevention Code, in effect for assisted living facilities as  
753 adopted by the State Fire Marshal.

754 Section 11. Section 429.52, Florida Statutes, is amended to  
755 read:

756 429.52 Staff training and educational requirements  
757 ~~programs; core educational requirement.~~-

758 (1) ~~Effective October 1, 2015,~~ Each new assisted living  
759 facility employee who has not previously completed core training  
760 must attend a preservice orientation provided by the facility  
761 before interacting with residents. The preservice orientation  
762 must be at least 2 hours in duration and cover topics that help  
763 the employee provide responsible care and respond to the needs  
764 of facility residents. Upon completion, the employee and the



458958

765 administrator of the facility must sign a statement that the  
766 employee completed the required preservice orientation. The  
767 facility must keep the signed statement in the employee's  
768 personnel record.

769 (2) Administrators and other assisted living facility staff  
770 must meet minimum training and education requirements  
771 established by the Department of Elderly Affairs by rule. This  
772 training and education is intended to assist facilities to  
773 appropriately respond to the needs of residents, to maintain  
774 resident care and facility standards, and to meet licensure  
775 requirements.

776 (3) The department shall establish core training  
777 requirements for administrators consisting of core training  
778 learning objectives, a competency test, and a minimum required  
779 score to indicate successful passage completion of the core  
780 competency test ~~training and educational requirements~~. The  
781 competency test must be developed by the department in  
782 conjunction with the agency ~~and providers~~. The required core  
783 competency test ~~training and education~~ must cover at least the  
784 following topics:

785 (a) State law and rules relating to assisted living  
786 facilities.

787 (b) Resident rights and identifying and reporting abuse,  
788 neglect, and exploitation.

789 (c) Special needs of elderly persons, persons with mental  
790 illness, and persons with developmental disabilities and how to  
791 meet those needs.

792 (d) Nutrition and food service, including acceptable  
793 sanitation practices for preparing, storing, and serving food.





458958

794 (e) Medication management, recordkeeping, and proper  
795 techniques for assisting residents with self-administered  
796 medication.

797 (f) Firesafety requirements, including fire evacuation  
798 drill procedures and other emergency procedures.

799 (g) Care of persons with Alzheimer's disease and related  
800 disorders.

801 (4) A ~~new~~ facility administrator must complete the required  
802 core training and education, including the competency test,  
803 within 90 days after the date of employment as an administrator.  
804 Failure to do so is a violation of this part and subjects the  
805 violator to an administrative fine as prescribed in s. 429.19.  
806 Administrators licensed in accordance with part II of chapter  
807 468 are exempt from this requirement. Other licensed  
808 professionals may be exempted, as determined by the department  
809 by rule.

810 (5) Administrators are required to participate in  
811 continuing education for a minimum of 12 contact hours every 2  
812 years.

813 (6) Staff ~~involved with the management of medications and~~  
814 assisting with the self-administration of medications under s.  
815 429.256 must complete a minimum of 6 ~~additional~~ hours of  
816 training provided by a registered nurse, or a licensed  
817 pharmacist, before providing assistance ~~or department staff~~. Two  
818 hours of continuing education is required annually thereafter.  
819 The department shall establish by rule the minimum requirements  
820 of this ~~additional~~ training.

821 (7) ~~Other~~ Facility staff shall participate in in-service  
822 training relevant to their job duties as specified by department



458958

823 ~~rule of the department.~~ Topics covered during the preservice  
824 orientation are not required to be repeated during in-service  
825 training. A single certificate of completion that covers all  
826 required in-service training topics may be issued to a  
827 participating staff member if the training is provided in a  
828 single training course.

829 (8) If ~~the department or~~ the agency determines that there  
830 are problems in a facility that could be reduced through  
831 specific staff training ~~or education~~ beyond that already  
832 required under this section, ~~the department or~~ the agency may  
833 require, and provide, or cause to be provided, the training ~~or~~  
834 ~~education~~ of any personal care staff in the facility.

835 (9) The department shall adopt rules related to these  
836 training and education requirements, the competency test,  
837 necessary procedures, and competency test fees and shall adopt  
838 or contract with another entity to develop and administer the  
839 competency test. The department shall adopt a curriculum outline  
840 with learning objectives to be used by core trainers, ~~which~~  
841 ~~shall be used~~ as the minimum core training content requirements.  
842 The department shall consult with representatives of stakeholder  
843 associations and agencies in the development of the curriculum  
844 outline.

845 (10) The core training required by this section ~~other than~~  
846 ~~the preservice orientation~~ must be conducted by persons  
847 registered with the department as having the requisite  
848 experience and credentials to conduct the training. A person  
849 seeking to register as a core trainer must provide the  
850 department with proof of completion of the ~~minimum~~ core training  
851 ~~education~~ requirements, successful passage of the competency



458958

852 test established under this section, and proof of compliance  
853 with the continuing education requirement in subsection (5).

854 (11) A person seeking to register as a core trainer also  
855 must ~~also~~:

856 (a) Provide proof of completion of a 4-year degree from an  
857 accredited college or university and must have worked in a  
858 management position in an assisted living facility for 3 years  
859 after being core certified;

860 (b) Have worked in a management position in an assisted  
861 living facility for 5 years after being core certified and have  
862 1 year of teaching experience as an educator or staff trainer  
863 for persons who work in assisted living facilities or other  
864 long-term care settings;

865 (c) Have been previously employed as a core trainer for the  
866 department; or

867 (d) Meet other qualification criteria as defined in rule,  
868 which the department is authorized to adopt.

869 (12) The department shall adopt rules to establish core  
870 trainer registration and removal requirements.

871 Section 12. Paragraph (b) of subsection (3) of section  
872 429.07, Florida Statutes, is amended to read

873 429.07 License required; fee.—

874 (3) In addition to the requirements of s. 408.806, each  
875 license granted by the agency must state the type of care for  
876 which the license is granted. Licenses shall be issued for one  
877 or more of the following categories of care: standard, extended  
878 congregate care, limited nursing services, or limited mental  
879 health.

880 (b) An extended congregate care license shall be issued to



458958

881 each facility that has been licensed as an assisted living  
882 facility for 2 or more years and that provides services,  
883 directly or through contract, beyond those authorized in  
884 paragraph (a), including services performed by persons licensed  
885 under part I of chapter 464 and supportive services, as defined  
886 by rule, to persons who would otherwise be disqualified from  
887 continued residence in a facility licensed under this part. An  
888 extended congregate care license may be issued to a facility  
889 that has a provisional extended congregate care license and  
890 meets the requirements for licensure under subparagraph 2. The  
891 primary purpose of extended congregate care services is to allow  
892 residents the option of remaining in a familiar setting from  
893 which they would otherwise be disqualified for continued  
894 residency as they become more impaired. A facility licensed to  
895 provide extended congregate care services may also admit an  
896 individual who exceeds the admission criteria for a facility  
897 with a standard license, if he or she is determined appropriate  
898 for admission to the extended congregate care facility.

899 1. In order for extended congregate care services to be  
900 provided, the agency must first determine that all requirements  
901 established in law and rule are met and must specifically  
902 designate, on the facility's license, that such services may be  
903 provided and whether the designation applies to all or part of  
904 the facility. This designation may be made at the time of  
905 initial licensure or relicensure, or upon request in writing by  
906 a licensee under this part and part II of chapter 408. The  
907 notification of approval or the denial of the request shall be  
908 made in accordance with part II of chapter 408. Each existing  
909 facility that qualifies to provide extended congregate care



458958

910 services must have maintained a standard license and may not  
911 have been subject to administrative sanctions during the  
912 previous 2 years, or since initial licensure if the facility has  
913 been licensed for less than 2 years, for any of the following  
914 reasons:

915 a. A class I or class II violation;

916 b. Three or more repeat or recurring class III violations  
917 of identical or similar resident care standards from which a  
918 pattern of noncompliance is found by the agency;

919 c. Three or more class III violations that were not  
920 corrected in accordance with the corrective action plan approved  
921 by the agency;

922 d. Violation of resident care standards which results in  
923 requiring the facility to employ the services of a consultant  
924 pharmacist or consultant dietitian;

925 e. Denial, suspension, or revocation of a license for  
926 another facility licensed under this part in which the applicant  
927 for an extended congregate care license has at least 25 percent  
928 ownership interest; or

929 f. Imposition of a moratorium pursuant to this part or part  
930 II of chapter 408 or initiation of injunctive proceedings.

931  
932 The agency may deny or revoke a facility's extended congregate  
933 care license for not meeting the criteria for an extended  
934 congregate care license as provided in this subparagraph.

935 2. If an assisted living facility has been licensed for  
936 less than 2 years, the initial extended congregate care license  
937 must be provisional and may not exceed 6 months. The licensee  
938 shall notify the agency, in writing, when it has admitted at



458958

939 least one extended congregate care resident, after which an  
940 unannounced inspection shall be made to determine compliance  
941 with the requirements of an extended congregate care license. A  
942 licensee with a provisional extended congregate care license  
943 that demonstrates compliance with all the requirements of an  
944 extended congregate care license during the inspection shall be  
945 issued an extended congregate care license. In addition to  
946 sanctions authorized under this part, if violations are found  
947 during the inspection and the licensee fails to demonstrate  
948 compliance with all assisted living facility requirements during  
949 a followup inspection, the licensee shall immediately suspend  
950 extended congregate care services, and the provisional extended  
951 congregate care license expires. The agency may extend the  
952 provisional license for not more than 1 month in order to  
953 complete a followup visit.

954 3. A facility that is licensed to provide extended  
955 congregate care services shall maintain a written progress  
956 report on each person who receives services which describes the  
957 type, amount, duration, scope, and outcome of services that are  
958 rendered and the general status of the resident's health. A  
959 registered nurse, or appropriate designee, representing the  
960 agency shall visit the facility at least twice a year to monitor  
961 residents who are receiving extended congregate care services  
962 and to determine if the facility is in compliance with this  
963 part, part II of chapter 408, and relevant rules. One of the  
964 visits may be in conjunction with the regular survey. The  
965 monitoring visits may be provided through contractual  
966 arrangements with appropriate community agencies. A registered  
967 nurse shall serve as part of the team that inspects the



458958

968 facility. The agency may waive one of the required yearly  
969 monitoring visits for a facility that has:

970 a. Held an extended congregate care license for at least 24  
971 months;

972 b. No class I or class II violations and no uncorrected  
973 class III violations; and

974 c. No ombudsman council complaints that resulted in a  
975 citation for licensure.

976 4. A facility that is licensed to provide extended  
977 congregate care services must:

978 a. Demonstrate the capability to meet unanticipated  
979 resident service needs.

980 b. Offer a physical environment that promotes a homelike  
981 setting, provides for resident privacy, promotes resident  
982 independence, and allows sufficient congregate space as defined  
983 by rule.

984 c. Have sufficient staff available, taking into account the  
985 physical plant and firesafety features of the building, to  
986 assist with the evacuation of residents in an emergency.

987 d. Adopt and follow policies and procedures that maximize  
988 resident independence, dignity, choice, and decisionmaking to  
989 permit residents to age in place, so that moves due to changes  
990 in functional status are minimized or avoided.

991 e. Allow residents or, if applicable, a resident's  
992 representative, designee, surrogate, guardian, or attorney in  
993 fact to make a variety of personal choices, participate in  
994 developing service plans, and share responsibility in  
995 decisionmaking.

996 f. Implement the concept of managed risk.



458958

997 g. Provide, directly or through contract, the services of a  
998 person licensed under part I of chapter 464.

999 h. In addition to the training mandated in s. 429.52,  
1000 provide specialized training as defined by rule for facility  
1001 staff.

1002 5. A facility that is licensed to provide extended  
1003 congregate care services is exempt from the criteria for  
1004 continued residency set forth in rules adopted under s. 429.41.  
1005 A licensed facility must adopt its own requirements within  
1006 guidelines for continued residency set forth by rule. However,  
1007 the facility may not serve residents who require 24-hour nursing  
1008 supervision. A licensed facility that provides extended  
1009 congregate care services must also provide each resident with a  
1010 written copy of facility policies governing admission and  
1011 retention.

1012 6. Before the admission of an individual to a facility  
1013 licensed to provide extended congregate care services, the  
1014 individual must undergo a medical examination as provided in s.  
1015 429.26(5) ~~s. 429.26(4)~~ and the facility must develop a  
1016 preliminary service plan for the individual.

1017 7. If a facility can no longer provide or arrange for  
1018 services in accordance with the resident's service plan and  
1019 needs and the facility's policy, the facility must make  
1020 arrangements for relocating the person in accordance with s.  
1021 429.28(1)(k).

1022 Section 13. This act shall take effect July 1, 2019.

1023  
1024 ===== T I T L E A M E N D M E N T =====  
1025 And the title is amended as follows:





458958

1026 Delete everything before the enacting clause  
1027 and insert:

1028 A bill to be entitled  
1029 An act relating to assisted living facilities;  
1030 amending s. 429.02, F.S.; defining and redefining  
1031 terms; amending s. 429.11, F.S.; prohibiting a county  
1032 or municipality from issuing a business tax receipt,  
1033 rather than an occupational license, to an assisted  
1034 living facility under certain circumstances; amending  
1035 s. 429.176, F.S.; amending educational requirements  
1036 for an administrator who is replacing another  
1037 administrator; amending s. 429.23, F.S.; requiring a  
1038 facility to initiate an investigation of an adverse  
1039 incident within 24 hours and provide a report of such  
1040 investigation to the Agency for Health Care  
1041 Administration within 15 days; amending s. 429.255,  
1042 F.S.; authorizing a facility resident or his or her  
1043 representative to contract with a third party under  
1044 certain circumstances; amending s. 429.256, F.S.;  
1045 requiring a person assisting with a resident's self-  
1046 administration of medication to confirm that the  
1047 medication is intended for that resident and to orally  
1048 advise the resident of the medication name and  
1049 purpose; amending s. 429.26, F.S.; including medical  
1050 examinations within criteria used for admission to an  
1051 assisted living facility; providing specified criteria  
1052 for determinations of appropriateness for admission  
1053 and continued residency at an assisted living  
1054 facility; defining the term "bedridden"; requiring



458958

1055 that a resident receive a medical examination within a  
1056 specified timeframe after admission to a facility;  
1057 requiring that such examination be recorded on a  
1058 specified form; providing minimum requirements for  
1059 such form; revising provisions relating to the  
1060 placement of residents by the Department of Elderly  
1061 Affairs or the Department of Children and Families;  
1062 requiring a facility to notify a resident's  
1063 representative or designee of the need for health care  
1064 services and authorizing the facility to assist in  
1065 making appointments for such care and services under  
1066 certain circumstances; removing provisions relating to  
1067 the retention of certain residents in a facility;  
1068 amending s. 429.28, F.S.; revising residents' rights  
1069 relating to a safe and secure living environment;  
1070 amending s. 429.41, F.S.; removing provisions relating  
1071 to firesafety requirements; removing an obsolete  
1072 provision; requiring, rather than authorizing, the  
1073 Agency for Health Care Administration to use an  
1074 abbreviated biennial standard licensure inspection;  
1075 revising the criteria under which a facility must be  
1076 fully inspected; revising provisions requiring the  
1077 agency to develop key quality-of-care standards;  
1078 creating s. 429.435, F.S.; revising uniform firesafety  
1079 standards for assisted living facilities, which are  
1080 relocated to this section; amending s. 429.52, F.S.;  
1081 revising provisions relating to facility staff  
1082 training requirements; requiring the Department of  
1083 Elderly Affairs to establish core training



458958

1084 requirements for facility administrators; revising the  
1085 training and continuing education requirements for  
1086 facility staff who assist residents with the self-  
1087 administration of medications; revising provisions  
1088 relating to the training responsibilities of the  
1089 Department of Elderly Affairs and the Agency for  
1090 Health Care Administration; requiring the Department  
1091 of Elderly Affairs to contract with another entity to  
1092 administer the competency test; requiring the  
1093 department to adopt a curriculum outline to be used by  
1094 core trainers; amending s. 429.07, F.S.; conforming a  
1095 cross-reference; providing an effective date.



854610

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
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The Committee on Children, Families, and Elder Affairs (Harrell) recommended the following:

**Senate Amendment to Amendment (458958) (with title amendment)**

Delete line 374

and insert:

care services and must assist in making appointments for ~~shall~~

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

And the title is amended as follows:

Delete line 1064



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11 and insert:  
12 services and to assist in

By Senator Harrell

25-01786-19

20191592\_\_

1 A bill to be entitled  
 2 An act relating to assisted living facilities;  
 3 amending s. 429.11, F.S.; updating obsolete language;  
 4 amending s. 429.19, F.S.; clarifying that specified  
 5 provisions of law do not apply to assisted living  
 6 facilities and prohibiting the Agency for Health Care  
 7 Administration from citing facilities or imposing  
 8 fines on such facilities under those provisions;  
 9 amending s. 429.23, F.S.; encouraging facilities to  
 10 take certain measures to provide for the general  
 11 security of residents, staff, and the facility;  
 12 amending s. 429.255, F.S.; clarifying that a resident  
 13 and specified persons may contract with a third party  
 14 for services under certain circumstances; amending s.  
 15 429.26, F.S.; requiring an owner's or administrator's  
 16 determination of an individual's appropriateness of  
 17 admission to include a medical examination and to  
 18 follow specified guidelines; defining the term  
 19 "bedridden"; authorizing an advanced practice  
 20 registered nurse to provide an initial examination of  
 21 such individuals; requiring information from the  
 22 medical examination to be signed and recorded on a  
 23 certain form; requiring a medical examination form  
 24 including specified information to be provided by the  
 25 agency; removing provisions related to the placement  
 26 of an individual by the Department of Elderly Affairs;  
 27 requiring a facility to notify the resident's  
 28 representative or designee when a resident exhibits  
 29 signs of dementia or cognitive impairment and an

Page 1 of 27

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25-01786-19

20191592\_\_

30 underlying condition is determined to exist which  
 31 requires treatment; removing the requirement that a  
 32 facility arrange for the provision of health care  
 33 services to treat such a condition; removing a  
 34 provision relating to the continued residency of  
 35 terminally ill patients and residents who require 24-  
 36 hour nursing services; amending s. 429.28, F.S.;  
 37 expanding the residents' bill of rights to include  
 38 compliance with certain firesafety standards,  
 39 environmental health and safety practices, and  
 40 security procedures; amending s. 429.41, F.S.;  
 41 revising legislative intent; removing the requirement  
 42 that the Department of Elderly Affairs, in  
 43 consultation with the agency, the Department of  
 44 Children and Families, and the Department of Health  
 45 adopt certain rules; authorizing the Department of  
 46 Elderly Affairs, in consultation with the agency, the  
 47 Department of Children and Families, and the  
 48 Department of Health to adopt certain rules that  
 49 include specified standards; removing provisions  
 50 relating to firesafety standards and inspections which  
 51 are relocated to s. 429.435, F.S.; removing a  
 52 provision requiring the Department of Elderly Affairs  
 53 to submit a copy of proposed rules to the Legislature;  
 54 requiring rather than authorizing the agency to use a  
 55 biennial standard licensure inspection; creating s.  
 56 429.435, F.S.; relocating existing provisions relating  
 57 to firesafety standards and inspections; amending s.  
 58 429.52, F.S.; requiring the Department of Elderly

Page 2 of 27

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25-01786-19

20191592\_\_

59 Affairs to establish core training requirements for  
60 facility administrators; revising continuing education  
61 and training requirements for certain facility staff;  
62 removing the authority of the Department of Elderly  
63 Affairs to require, provide, or cause to be provided,  
64 training for staff in a facility; providing an  
65 effective date.

66  
67 Be It Enacted by the Legislature of the State of Florida:

68  
69 Section 1. Subsection (7) of section 429.11, Florida  
70 Statutes, is amended to read:

71 429.11 Initial application for license; provisional  
72 license.—

73 (7) A county or municipality may not issue a business tax  
74 receipt ~~an occupational license~~ that is being obtained for the  
75 purpose of operating a facility regulated under this part  
76 without first ascertaining that the applicant has been licensed  
77 to operate such facility at the specified location or locations  
78 by the agency. The agency shall furnish to local agencies  
79 responsible for issuing business tax receipts ~~occupational~~  
80 ~~licenses~~ sufficient instruction for making such determinations.

81 Section 2. Subsection (1) of section 429.19, Florida  
82 Statutes, is amended to read:

83 429.19 Violations; imposition of administrative fines;  
84 grounds.—

85 (1) In addition to the requirements of part II of chapter  
86 408, the agency shall impose an administrative fine in the  
87 manner provided in chapter 120 for the violation of any

Page 3 of 27

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25-01786-19

20191592\_\_

88 provision of this part, part II of chapter 408, and applicable  
89 rules by an assisted living facility, for the actions of any  
90 person subject to level 2 background screening under s. 408.809,  
91 for the actions of any facility employee, or for an intentional  
92 or negligent act seriously affecting the health, safety, or  
93 welfare of a resident of the facility. Parts II, III, and IV of  
94 chapter 400 are not applicable to assisted living facilities,  
95 and the agency may not cite a facility for a violation of those  
96 parts or impose a fine for any such violation.

97 Section 3. Present subsection (10) of section 429.23,  
98 Florida Statutes, is redesignated as subsection (11), and a new  
99 subsection (10) is added to that section, to read:

100 429.23 Internal risk management and quality assurance  
101 program; adverse incidents and reporting requirements.—

102 (10) Facilities are encouraged to use safety devices,  
103 equipment, security measures, wander management, care sensing,  
104 and staff risk management to provide for the general security of  
105 residents, staff, and the facility.

106 Section 4. Paragraph (a) of subsection (1) of section  
107 429.255, Florida Statutes, is amended to read:

108 429.255 Use of personnel; emergency care.—

109 (1)(a) Persons under contract to the facility, facility  
110 staff, or volunteers, who are licensed ~~under according to~~ part I  
111 of chapter 464, or those persons exempt under s. 464.022(1), and  
112 others as defined by rule, may administer medications to  
113 residents, take residents' vital signs, manage individual weekly  
114 pill organizers for residents who self-administer medication,  
115 give prepackaged enemas ordered by a physician, observe  
116 residents, document observations on the appropriate resident's

Page 4 of 27

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25-01786-19 20191592\_\_  
 117 record, and report observations to the resident's physician, ~~and~~  
 118 ~~contract or allow residents. A resident~~ or a resident's  
 119 representative, designee, surrogate, guardian, or attorney in  
 120 fact ~~may~~ to contract with a third party for services, provided  
 121 that the resident meets ~~residents meet~~ the criteria for  
 122 appropriate placement as defined in s. 429.26. Nursing  
 123 assistants certified pursuant to part II of chapter 464 may take  
 124 residents' vital signs as directed by a licensed nurse or  
 125 physician.

126 Section 5. Section 429.26, Florida Statutes, is amended to  
 127 read:

128 429.26 Appropriateness of placements; examinations of  
 129 residents.-

130 (1) The owner or administrator of a facility is responsible  
 131 for determining the appropriateness of admission of an  
 132 individual to the facility and for determining the continued  
 133 appropriateness of residence of an individual in the facility. A  
 134 determination must ~~shall~~ be based upon the owner's or  
 135 administrator's evaluation ~~an assessment~~ of the strengths,  
 136 needs, and preferences of the resident; a medical examination;  
 137 the care and services offered or arranged for by the facility in  
 138 accordance with facility policy; and any limitations in law or  
 139 rule related to admission criteria or continued residency for  
 140 the type of license held by the facility under this part. All of  
 141 the following guidelines apply to the determination of  
 142 appropriateness for residency and continued residency of an  
 143 individual in a facility:

144 (a) A facility may admit or retain a resident who receives  
 145 a health care service or treatment that is designed to be

25-01786-19 20191592\_\_  
 146 provided within a private residential setting if all  
 147 requirements for providing that service or treatment are met by  
 148 the facility or a third party.

149 (b) A facility may admit or retain a resident who requires  
 150 the use of safety and assistive devices for performing the  
 151 activities of daily living; for transfer, such as sit-to-stand  
 152 lifts; for preventing and addressing falls; and for addressing  
 153 elopement.

154 (c) A facility may not admit or retain a resident who  
 155 requires 24-hour nursing supervision except for a resident who  
 156 is enrolled in hospice services pursuant to part IV of chapter  
 157 400. An individual receiving hospice services may be admitted or  
 158 retained in a facility if the arrangement is agreed to by the  
 159 facility and the resident, additional care is provided by a  
 160 licensed hospice, and the resident is under the care of a  
 161 physician who agrees that the physical needs of the resident can  
 162 be met at the facility.

163 (d) A facility may not admit or retain a resident who is  
 164 bedridden. For purposes of this section, the term "bedridden"  
 165 means that the resident is confined to bed because of the  
 166 inability to ambulate; the inability to transfer to a wheelchair  
 167 without assistance; or the inability to sit safely in a chair or  
 168 wheelchair without personal assistance or the assistance of a  
 169 physical restraint.

170 1. A resident may be retained in a facility if, during  
 171 residency, the resident is bedridden for no more than 7  
 172 consecutive days.

173 2. If a facility is licensed to provide extended congregate  
 174 care, the resident may be retained in a facility if, during



25-01786-19 20191592\_\_

175 residency, the resident is bedridden for not more than 14  
 176 consecutive days.

177 3. A resident may be admitted or retained in a facility if  
 178 the resident meets the guidelines in paragraph (b) and is  
 179 enrolled in hospice services.

180  
 181 A resident may not be moved from one facility to another without  
 182 consultation with and agreement from the resident or, if  
 183 applicable, the resident's representative or designee or the  
 184 resident's family, guardian, surrogate, or attorney in fact. In  
 185 the case of a resident who has been placed by the ~~department of~~  
 186 ~~the~~ Department of Children and Families, the administrator must  
 187 notify the appropriate contact person in the ~~applicable~~  
 188 department.

189 (2) A physician, physician assistant, or advanced practice  
 190 registered nurse practitioner who is employed by an assisted  
 191 living facility to provide an initial examination for admission  
 192 purposes may not have financial interest in the facility.

193 (3) Persons licensed under part I of chapter 464 who are  
 194 employed by or under contract with a facility shall, on a  
 195 routine basis or at least monthly, perform a nursing assessment  
 196 of the residents for whom they are providing nursing services  
 197 ordered by a physician, except administration of medication, and  
 198 shall document such assessment, including any substantial  
 199 changes in a resident's status which may necessitate relocation  
 200 to a nursing home, hospital, or specialized health care  
 201 facility. Such records shall be maintained in the facility for  
 202 inspection by the agency and shall be forwarded to the  
 203 resident's case manager, if applicable.

Page 7 of 27

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25-01786-19 20191592\_\_

204 (4) ~~If possible,~~ Each resident must ~~shall~~ have been  
 205 examined by a licensed physician, a licensed physician  
 206 assistant, or a licensed advanced practice registered nurse  
 207 ~~practitioner~~ within 60 days before admission to the facility or  
 208 within 30 days after admission to the facility, except as  
 209 provided in s. 429.07. The information from the medical  
 210 examination may be recorded on the practitioner's form or on a  
 211 form provided by the agency. The ~~signed and~~ completed medical  
 212 examination form, signed by the practitioner, must ~~report shall~~  
 213 be submitted to the owner or administrator of the facility, who  
 214 shall use the information contained therein to assist in the  
 215 determination of the appropriateness of the resident's admission  
 216 and continued stay in the facility. The medical examination form  
 217 ~~becomes report shall become~~ a permanent part of the record of  
 218 the resident at the facility and shall be made available to the  
 219 agency during inspection or upon request. An assessment that has  
 220 been completed through the Comprehensive Assessment and Review  
 221 for Long-Term Care Services (CARES) Program fulfills the  
 222 requirements for a medical examination under this subsection and  
 223 s. 429.07(3)(b)6.

224 (5) The medical examination form provided by the agency  
 225 must include all of the following information relating to the  
 226 resident:

- 227 (a) Height, weight, and known allergies.
- 228 (b) Significant medical history and diagnoses.
- 229 (c) Physical or sensory limitations.
- 230 (d) Cognitive or behavioral status.
- 231 (e) Nursing, treatment, or therapy service requirements.
- 232 (f) Whether assistance or total care is needed for the

Page 8 of 27

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25-01786-19

20191592\_\_

233 activities of ambulating, eating, or transferring.  
 234 (g) Special dietary instructions.  
 235 (h) The existence of communicable diseases.  
 236 (i) Bedridden and pressure sore status.  
 237 (j) Whether the resident needs 24-hour nursing or  
 238 psychiatric care.  
 239 (k) A list of current prescribed medications, including,  
 240 for each such medication, the medication name; dosage;  
 241 directions for use; route; prescription quantity; and whether  
 242 the resident may self-administer medications, needs assistance,  
 243 or needs medication administration ~~Except as provided in s-~~  
 244 ~~429.07, if a medical examination has not been completed within~~  
 245 ~~60 days before the admission of the resident to the facility, a~~  
 246 ~~licensed physician, licensed physician assistant, or licensed~~  
 247 ~~nurse practitioner shall examine the resident and complete a~~  
 248 ~~medical examination form provided by the agency within 30 days~~  
 249 ~~following the admission to the facility to enable the facility~~  
 250 ~~owner or administrator to determine the appropriateness of the~~  
 251 ~~admission. The medical examination form shall become a permanent~~  
 252 ~~part of the record of the resident at the facility and shall be~~  
 253 ~~made available to the agency during inspection by the agency or~~  
 254 ~~upon request.~~  
 255 (6) Any resident accepted in a facility and placed by ~~the~~  
 256 ~~department or~~ the Department of Children and Families shall have  
 257 been examined by medical personnel within 30 days before  
 258 placement in the facility. The examination shall include an  
 259 assessment of the appropriateness of placement in a facility.  
 260 The findings of this examination shall be recorded on the  
 261 examination form provided by the agency. The completed form

Page 9 of 27

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25-01786-19

20191592\_\_

262 shall accompany the resident and shall be submitted to the  
 263 facility owner or administrator. Additionally, in the case of a  
 264 mental health resident, the Department of Children and Families  
 265 must provide documentation that the individual has been assessed  
 266 by a psychiatrist, clinical psychologist, clinical social  
 267 worker, or psychiatric nurse, or an individual who is supervised  
 268 by one of these professionals, and determined to be appropriate  
 269 to reside in an assisted living facility. The documentation must  
 270 be in the facility within 30 days after the mental health  
 271 resident has been admitted to the facility. An evaluation  
 272 completed upon discharge from a state mental hospital meets the  
 273 requirements of this subsection related to appropriateness for  
 274 placement as a mental health resident providing it was completed  
 275 within 90 days prior to admission to the facility. The  
 276 ~~applicable~~ Department of Children and Families shall provide to  
 277 the facility administrator any information about the resident  
 278 that would help the administrator meet his or her  
 279 responsibilities under subsection (1). Further, Department of  
 280 Children and Families personnel shall explain to the facility  
 281 operator any special needs of the resident and advise the  
 282 operator whom to call should problems arise. The ~~applicable~~  
 283 Department of Children and Families shall advise and assist the  
 284 facility administrator where the special needs of residents who  
 285 are recipients of optional state supplementation require such  
 286 assistance.  
 287 (7) The facility must notify a licensed physician when a  
 288 resident exhibits signs of dementia or cognitive impairment or  
 289 has a change of condition in order to rule out the presence of  
 290 an underlying physiological condition that may be contributing

Page 10 of 27

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25-01786-19

20191592\_\_

291 to such dementia or impairment. The notification must occur  
 292 within 30 days after the acknowledgment of such signs by  
 293 facility staff. If an underlying condition is determined to  
 294 exist, the facility shall notify the resident's representative  
 295 or designee of the need for health care ~~arrange, with the~~  
 296 ~~appropriate health care provider, the necessary care and~~  
 297 services to treat the condition.

298 (8) The Department of Children and Families may require an  
 299 examination for supplemental security income and optional state  
 300 supplementation recipients residing in facilities at any time  
 301 and shall provide the examination whenever a resident's  
 302 condition requires it. Any facility administrator; personnel of  
 303 the agency, the department, or the Department of Children and  
 304 Families; or a representative of the State Long-Term Care  
 305 Ombudsman Program who believes a resident needs to be evaluated  
 306 shall notify the resident's case manager, who shall take  
 307 appropriate action. A report of the examination findings shall  
 308 be provided to the resident's case manager and the facility  
 309 administrator to help the administrator meet his or her  
 310 responsibilities under subsection (1).

311 ~~(9) A terminally ill resident who no longer meets the~~  
 312 ~~criteria for continued residency may remain in the facility if~~  
 313 ~~the arrangement is mutually agreeable to the resident and the~~  
 314 ~~facility; additional care is rendered through a licensed~~  
 315 ~~hospice, and the resident is under the care of a physician who~~  
 316 ~~agrees that the physical needs of the resident are being met.~~

317 (9)(10) Facilities licensed to provide extended congregate  
 318 care services shall promote aging in place by determining  
 319 appropriateness of continued residency based on a comprehensive

25-01786-19

20191592\_\_

320 review of the resident's physical and functional status; the  
 321 ability of the facility, family members, friends, or any other  
 322 pertinent individuals or agencies to provide the care and  
 323 services required; and documentation that a written service plan  
 324 consistent with facility policy has been developed and  
 325 implemented to ensure that the resident's needs and preferences  
 326 are addressed.

327 ~~(11) No resident who requires 24-hour nursing supervision,~~  
 328 ~~except for a resident who is an enrolled hospice patient~~  
 329 ~~pursuant to part IV of chapter 400, shall be retained in a~~  
 330 ~~facility licensed under this part.~~

331 Section 6. Paragraphs (a) and (d) of subsection (1) of  
 332 section 429.28, Florida Statutes, are amended to read:

333 429.28 Resident bill of rights.—

334 (1) No resident of a facility shall be deprived of any  
 335 civil or legal rights, benefits, or privileges guaranteed by  
 336 law, the Constitution of the State of Florida, or the  
 337 Constitution of the United States as a resident of a facility.  
 338 Every resident of a facility shall have the right to:

339 (a) Live in a safe and decent living environment that meets  
 340 the requirements of the uniform firesafety standards established  
 341 under s. 633.206 and the environmental health and safety  
 342 practices established under ss. 381.006, 381.0072, and 381.0098,  
 343 and be free from abuse, and neglect, or exploitation as defined  
 344 in s. 415.102.

345 (d) Unrestricted private communication, including receiving  
 346 and sending unopened correspondence, access to a telephone, and  
 347 visiting with any person of his or her choice, at any time  
 348 between the hours of 9 a.m. and 9 p.m. at a minimum. Visitors

25-01786-19 20191592\_\_

349 must comply with the facility's security procedures and may not  
 350 pose a health or safety risk to any residents or staff. Upon  
 351 request, the facility shall make provisions to extend visiting  
 352 hours for caregivers and out-of-town guests, and in other  
 353 similar situations.

354 Section 7. Section 429.41, Florida Statutes, is amended to  
 355 read:

356 429.41 Rules establishing standards.—

357 (1) It is the intent of the Legislature that rules  
 358 published and enforced pursuant to this section shall include  
 359 criteria by which a reasonable and consistent quality of  
 360 resident care and quality of life may be promoted ensured and  
 361 the results of such resident care may be demonstrated. Such  
 362 rules shall also must promote ensure a safe and sanitary  
 363 environment that is residential and noninstitutional in design  
 364 or nature and that allows for technological advances in the  
 365 provision of care, safety, and security. It is further intended  
 366 that reasonable efforts be made to accommodate the needs and  
 367 preferences of residents to enhance the quality of life in a  
 368 facility. ~~Uniform firesafety standards for assisted living~~  
 369 ~~facilities shall be established by the State Fire Marshal~~  
 370 ~~pursuant to s. 633.206.~~ The agency, in consultation with the  
 371 department, may adopt rules to administer the requirements of  
 372 part II of chapter 408. ~~In order to provide safe and sanitary~~  
 373 ~~facilities and the highest quality of resident care~~  
 374 ~~accommodating the needs and preferences of residents,~~ The  
 375 department, in consultation with the agency, the Department of  
 376 Children and Families, and the Department of Health, may shall  
 377 adopt rules, policies, and procedures to administer this part,

Page 13 of 27

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25-01786-19 20191592\_\_

378 which must include reasonable and fair minimum standards in  
 379 relation to:

380 (a) The requirements for ~~and~~ maintenance and the sanitary  
 381 condition of facilities, not in conflict with, or duplicative  
 382 of, the requirements in chapter 381 or chapter 553 and the rules  
 383 adopted thereunder, relating to furnishings for residents'  
 384 bedrooms or sleeping areas, locking devices, linens, laundry  
 385 services plumbing, heating, cooling, lighting, ventilation,  
 386 living space, and similar physical plant standards ~~other housing~~  
 387 ~~conditions,~~ which will reasonably promote ensure the health,  
 388 safety, and welfare ~~comfort~~ of residents suitable to the size of  
 389 the structure. The rules must clearly delineate the  
 390 responsibilities of the agency's licensure and survey staff and  
 391 the county health departments and ensure that inspections are  
 392 not duplicative. The agency may collect fees for food service  
 393 inspections conducted by the county health departments and shall  
 394 transfer such fees to the Department of Health.

395 1. ~~Firesafety evacuation capability determination.—An~~  
 396 ~~evacuation capability evaluation for initial licensure shall be~~  
 397 ~~conducted within 6 months after the date of licensure.~~

398 2. ~~Firesafety requirements.—~~

399 a. ~~The National Fire Protection Association, Life Safety~~  
 400 ~~Code, NFPA 101 and 101A, current editions, shall be used in~~  
 401 ~~determining the uniform firesafety code adopted by the State~~  
 402 ~~Fire Marshal for assisted living facilities, pursuant to s.~~  
 403 ~~633.206.~~

404 b. ~~A local government or a utility may charge fees only in~~  
 405 ~~an amount not to exceed the actual expenses incurred by the~~  
 406 ~~local government or the utility relating to the installation and~~

Page 14 of 27

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25-01786-19

20191592\_\_

407 ~~maintenance of an automatic fire sprinkler system in a licensed~~  
 408 ~~assisted living facility structure.~~

409 ~~e. All licensed facilities must have an annual fire~~  
 410 ~~inspection conducted by the local fire marshal or authority~~  
 411 ~~having jurisdiction.~~

412 ~~d. An assisted living facility that is issued a building~~  
 413 ~~permit or certificate of occupancy before July 1, 2016, may at~~  
 414 ~~its option and after notifying the authority having~~  
 415 ~~jurisdiction, remain under the provisions of the 1994 and 1995~~  
 416 ~~editions of the National Fire Protection Association, Life~~  
 417 ~~Safety Code, NFPA 101, and NFPA 101A. The facility opting to~~  
 418 ~~remain under such provisions may make repairs, modernizations,~~  
 419 ~~renovations, or additions to, or rehabilitate, the facility in~~  
 420 ~~compliance with NFPA 101, 1994 edition, and may utilize the~~  
 421 ~~alternative approaches to life safety in compliance with NFPA~~  
 422 ~~101A, 1995 edition. However, a facility for which a building~~  
 423 ~~permit or certificate of occupancy is issued before July 1,~~  
 424 ~~2016, that undergoes Level III building alteration or~~  
 425 ~~rehabilitation, as defined in the Florida Building Code, or~~  
 426 ~~seeks to utilize features not authorized under the 1994 or 1995~~  
 427 ~~editions of the Life Safety Code must thereafter comply with all~~  
 428 ~~aspects of the uniform firesafety standards established under s.~~  
 429 ~~633.206, and the Florida Fire Prevention Code, in effect for~~  
 430 ~~assisted living facilities as adopted by the State Fire Marshal.~~

431 ~~3. Resident elopement requirements. Facilities are required~~  
 432 ~~to conduct a minimum of two resident elopement prevention and~~  
 433 ~~response drills per year. All administrators and direct care~~  
 434 ~~staff must participate in the drills which shall include a~~  
 435 ~~review of procedures to address resident elopement. Facilities~~

Page 15 of 27

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25-01786-19

20191592\_\_

436 ~~must document the implementation of the drills and ensure that~~  
 437 ~~the drills are conducted in a manner consistent with the~~  
 438 ~~facility's resident elopement policies and procedures.~~

439 (b) The preparation and annual update of a comprehensive  
 440 emergency management plan. Such standards must be included in  
 441 the rules adopted by the department after consultation with the  
 442 Division of Emergency Management. At a minimum, the rules must  
 443 provide for plan components that address emergency evacuation  
 444 transportation; adequate sheltering arrangements; postdisaster  
 445 activities, including provision of emergency power, food, and  
 446 water; postdisaster transportation; supplies; staffing;  
 447 emergency equipment; individual identification of residents and  
 448 transfer of records; communication with families; and responses  
 449 to family inquiries. The comprehensive emergency management plan  
 450 is subject to review and approval by the local emergency  
 451 management agency. During its review, the local emergency  
 452 management agency shall ensure that the following agencies, at a  
 453 minimum, are given the opportunity to review the plan: the  
 454 Department of Elderly Affairs, the Department of Health, the  
 455 Agency for Health Care Administration, and the Division of  
 456 Emergency Management. Also, appropriate volunteer organizations  
 457 must be given the opportunity to review the plan. The local  
 458 emergency management agency shall complete its review within 60  
 459 days and either approve the plan or advise the facility of  
 460 necessary revisions.

461 (c) The number, training, and qualifications of all  
 462 personnel having responsibility for the care of residents. The  
 463 rules must require adequate staff to provide for the safety of  
 464 all residents. Facilities licensed for 17 or more residents are

Page 16 of 27

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25-01786-19

20191592\_\_

465 required to maintain an alert staff for 24 hours per day.

466 ~~(d) All sanitary conditions within the facility and its~~  
 467 ~~surroundings which will ensure the health and comfort of~~  
 468 ~~residents. The rules must clearly delineate the responsibilities~~  
 469 ~~of the agency's licensure and survey staff, the county health~~  
 470 ~~departments, and the local authority having jurisdiction over~~  
 471 ~~firesafety and ensure that inspections are not duplicative. The~~  
 472 ~~agency may collect fees for food service inspections conducted~~  
 473 ~~by the county health departments and transfer such fees to the~~  
 474 ~~Department of Health.~~

475 (d)(e) Licensure requirements not in conflict with part II  
 476 of chapter 408 License application and license renewal, transfer  
 477 of ownership, proper management of resident funds and personal  
 478 property, surety bonds, resident contracts, refund policies,  
 479 financial ability to operate, and facility and staff records.

480 (e)(f) Inspections, complaint investigations, moratoriums,  
 481 classification of deficiencies, levying and enforcement of  
 482 penalties, and use of income from fees and fines.

483 (f)(g) The enforcement of the resident bill of rights  
 484 specified in s. 429.28.

485 (g)(h) The care and maintenance of residents, which must  
 486 allow for technological advances in the provision of care,  
 487 safety, and security, including include, but is not limited to:

- 488 1. The supervision of residents;
- 489 2. The provision of personal services;
- 490 3. The provision of, or arrangement for, social and leisure
- 491 activities;
- 492 4. The provision of assistance in making arrangements
- 493 arrangement for appointments and transportation to appropriate

Page 17 of 27

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25-01786-19

20191592\_\_

494 medical, dental, nursing, or mental health services, as needed  
 495 by residents;

496 5. The management of medication stored within the facility  
 497 and as needed by residents;

498 6. The dietary ~~nutritional~~ needs of residents;

499 7. Resident records, including services provided by the  
 500 facility; and

501 8. Internal risk management and quality assurance.

502 (h)(i) Facilities holding a limited nursing, extended  
 503 congregate care, or limited mental health license.

504 (i)(j) The establishment of specific criteria to define  
 505 appropriateness of resident admission and continued residency in  
 506 a facility holding a standard, limited nursing, extended  
 507 congregate care, and limited mental health license.

508 (j)(k) The use of physical or chemical restraints. The use  
 509 of physical restraints is limited to half-bed rails and other  
 510 measures as prescribed and documented by the resident's  
 511 physician with the consent of the resident or, if applicable,  
 512 the resident's representative or designee or the resident's  
 513 surrogate, guardian, or attorney in fact. The use of chemical  
 514 restraints is limited to prescribed dosages of medications  
 515 authorized by the resident's physician and must be consistent  
 516 with the resident's diagnosis. Residents who are receiving  
 517 medications that can serve as chemical restraints must be  
 518 evaluated by their physician at least annually to assess:

- 519 1. The continued need for the medication.
- 520 2. The level of the medication in the resident's blood.
- 521 3. The need for adjustments in the prescription.

522 (k)(l) Resident elopement drill requirements ~~The~~

Page 18 of 27

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25-01786-19

20191592\_\_

523 ~~establishment of specific policies and procedures on resident~~  
 524 ~~elopement.~~ Facilities shall conduct a minimum of two resident  
 525 elopement drills each year. All administrators and direct care  
 526 staff shall participate in the drills, which must include a  
 527 review of the facility's procedures to address resident  
 528 elopement. Facilities shall document the drills.

529 (2) In adopting any rules pursuant to this part, the  
 530 department, in conjunction with the agency, shall make distinct  
 531 standards for facilities based upon facility size; the types of  
 532 care provided; the physical and mental capabilities and needs of  
 533 residents; the type, frequency, and amount of services and care  
 534 offered; and the staffing characteristics of the facility. Rules  
 535 developed pursuant to this section may not restrict the use of  
 536 shared staffing and shared programming in facilities that are  
 537 part of retirement communities that provide multiple levels of  
 538 care and otherwise meet the requirements of law and rule. If a  
 539 continuing care facility licensed under chapter 651 or a  
 540 retirement community offering multiple levels of care licenses a  
 541 building or part of a building designated for independent living  
 542 for assisted living, staffing requirements established in rule  
 543 apply only to residents who receive personal, limited nursing,  
 544 or extended congregate care services under this part. Such  
 545 facilities shall retain a log listing the names and unit number  
 546 for residents receiving these services. The log must be  
 547 available to surveyors upon request. ~~Except for uniform~~  
 548 ~~firesafety standards,~~ The department shall adopt by rule  
 549 separate and distinct standards for facilities with 16 or fewer  
 550 beds and for facilities with 17 or more beds. The standards for  
 551 facilities with 16 or fewer beds must be appropriate for a

Page 19 of 27

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25-01786-19

20191592\_\_

552 noninstitutional residential environment; however, the structure  
 553 may not be more than two stories in height and all persons who  
 554 cannot exit the facility unassisted in an emergency must reside  
 555 on the first floor. The department, in conjunction with the  
 556 agency, may make other distinctions among types of facilities as  
 557 necessary to enforce this part. Where appropriate, the agency  
 558 shall offer alternate solutions for complying with established  
 559 standards, based on distinctions made by the department and the  
 560 agency relative to the physical characteristics of facilities  
 561 and the types of care offered.

562 (3) ~~The department shall submit a copy of proposed rules to~~  
 563 ~~the Speaker of the House of Representatives, the President of~~  
 564 ~~the Senate, and appropriate committees of substance for review~~  
 565 ~~and comment prior to the promulgation thereof.~~ Rules adopted  
 566 promulgated by the department shall encourage the development of  
 567 homelike facilities which promote the dignity, individuality,  
 568 personal strengths, and decisionmaking ability of residents.

569 (4) The agency, in consultation with the department, may  
 570 waive rules promulgated pursuant to this part in order to  
 571 demonstrate and evaluate innovative or cost-effective congregate  
 572 care alternatives which enable individuals to age in place. Such  
 573 waivers may be granted only in instances where there is  
 574 reasonable assurance that the health, safety, or welfare of  
 575 residents will not be endangered. To apply for a waiver, the  
 576 licensee shall submit to the agency a written description of the  
 577 concept to be demonstrated, including goals, objectives, and  
 578 anticipated benefits; the number and types of residents who will  
 579 be affected, if applicable; a brief description of how the  
 580 demonstration will be evaluated; and any other information

Page 20 of 27

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25-01786-19

20191592\_\_

581 deemed appropriate by the agency. Any facility granted a waiver  
 582 shall submit a report of findings to the agency and the  
 583 department within 12 months. At such time, the agency may renew  
 584 or revoke the waiver or pursue any regulatory or statutory  
 585 changes necessary to allow other facilities to adopt the same  
 586 practices. The department may by rule clarify terms and  
 587 establish waiver application procedures, criteria for reviewing  
 588 waiver proposals, and procedures for reporting findings, as  
 589 necessary to implement this subsection.

590 (5) The agency shall ~~may~~ use an abbreviated biennial  
 591 standard licensure inspection that consists of a review of key  
 592 quality-of-care standards in lieu of a full inspection in a  
 593 facility that has a good record of past performance. However, a  
 594 full inspection must be conducted in a facility that has a  
 595 history of class I or class II violations, uncorrected class III  
 596 violations, a long-term care ombudsman complaint referred to a  
 597 regulatory agency for further action ~~confirmed ombudsman council~~  
 598 ~~complaints~~, or confirmed licensure complaints, within the  
 599 previous licensure period immediately preceding the inspection  
 600 or if a potentially serious problem is identified during the  
 601 abbreviated inspection. The agency, ~~in consultation with the~~  
 602 ~~department~~, shall develop the key quality-of-care standards with  
 603 ~~input from the State Long-Term Care Ombudsman Council and~~  
 604 ~~representatives of provider groups~~ for incorporation into its  
 605 rules.

606 Section 8. Section 429.435, Florida Statutes, is created to  
 607 read:

608 429.435 Uniform firesafety standards.-Pursuant to s.  
 609 633.206, the State Fire Marshal shall establish uniform

25-01786-19

20191592\_\_

610 firesafety standards for assisted living facilities.

611 (1) CAPABILITY DETERMINATION.-A firesafety evacuation  
 612 capability determination shall be made within 6 months after the  
 613 date of a facility's initial licensure.

614 (2) FIRESAFETY REQUIREMENTS.-

615 (a) The National Fire Protection Association, Life Safety  
 616 Code, NFPA 101 and 101A, current editions, must be used in  
 617 determining the uniform firesafety code adopted by the State  
 618 Fire Marshal for assisted living facilities.

619 (b) A local government or a utility may charge fees only in  
 620 an amount not to exceed the actual expenses incurred by the  
 621 local government or the utility relating to the installation and  
 622 maintenance of an automatic fire sprinkler system in a licensed  
 623 assisted living facility structure.

624 (c) All licensed facilities must be annually inspected by  
 625 the local fire marshal or authority having jurisdiction for  
 626 compliance with this section.

627 (d) An assisted living facility that was issued a building  
 628 permit or certificate of occupancy before July 1, 2016, at its  
 629 option and after notifying the authority having jurisdiction,  
 630 may remain under the provisions of the 1994 and 1995 editions of  
 631 the National Fire Protection Association, Life Safety Code, NFPA  
 632 101, and NFPA 101A. The facility opting to remain under those  
 633 provisions may make repairs, modernizations, renovations, or  
 634 additions to, or may rehabilitate, the facility in compliance  
 635 with NFPA 101, 1994 edition, and may utilize the alternative  
 636 approaches to life safety in compliance with NFPA 101A, 1995  
 637 edition. However, a facility for which a building permit or  
 638 certificate of occupancy is issued before July 1, 2016, which



25-01786-19 20191592\_\_  
 639 undergoes Level III building alteration or rehabilitation, as  
 640 defined in the Florida Building Code, or seeks to utilize  
 641 features not authorized under the 1994 or 1995 editions of the  
 642 Life Safety Code must thereafter comply with all aspects of the  
 643 uniform firesafety standards established under s. 633.206, and  
 644 the Florida Fire Prevention Code, in effect for assisted living  
 645 facilities as adopted by the State Fire Marshal.

646 Section 9. Section 429.52, Florida Statutes, is amended to  
 647 read:

648 429.52 Staff training ~~and educational programs~~; core  
 649 educational requirement.—

650 (1) ~~Effective October 1, 2015~~, Each new assisted living  
 651 facility employee who has not previously completed core training  
 652 must attend a preservice orientation provided by the facility  
 653 before interacting with residents. The preservice orientation  
 654 must be at least 2 hours in duration and cover topics that help  
 655 the employee provide responsible care and respond to the needs  
 656 of facility residents. Upon completion, the employee and the  
 657 administrator of the facility must sign a statement that the  
 658 employee completed the required preservice orientation. The  
 659 facility must keep the signed statement in the employee's  
 660 personnel record.

661 (2) Administrators and other assisted living facility staff  
 662 must meet minimum training ~~and education~~ requirements  
 663 established by the Department of Elderly Affairs by rule. This  
 664 training ~~and education~~ is intended to assist facilities to  
 665 appropriately respond to the needs of residents, to maintain  
 666 resident care and facility standards, and to meet licensure  
 667 requirements.

25-01786-19 20191592\_\_  
 668 (3) The department shall establish core training  
 669 requirements for administrators which consist of minimum core  
 670 training and a competency test. The ~~and a~~ minimum required score  
 671 for passage to indicate successful completion of the core  
 672 competency test is 75 percent ~~training and educational~~  
 673 ~~requirements~~. The competency test must be developed by the  
 674 department in conjunction with the agency and providers. The  
 675 required competency test ~~training and education~~ must cover at  
 676 least the following topics:  
 677 (a) State law and rules relating to assisted living  
 678 facilities.  
 679 (b) Resident rights and identifying and reporting abuse,  
 680 neglect, and exploitation.  
 681 (c) Special needs of elderly persons, persons with mental  
 682 illness, and persons with developmental disabilities and how to  
 683 meet those needs.  
 684 (d) Nutrition and food service, including acceptable  
 685 sanitation practices for preparing, storing, and serving food.  
 686 (e) Medication management, recordkeeping, and proper  
 687 techniques for assisting residents with self-administered  
 688 medication.  
 689 (f) Firesafety requirements, including fire evacuation  
 690 drill procedures and other emergency procedures.  
 691 (g) Care of persons with Alzheimer's disease and related  
 692 disorders.  
 693 (4) A ~~new~~ facility administrator must complete the required  
 694 core training and education, including the competency test,  
 695 within 90 days after the date of employment as an administrator.  
 696 Failure to do so is a violation of this part and subjects the

25-01786-19 20191592\_\_

697 violator to an administrative fine as prescribed in s. 429.19.  
 698 Administrators licensed in accordance with part II of chapter  
 699 468 are exempt from this requirement. Other licensed  
 700 professionals may be exempted, as determined by the department  
 701 by rule.

702 (5) Administrators are required to participate in  
 703 continuing education for a minimum of 12 contact hours every 2  
 704 years.

705 (6) ~~Before Staff involved with the management of~~  
 706 ~~medications and assisting with the self-administration of~~  
 707 ~~medications under s. 429.256, staff~~ must complete a minimum of 6  
 708 ~~additional~~ hours of training provided by a registered nurse or  
 709 a licensed pharmacist, or department staff. Two hours of  
 710 continuing education is required annually thereafter. The  
 711 department shall establish by rule the minimum requirements of  
 712 this ~~additional~~ training.

713 (7) Other facility staff shall participate in in-service  
 714 training relevant to their job duties as specified by rule of  
 715 the department. Topics covered during the preservice orientation  
 716 are not required to be repeated during in-service training. A  
 717 single certificate of completion that covers all required in-  
 718 service training topics may be issued to a participating staff  
 719 member if the training is provided in a single training session.

720 (8) If the ~~department or the~~ agency determines that there  
 721 are problems in a facility which that could be reduced through  
 722 specific staff training ~~or education~~ beyond that already  
 723 required under this section, the ~~department or the~~ agency may  
 724 require, and provide, or cause to be provided, the training ~~or~~  
 725 ~~education~~ of any personal care staff in the facility.

25-01786-19 20191592\_\_

726 (9) The department shall adopt rules related to these  
 727 training requirements, the competency test, necessary  
 728 procedures, and competency test fees and shall adopt or contract  
 729 with another entity to develop and administer the competency  
 730 test. The department must also adopt a curriculum outline to be  
 731 used by core trainers, which shall be used as the minimum core  
 732 training content requirements. The department shall consult with  
 733 representatives of stakeholder associations and agencies in the  
 734 development of the curriculum outline.

735 (10) The core training required by this section ~~other than~~  
 736 ~~the preservice orientation~~ must be conducted by persons  
 737 registered with the department as having the requisite  
 738 experience and credentials to conduct the training. A person  
 739 seeking to register as a core trainer must provide the  
 740 department with proof of completion of the ~~minimum~~ core training  
 741 ~~education~~ requirements, successful passage of the competency  
 742 test established under this section, and proof of compliance  
 743 with the continuing education requirement in subsection (5).

744 (11) A person seeking to register as a core trainer must  
 745 also:

746 (a) Provide proof of completion of a 4-year degree from an  
 747 accredited college or university and must have worked in a  
 748 management position in an assisted living facility for 3 years  
 749 after being core certified;

750 (b) Have worked in a management position in an assisted  
 751 living facility for 5 years after being core certified and have  
 752 1 year of teaching experience as an educator or staff trainer  
 753 for persons who work in assisted living facilities or other  
 754 long-term care settings;

25-01786-19

20191592\_\_

755 (c) Have been previously employed as a core trainer for the  
756 department; or

757 (d) Meet other qualification criteria as defined in rule,  
758 which the department is authorized to adopt.

759 (12) The department shall adopt rules to establish trainer  
760 registration requirements.

761 Section 10. This act shall take effect July 1, 2019.



# 2019 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY:** Agency for Health Care Administration

<u>BILL INFORMATION</u>	
<b>BILL NUMBER:</b>	HB 1349
<b>BILL TITLE:</b>	Assisted Living Facilities
<b>BILL SPONSOR:</b>	Representative Good
<b>EFFECTIVE DATE:</b>	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1)
2)
3)
4)
5)

<u>CURRENT COMMITTEE</u>

<u>SIMILAR BILLS</u>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<u>PREVIOUS LEGISLATION</u>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

<u>IDENTICAL BILLS</u>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
Y ___ N _x_

<u>BILL ANALYSIS INFORMATION</u>	
<b>DATE OF ANALYSIS:</b>	March 11, 2019
<b>LEAD AGENCY ANALYST:</b>	Keisha Woods, Bureau of Health Facility Regulation
<b>ADDITIONAL ANALYST(S):</b>	Donah Heiberg, Bureau of Field Operations
<b>LEGAL ANALYST:</b>	
<b>FISCAL ANALYST:</b>	

## POLICY ANALYSIS

### **1. EXECUTIVE SUMMARY**

This act seeks to amend statutes related to the operation, maintenance, and regulation of assisted living facilities (ALFs). This bill replaces the obsolete term of occupational license with business tax receipt. This bill prohibits the Agency for Health Care Administration from citing and fining assisted living facilities for violations related to Parts II, III, and IV of Chapter 400. This act urges ALFs to use safety devices, equipment, and security measures, wander management, care sensing, and staff risk management to promote the safety and security of the residents, staff, and the facility.

This bill seeks to reduce the liability of assisted living facilities in overseeing the care and services provided by third party providers to the residents. This bill expands the assisted living facility's ability to admit and retain residents which require treatment or services designed to be provided in a private residential setting or the use of safety or assistive devices for performing activities of daily living. This bill allows assisted living facilities to admit residents that require 24 hour nursing services if the resident is receiving hospice services. This act prohibits a facility from admitting or retaining a resident who is bedridden unless they are receiving hospice services and using safety equipment or devices to complete the activities of daily living.

This bill decreases the amount of information that must be included in a medical exam to be completed by a health care provider in order for the owner or the administrator to determine the resident's appropriateness for admission to an assisted living facility; this bill also allows health care providers to use their own form as a medical examination. The bill removes the responsibility of assisted living facilities to arrange for certain health care services they have determined the resident needs.

This act restricts the scope of residents' rights to a safe and decent living environment by giving specific statutes pertaining to uniform fire safety standards, environmental health and safety practices, and freedom from abuse, neglect, and exploitation. This bill requires visitors to ALFs to comply with a facility's security procedures to forestall any risk to the health and safety of the residents or staff. This bill amends Section 429.41, Florida Statutes by relocating language related to uniform fire safety standards to the created Section 429.435, Florida Statutes. Language is included to allow for technological advances in the provision of care, safety, and security. This act removes language related to plumbing, heating, cooling, lighting, ventilation, and living space and replaces it with furnishings for residents' bedrooms or sleeping areas, locking devices, linens, and laundry services. This bill relocates language pertaining to the clear delineation of regulatory responsibilities for Agency survey staff and county health department staff.

This bill removes the requirement for the Department of Elder Affairs to present a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and the appropriate committee of substance for review and comment prior to its promulgation.

This bill removes of the Agency's discretion to conduct full biennial licensure surveys and further defines qualifications for a facility to receive an abbreviated licensure survey. This act removes the requirement that the Agency consult with the Department of Elder Affairs to develop key quality-of-care standards for surveys in rule.

This bill removes a specific date by which new ALF employees had to receive pre-service orientation training by the facility before interacting with the residents. It removes the word "education" and establishes that the Department of Elder Affairs create core training requirements which consist of a minimum core training and competency test with a minimum required competency testing score of 75 percent. It requires 6 hours of training before unlicensed staff may assist residents with the self-administration of medications, along with 2 hours of continuing education annually thereafter. Pre-service orientation topics are not required to be repeated during in-service training. It allows for a single certificate to be issued to participating staff members if the training is completed in a single training session. This act removes DOEA authority to require, provide, or cause to be provided any training that may reduce the problems in a facility. It requires the DOEA or an entity it contracts with to administer the competency test, and adopt a curriculum outline to be used by core trainers.

This bill would take effect July 1, 2019.

### **2. SUBSTANTIVE BILL ANALYSIS**

#### **1. PRESENT SITUATION:**

As of March 5, 2019, there are 3,083 licensed assisted living facilities in the state. In order to obtain licensure, ALFs must be inspected by the local county health department for food safety and environmental sanitation requirements, the local authority having jurisdiction over fire and life safety matters, as well as the Agency for Health Care Administration (AHCA). Once an ALF receives a license, some cities require ALFs to obtain a business tax receipt, formerly known as an occupational license.

Assisted living residents may contract with third party providers, such as hospice and home health agencies, to receive services while living in an ALF. Services that the ALF provides must be within the scope of the facility's license. The duties and responsibilities of ALF staff must be within the scope of their professional license, training, and education. There is no requirement for ALFs to have nurses in the building 24 hours a day and any resident who requires 24 hour nursing services cannot be admitted to an ALF. ALFs are mandated to have policies regarding the requirements for coordinating the delivery of services to residents by third party providers. The policies must require the third party to coordinate with the facility regarding the resident's condition and the services being provided. The resident must comply with the facility's policy relating to the delivery of services in the facility by third parties. ALFs are responsible for ensuring whatever care and services the resident needs are provided, or arranged to be provided. If the ALF is unable to meet the resident's needs, they are expected to discharge the resident to a more appropriate care setting.

Residents must meet admission and continued residency criteria as defined in rule and as determined by the administrator's assessment of the resident's needs, strengths and preferences. The minimum admission criteria that an individual must meet in order to be admitted to an ALF is found in Rule 58A-5.0181, F.A.C., and addresses potential residents age, health, physical and mental abilities/needs, healthcare needs, dietary needs and appropriateness for facility admission.

A health assessment, currently known as AHCA Form 1823, is to be completed based upon a face-to-face evaluation by the resident's health care provider – a physician, a physician assistant or an advanced practice registered nurse. The form can neither be completed more than 60 days prior to the resident's admission to the facility, nor later than 30 days after their admission to the facility. The information captured on the 1823 includes: resident demographic information, facility general information, known allergies, height, weight, medical history and diagnoses, physical or sensory limitations, cognitive or behavioral status, nursing/treatment/therapy service requirements, special precautions, elopement risk, determination of the extent the resident needs assistance with activities of daily living, special diet instructions, communicable disease transmission risk, bedridden status, presence of stage 2, 3, or 4 pressure sores, determination if the resident poses a danger to self or others, determination if resident requires 24 hour nursing or psychiatric care, a determination if the resident's needs can be met in an ALF; ability to perform self-care tasks; general oversight, listing of medications, dosage, directions for use, route, level of assistance needed with medications, health care provider information, date of examination, services offered by or arranged by the facility, name and signatures of resident or their representative, and the administrator or designee's signature. The AHCA Form 1823 is currently under a rule challenge that is being appealed by the Department of Elder Affairs. Physicians can also use their own form as the medical examination.

The AHCA inspection frequency is as follows for ALFs:

- Once every 2 years for standard and Limited Mental Health licensed facilities;
- Once a year for standard and Limited Nursing Services licensed facilities; the annual visit may be waived if the facility meets certain criteria;
- Twice a year for standard and Extended Congregate Care licensed facilities; one of the visits may be waived if the facility meets certain criteria;
- When complaints are received regarding requirements within the Agency's authority to regulate.

The Agency has the discretion to conduct abbreviated biennial licensure surveys of facilities with a good record of past performance. Abbreviated surveys focus on observations and interviews. Tasks include: off-site review, entrance conference with staff in charge, tour of the facility, sample selection, observations, interviews with residents, family members/representatives and staff, record reviews (only if triggered by concerns raised during observations or interviews), and an exit conference with staff in charge. A specialty license review is completed as appropriate. This process was amended in the fall of 2018 to include a review of the comprehensive emergency management plan (CEMP) approval and the emergency environmental control plan (EECP) approval. An abbreviated survey will expand to a full survey if violations that threaten health, safety, or welfare of the residents are identified. This includes fire safety violations which are confirmed as serious by the local fire authority having jurisdiction, Class 1 or 2 violations or violations relating to facility staff rendering services for which the facility is not licensed. The key quality indicators for the survey process include: resident rights, resident care and services, nutrition and food service, physical environment and safety, staff training, medication management, and review of CEMP and EECP.

ALF residents have the right to live in a safe, and decent living environment, free from abuse and neglect. There are no statutory references to building codes, health and sanitation requirements, or limitations to what constitutes abuse, neglect, or exploitation in the current section of resident rights. The use of physical restraints is limited to half-bed rails as prescribed and documented by the resident's physician with the consent of the resident or, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact. Devices that may not be designed to restrain a resident, but function as a restraint are not allowed. No other types of physical restraints can be used in ALFs. Lap buddies, activity trays, posey restraints, reclining chairs that prevent rising, and merry-walkers are examples of items that restrain residents and cannot be used in an ALF currently. The use of chemical restraints is limited to

prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess the continued need for the medication, the level of the medication in the resident's blood and the need for adjustments in the prescription.

The use of safety devices, equipment, security measures, wander management, and care sensing is not mentioned in current rule or statute. Technological advances in health care have made additional devices and disease management modalities change over time. The silence on these matters does not prohibit a facility from using devices or measures that fit into any of these categories.

Uniform fire safety standards are currently included within Section 429.41, along with a variety of other mandates, such as the comprehensive emergency management planning, collections of fees for health department inspections, staff training standards, risk management, resident elopement requirements, and authority to develop rules for that section of statute. Neither the Agency nor the Department of Elder Affairs develops rules for uniform fire safety standards.

As it relates to staff training, currently ALF administrators are required to take a 26 hour core training class and pass a competency test with a score of 75 percent per rule. At a minimum, the administrator must have a high school diploma or a GED. Staff must complete 4 hours of training in the assistance with the self-administration of medications prior to performing that duty. In 2015, unlicensed staff were granted expanded responsibilities of assisting with nebulizers, blood-glucose testing, applying and removing oxygen cannulas, and assisting with positive airway pressure devices. This required an additional 2 hours of training being provided to staff prior to performing those duties. Staff are also required to obtain 2 hours of training annually in the assistance with the self-administration of medications as a part of continuing education. Pre-service education is required of staff prior to having any contact with the residents. The Department of Elder Affairs has contracted with the University of South Florida to develop the core training curriculum and to administer the test for ALF administrators.

## **2. EFFECT OF THE BILL:**

This bill, as written, will release ALFs from the responsibility to be involved in the care of residents receiving services from third party providers. It relieves them from the obligation to engage in communication, coordination, and collaboration in the resident's care. If there is no communication about the resident's condition, sharing and reviewing information, then the facility will have limited, if any, knowledge of the resident's progress or lack thereof. This places the facility at risk of housing a resident that no longer meets continuing residency criteria and delaying the resident receiving the necessary care and services they need to prevent further decline.

The bill references allowances for the use of "safety devices" but does not define what that is. This leaves open the potential for ALFs to use any number of devices which they may consider safety devices but may pose unintended hazards to residents.

The bill proposes a significant change in criteria for resident admissions and retention in ALFs, which would appear to present risks to the health and well being of residents while essentially creating a potential acute care setting, for which ALFs were not intended, nor are they staffed for such services. The following proposed changes have a potential negative impact on a resident's well-being:

- Allowing the ALF to admit or retain a resident who receives health care services / treatment designed to be provided in a private residential setting. With advances in health care, this seems to open up the ALFs to caring for persons who are much more acutely ill than currently allowed. This appears to present an obvious risk to residents, in that staff of ALFs are not generally trained medical professionals and third party providers are not necessarily providing care 24 hours a day, seven days a week. Even if a facility has an Extended Congregate Care (ECC) license, this does not ensure any minimum amount of time of care provided by licensed nursing personnel.
- The bill proposes deleting language regarding not admitting residents who require 24 hour nursing supervision if the resident is receiving hospice services. ALFs are not staffed by personnel who are trained to care for persons who require this level of care. This presents a risk of poor outcomes for these residents.
- This bill also removes the requirement for facilities to arrange for health care services for residents experiencing cognitive declines or dementia related symptoms. Instead placing the burden on the resident's representative / designee to obtain these services. This does not take into consideration that not all residents have representatives who are able to do this, or if they even have a representative. This proposed language leaves residents at risk of not receiving care and services that the facility has recognized are necessary and essential to the resident's well-being.
- This bill also reduces the information collected by the health care provider regarding the resident's functional status in the performance of activities of daily living. Language was removed that asked the health care provider

to determine if the resident posed a danger to self or others as it relates to having a history of behaviors, such as physically or sexually aggressive behaviors. If sufficient information is not gathered, the facility's ability to implement interventions that reduce the likelihood of negative outcomes for the residents is severely hampered. This could potentially create for inconsistent admission criteria for ALFs, which would be impossible for AHCA surveyors to review without documentation to consider. This change increases risks of having vulnerable persons who cannot be adequately cared for by staff with limited training residing in ALFs.

This bill adds language that in addition to half bed rails "other measures" as ordered by the resident's physician can be used as physical restraint with consent of the resident or their representative. This bill changes language that AHCA "shall" use the abbreviated survey process if the provider meets certain criteria. This eliminates the option for AHCA staff to extend that survey to review critical areas in cases of complaints completed with the survey or when they identify concerns during survey requiring extension of that survey to determine compliance. This adds risks to the resident population, in that surveyors may be prohibited from reviewing criteria identified as requiring further consideration.

Limiting the residents' rights to live in a safe and decent environment and protections from abuse, neglect and exploitation to specific statutory references does not leave room for situations that arise outside of those boundaries that affects the residents' well-being. The Agency will be unable to hold facilities accountable and require correction.

This bill also removes the educational requirements for ALF administrators. Presumably, this would remove the requirement the administrator have either a high school diploma or General Education Diploma (GED). This has a potential to negatively impact resident care. Having a high school diploma or GED is a minimal credential that any administrator of a facility caring for vulnerable residents should have. The same goes for passing the core test, which demonstrates the administrator has a basic understanding of requirements for operating an ALF.

The change from the DOEA developing the core training curriculum to developing an outline for the core curriculum would allow content variations as long as the outlines areas are addressed. The rules does not currently include a full curriculum.

The change requiring staff to have 6 hours of training prior to assisting residents with the self-administration of medications is the sum of the 4 hours prior to 2015, plus the additional 2 hours for the expanded duties. This is consistent with current requirements.

The separation of uniform fire safety standards being placed in its own section has no effect as the verbiage is unchanged and neither DOEA nor the Agency write rules for uniform fire safety for assisted living facilities.

The sum of these proposed changes has the potential to restrict AHCA's regulatory authority while greatly increasing the care needs of residents while eliminating much of the ALF's responsibility for care.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y  N**

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	58A-5

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown at this time
Opponents and summary of position:	Unknow at this time

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y  N**

If yes, provide a description:	
Date Due:	



Bill Section Number(s):	
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**6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL? Y \_\_\_ N \_\_\_X\_\_**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

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**FISCAL ANALYSIS**

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**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y \_\_\_ N \_\_\_X\_\_**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y \_\_\_ N \_\_\_X\_\_**

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y \_\_\_ N \_\_\_X\_\_**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y \_\_\_ N \_\_\_X\_\_**

If yes, explain impact.	
Bill Section Number:	

**TECHNOLOGY IMPACT**

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?    Y  N

If yes, describe the anticipated impact to the agency including any fiscal impact.	Changes will need to be made in ASPEN to update regulation sets.
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**FEDERAL IMPACT**

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1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?    Y  N

If yes, describe the anticipated impact including any fiscal impact.	
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**ADDITIONAL COMMENTS**

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**LEGAL – GENERAL COUNSEL’S OFFICE REVIEW**

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Issues/concerns/comments:	
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**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/CS/SB 1650

INTRODUCER: Children, Families, and Elder Affairs Committee, Health Policy Committee and Senator Albritton

SUBJECT: Child Welfare

DATE: April 9, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Williams</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1650 makes a number of changes to the Florida child welfare laws primarily to ensure compliance with federal regulations for implementation of the federal Family First Prevention Services Act and to align with the Title IV-E and Guardianship Assistance Program (GAP) requirements. Specifically, the bill:

- Amends provisions relating to the Relative Caregiver Program (RCP) to require that the Department of Children and Families (DCF or department) department provide relatives and nonrelatives of the requirements and benefits of the Relative Caregiver Program and the Guardianship Assistance Program and that they may choose which program is most appropriate for them.
- Provides that guardianship assistance benefits under the GAP will be terminated if the guardian is no longer providing support for the child.
- Clarifies provisions relating to the extended foster care program, including requiring a young adult participating in the program to provide specified documentation of eligibility and granting the department rulemaking authority.
- Amends provisions relating to judicial reviews for young adults who are leaving and re-entering extended care.
- Clarifies provisions relating to financial assistance and other benefits available to children and young adults.

- Amends requirements relating to the licensure of family foster homes, residential child-caring agencies, and child-placing agencies, to either meet federal requirements or to streamline requirements for level I licensing.
- Reduces from three months to 60 days the period of time for a court review following a child's placement in a residential treatment program.

The bill provides that, in questions regarding whether the DCF may provide psychotropic medications to a child in its custody, an advanced practice registered nurse whose specialty is psychiatric nursing and who has prescribing authority under a supervisory protocol established with a physician as provided pursuant to the Nurse Practice Act, may perform certain medical, psychiatric, and psychological examinations of and provide treatment to children in care, and may perform physical, mental, and substance abuse examinations of a person with or requesting child custody services. Under current law, such services must be performed by a physician.

The bill requires the department to establish a direct-support organization for the benefit of the Children and Youth Cabinet.

The bill provides new requirements for reports of child abuse and neglect related to children who are being treated in medical facilities in the state.

The DCF estimates the bill to have no fiscal impact.

The bill has an effective date of July 1, 2019.

## **II. Present Situation:**

### **Child Welfare**

Chapter 39, F.S., is specific to judicial proceedings relating to children and is divided into multiple parts under this topic. Part IV is specific to the process of taking children into the state's custody and corresponding shelter hearings under that process.

### **Relative and Nonrelative Caregivers**

When children cannot remain safely with their parents, placement with relatives is preferred over placement in foster care with nonrelatives. Caseworkers try to identify and locate a relative or relatives who can safely care for the children while parents receive services to help them address the issues that brought the children to the attention of child welfare. Placement with relatives – or kinship care – provides permanency for children and helps them maintain family connections. Kinship care is the raising of children by grandparents, other extended family members, and adults with whom they have a close family-like relationship, such as godparents and close family friends.<sup>1,2</sup>

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<sup>1</sup>“Fictive kin” is a term used to refer to individuals that are unrelated by either birth or marriage, but have an emotionally significant relationship with another individual that would take on the characteristics of a family relationship.

<sup>2</sup> U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau, Child Welfare Information Gateway, About Kinship Care, available at <https://www.childwelfare.gov/topics/outofhome/kinship/about/> (last visited March 17, 2019).

Kinship care may be formal and involve a training and licensure process for the caregivers, monthly payments to help defray the costs of caring for the child, and support services. Kinship care also may be informal and involve only an assessment process to ensure the safety and suitability of the home along with supportive services for the child and caregivers. Approximately 25 percent of the children in out-of-home care are living with relatives.<sup>3</sup>

In Florida, a point-in-time count as of January 1, 2019, showed there were 23,726 children in out-of-home care. Of those children, 13,449 were in kinship care foster care placements (56.7 percent) and 10,277 were in licensed foster care placements (43.3 percent).<sup>4</sup>

### **Relative Caregiver Program (RCP)**

The Relative Caregiver Program was established in 1998<sup>5</sup> for the purpose of recognizing the importance of family relationships and providing additional placement options and incentives to help achieve permanency and stability for many children who are otherwise at risk of foster care placement. The program provides financial assistance to qualified relatives. Within available funding, the Relative Caregiver Program is also required to provide caregivers with family support and preservation services, school readiness assistance, and other available services in order to support the child's safety, growth, and healthy development. Children living with caregivers who are receiving assistance under the program are also eligible for Medicaid coverage.<sup>6</sup>

In 2014, the Legislature expanded the program to include nonrelatives who a child may have a close relationship with but who are not a blood relative or a relative by marriage. Those nonrelatives are eligible for financial assistance if they are able and willing to care for the child and provide a safe, stable home environment. Before such placement is made, a court must find that the proposed placement is in the best interest of the child.<sup>7</sup>

Current law provides that the statewide average monthly rate for children placed by a court with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, and the cost of providing the assistance to any caregiver in the program may not exceed the cost of providing out-of-home care in emergency shelter or foster care.<sup>8</sup>

This program provides monthly cash assistance to relatives who meet eligibility rules and have custody of a child under age 18 who has been declared dependent by a Florida court and placed in their home by the Department of Children and Families (DCF) or a Community Based Care (CBC) contracted provider. The monthly cash assistance amount is higher than the Temporary

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<sup>3</sup> Id.

<sup>4</sup> Foster care includes all children who have been removed from their homes due to abuse, neglect or abandonment. Kinship foster care is a subset that includes children who are placed with relatives or other person(s) deemed to be a significant person in the child's life. Licensed foster care is a subset that includes traditional family foster homes, therapeutic foster homes, group homes, residential placements and other settings requiring a license.

<sup>5</sup> Chapter 98-78, L.O.F.

<sup>6</sup> Chapter 2014-224, L.O.F.

<sup>7</sup> Section 39.5085, F.S.

<sup>8</sup> Id.

Cash Assistance for one child but less than the amount paid for a child in the foster care program.

### **Fostering Connections to Success and Increasing Adoptions Act**

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections) was enacted into federal law in October 2008. Among its many provisions, it gave states for the first time the option to use funds through federal Title IV-E of the Social Security Act (Title IV-E) for financing guardianship assistance programs (GAP). Otherwise known as subsidized guardianship, the programs enabled children in the care of grandparents and other relatives to exit foster care into permanent homes.<sup>9</sup>

### **Guardianship Assistance Program (GAP)**

Florida established its GAP program in law in 2018,<sup>10</sup> and the program will begin on July 1, 2019. The GAP allows DCF to provide caregivers who establish legal guardianship with a larger monthly stipend compared to existing state programs.

Under the federal requirements, if a child meets select Title IV-E eligibility standards, the child's caregiver may also be eligible for a GAP subsidy if:

- The child has been removed from his or her family's home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare;
- The child is eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act for at least six consecutive months while residing in the home of the prospective relative guardian who is licensed or approved as meeting the licensure requirements as a foster family home;
- Returning home or adoption are not appropriate permanency options for the child;
- The guardian demonstrates a strong commitment to caring permanently for the child; and,
- The child has been consulted regarding the guardianship arrangement (applicable to children age 14 and older).<sup>11</sup>

A prospective guardian must meet certain conditions to qualify for a GAP subsidy. He or she must:

- Be the eligible child's relative or close fictive kin;
- Have undergone fingerprint-based criminal record checks and child abuse and neglect registry checks;
- Be a licensed foster parent and approved for guardianship assistance by the relevant state department;
- Display a strong commitment to caring permanently for the child; and,
- Have obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the state.

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<sup>9</sup> Public Law No. 110-351.

<sup>10</sup> Section 39.6225, F.S.

<sup>11</sup> 42 U.S.C. s. 673(d)(3)(A).

Nonrelative caregivers currently receive monthly assistance supported by the state General Revenue Fund. Until the Legislature authorized the GAP effective July 1, 2019, the RCP provided the only financial assistance available to relative and nonrelative caregivers who have children placed with them. The RCP and GAP programs will run concurrently starting July 1, 2019, and relative and nonrelative caregivers must first fail to meet the requirements of GAP before being admitted into the RCP.

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

In 1994, the U.S. Department of Health and Human Services (HHS) was authorized to approve state demonstration projects made possible by waiving certain provisions of Title IV-E. This provided states flexibility in using federal funds for services promoting safety, well-being, and permanency for children in the child welfare system.<sup>12</sup> HHS may waive compliance with standard Title IV-E requirements and instead allow states to establish projects that allow them to serve children and provide services that are not typically eligible. To do so, states must enter into an agreement with the federal government outlining the terms and conditions to which the state will adhere in using the federal funds. Currently, 26 states have approved projects, including Florida.

### **Florida's Title IV-E Waiver**

Florida's original Title IV-E waiver was effective October 1, 2006, with a 5-year duration. Key features of the waiver were:

- A capped allocation of funds, similar to a block grant, distributed to CBCs 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.

The original waiver tested the hypotheses that under this approach:

- An expanded array of CBC services would become available;
- Fewer children would need to enter out-of-home care;
- Child outcomes would improve; and
- Out-of-home care costs would decrease while expenditures for in-home and preventive services would increase.

Florida's waiver is due to end September 30, 2019. Florida will revert to the more restrictive Title IV-E federal funding requirements beginning the next day. When the waiver expires, the state will be required to revert to a traditional Title IV-E service model, which will both eliminate federal support for many current services, forcing the state to either end those services or pay for them without federal funds. DCF estimates that under the latter option, expiration of the waiver will lead to an operating deficit of roughly \$70-90 million per year over the next five fiscal years.

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<sup>12</sup> Amy C Vargo et al., *IV-E Waiver Demonstration Evaluation, Final Evaluation Report, SFY 11-12*, (March 15, 2012), available at <http://centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf> (last visited March 19, 2019).

## Family First Prevention Services Act

The Family First Prevention Services Act (Family First) was signed into law as part of the Bipartisan Budget Act on February 9, 2018.<sup>13</sup> Family First amended Title IV-E and Title IV-B of the Social Security Act to make significant changes to child welfare laws to help keep children safely with their families and avoid the experience of entering the foster care system, to emphasize the importance of children growing up in families, and to help ensure children are placed in the least restrictive, most family-like setting appropriate to their special needs when out-of-home care is needed.<sup>14</sup> The effective date coincides with the expiration of the Title IV-E waiver that Florida has been operating under since 2006. Family First includes:

- Federal prevention funds for children at risk of entering foster care. Family First provides federal funds under Title IV-E of the Social Security Act, beginning in FY 2020, to support evidence-based prevention efforts for:
  - Mental health and substance abuse prevention and treatment services and
  - In-home parent skill-based services.Such services may be provided for not more than 12 months for children who are at imminent risk of entering foster care, their parents and relatives to assist the children, and pregnant or parenting teens.
- Federal funds targeted for children in foster family homes, or in qualified residential treatment programs, or other special settings. Federal funding is limited to children in family foster homes, qualified residential treatment programs, and special treatment settings for pregnant or parenting teens, youth 18 and over preparing to transition from foster care to adulthood, and youth who have been found to be – or are at risk of becoming – sex trafficking victims.

Family First requires timely assessments and periodic reviews of children with special needs who are placed in qualified residential treatment programs to ensure their continued need for such care. After FY 2020 (unless the state opts to delay until 2022), Title IV-E reimbursement will be provided only for administrative costs for children in other group care settings, and not for room and board.

The new funding for preventing children from entering foster care and restricting federal funds for group care takes effect in FY 2020 (or 2022 at a state's option) so that states can make necessary accommodations. Family First recognizes adjustments will be needed to establish prevention services to keep children safely in families and in care that meets their special treatment needs. States have flexibility in defining the safety services they provide to children and families and how they will ensure quality residential treatment for children with emotional and behavioral needs.<sup>15</sup>

Florida has asked for the 2-year extension in implementing Family First.

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<sup>13</sup> Public Law No. 115–123

<sup>14</sup> Children's Defense Fund, *Family First Prevention Services Act*, available at <https://www.childrensdefense.org/policy/policy-priorities/child-welfare/family-first/> (last visited March 19, 2019).

<sup>15</sup> *Id.*



## Regulation of Nursing

As authorized under s. 20.43, F.S., the Department of Health (DOH) and its Division of Medical Quality Assurance is responsible for regulating 30 health care professions. Among those is nursing and the Board of Nursing (BON), as created under Part I of Ch. 464, F.S., the Nurse Practice Act, which governs the licensure and regulation of nurses in Florida. Nurses are licensed by the DOH<sup>16</sup> and regulated by the BON.<sup>17</sup> A person desiring to practice nursing in Florida must obtain a Florida license by examination,<sup>18</sup> endorsement,<sup>19</sup> or hold an active multistate license pursuant to s. 464.0095, F.S., the Nurse Licensure Compact.<sup>20</sup>

## Advanced Practice Registered Nurses

An “Advanced Practice Registered Nurse” (APRN) is a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, such as certified registered nurse anesthetists (CRNAs), psychiatric nurses, certified nurse midwives (CNM), and nurse practitioners.<sup>21</sup> The term “advanced or specialized nursing practice” is also defined.<sup>22</sup>

Advanced or specialized nursing practice means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the BON, which, by virtue of specialized education, training, and experience, are appropriately performed by an APRN. Within the context of advanced or specialized nursing practice, the APRN may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The APRN may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established protocol under the supervision of a physician.<sup>23</sup> In addition, within a supervisory protocol, an APRN may:

- Prescribe, dispense, administer, or order any drug; however, an APRN must have graduated from a program leading to a master’s or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills before being allowed to prescribe controlled substances;

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<sup>16</sup> Section 464.008, F.S.

<sup>17</sup> The Board of Nursing (BON) is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. All members must be residents of the state. Seven members must be registered nurses who are representative of the diverse areas of practice within the nursing profession. Three members must be licensed practical nurses and three members must be laypersons. At least one member of the BON must be 60 years of age or older. *See* s. 464.004, F.S.

<sup>18</sup> An individual must pass the National Council Licensure Examination (NCLEX), have graduated from an approved nursing education program, and pass applicable background screening. *See* s. 464.008, F.S.

<sup>19</sup> Licensed in another state or territory, actively practiced nursing for two of the previous 3 years prior to application without discipline, and meet the equivalent educational and examination qualifications.

<sup>20</sup> In 2016, the Legislature created s. 464.0095, F.S., which adopts the revised Nurse Licensure Compact (NLC) in its entirety into state law. This legislation allows licensed practical and professional nurses to practice in all member states by maintaining a single license in the nurse’s primary state of residence. The effective date of s. 464.0095, F.S., was December 31, 2018, or upon enactment of the revised NLC into law by 26 states, whichever occurs first. At least 26 states have enacted the revised NLC into law and the Enhanced Nurse Licensure Compact Interstate Commission set the implementation date as January 19, 2018. The DOH and the Florida BON have implemented the NLC. *See* <http://floridasnursing.gov/latest-news/the-enlc-was-implemented-on-january-19-2018> (last visited Jan. 25, 2018).

<sup>21</sup> *See* ss. 464.003(3) and 464.012(1)(a), F.S.

<sup>22</sup> Section 464.003(2), F.S.

<sup>23</sup> Section 464.003(2), F.S.

- Order diagnostic tests and physical and occupational therapy;
- Order any medication for administration in a hospital, ambulatory surgical center, or nursing home; and
- Perform additional acts within his or her specialty.<sup>24</sup>

Subsection (6) of s. 464.012, F.S., directs the BON to establish a committee to recommend a formulary of controlled substances that an APRN may not prescribe or prescribe only for specific uses or limited quantities. The language goes on to indicate that the formulary must restrict the prescribing of psychiatric mental health controlled substances for children younger than 18 years of age to advanced practice registered nurses who also are psychiatric nurses as defined in s. 394.455, F.S. The formulary must also limit the prescribing of Schedule II controlled substances as listed in s. 893.0, F.S., to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455, F.S.

An APRN must maintain medical malpractice insurance or provide proof of financial responsibility, unless exempt.<sup>25</sup>

Any nurse desiring to obtain Florida certification as an APRN must submit to the DOH, among other information, proof that he or she holds a current Florida professional nursing license as registered nurse or holds an active multistate license to practice professional nursing, and meets at least one of the following additional requirements:

- Certification by an appropriate specialty board such as a registered nurse anesthetist, psychiatric nurse, or nurse midwife; or
- Graduation from a nursing program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. An applicant graduating on or after October 1, 1998, must meet this requirement for initial certification as a nurse practitioner. An applicant graduating on or after October 1, 2001, must meet this requirement for initial certification as a Certified Registered Nurse Anesthetist (CRNA).<sup>26</sup>

### **The Florida Mental Health Act**

Chapter 394, F.S., is specific to mental health. Part I of ch. 394, F.S., is "The Florida Mental Health Act." Consisting of ss. 394.451-394.47892, F.S., this part provides the statutory basis under which the DCF plans for, evaluates, and implements a statewide program of mental health, including community services, receiving and treatment facilities, child services, research, and training, as authorized and approved by the Legislature, based on the annual program budget of the DCF.

The DCF also coordinates its efforts with other departments and divisions of the state government, county and municipal governments, and private agencies concerned with and providing mental health services. The DCF establishes standards, provides technical assistance, and exercises supervision of mental health programs of, and the treatment of patients at,

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<sup>24</sup> Section 464.012(3) and (4), F.S.

<sup>25</sup> Section 456.048, F.S.

<sup>26</sup> Section 464.012(1), F.S., as amended by chapter 2017-134, Laws of Fla.

community facilities, other facilities for persons who have a mental illness, and any agency or facility providing services to patients pursuant to part I of ch. 394, F.S.

Section 394.455, F.S., provides the definitions of 48 applicable terms used in part I of ch. 394, F.S. Subsection (35) defines “psychiatric nurse” to mean an advanced practice registered nurse licensed under s. 464.012, F.S., who has a master’s or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has 2 years of post-master’s clinical experience under the supervision of a physician.

### **Child Welfare: Treating Practitioners**

Section 39.407, F.S., provides for the medical, psychiatric, and psychological examination and treatment of children in care and the physical, mental, and substance abuse examination of a person with or requesting child custody. Under these provisions, the determination of the use or continued use of a psychotropic medication in the treatment of a child in custody may be determined only by a prescribing physician. This must be done only after an attempt to obtain express and informed consent as defined in s. 394.455(15), F.S., and as described in s. 394.459(3)(a), F.S., from the child’s parent or legal guardian. In instances where parental rights have been terminated or a parent cannot be located or is unknown, or the parent declines to provide consent, the DCF may, after consultation with a prescribing physician, seek court authorization to provide psychotropic medications to the child.

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

**Section 1** requires the department to create a direct-support organization to assist the Children and Youth Cabinet in carrying out its purposes and duties. The bill specifies requirements for the incorporation and operation of the direct-support organization and provides for repeal on October 1, 2024 unless reviewed and saved from repeal by the legislature.

**Section 2** amends s. 39.01, F.S., relating to definitions. The definition of the term “institutional child abuse or neglect” is amended to clarify that employees of public schools, as well as private schools, are part of the definition for institutional child abuse or neglect to bring the definition into agreement with s. 39.01(54), F.S., which provides the definition of “other person responsible for a child’s welfare.”

**Section 3** amends s. 39.201, F.S.; relating to mandatory reports of child abuse, abandonment or neglect and the central abuse hotline, to require the central abuse hotline to accept calls for investigation if a child is currently being evaluated in a medical facility in the state. The department is required to initiate an investigation when a report is received from an emergency room physician.

**Section 4** amends s. 39.303, F.S.; relating to Child Protection Teams, to require that a report involving a child who is not a resident of the state but who is currently being evaluated in a medical facility in the state be referred to the Child Protection Team.

**Section 5** amends s. 39.4015, F.S., to delete the definition of fictive kin. The definition of fictive kin in s. 39.01, F.S., meets the Title IV-E requirements, and a duplicative definition is unnecessary.

**Section 6** amends s. 39.402, F.S., relating to placement in a shelter, to require the order for placement of a child in shelter care contain a statement that the DCF has placement and care responsibility for any child who is not placed in the care of a parent at the conclusion of the shelter hearing. This brings the state into compliance with federal requirements.

**Section 7** amends s. 39.407, F.S., relating to whether the DCF may provide psychotropic medications to a child in its custody. The bill provides that, in the process for making that determination, an advanced practice registered nurse whose specialty is psychiatric nursing and who has prescribing authority under a supervisory protocol established with a physician as provided pursuant to the Nurse Practice Act, may perform certain medical, psychiatric, and psychological examinations of and provide treatment to children in care, and may perform physical, mental, and substance abuse examinations of a person with or requesting child custody services. Under current law, such services must be performed by a physician.

The bill reduces from 3 months to 60 days the period of time for a court review following a child's placement in a residential treatment program.

**Section 8** amends s. 39.5085, F. S., relating to the Relative Caregiver Program, to require the department to inform relatives and nonrelatives of the requirements and benefits of the Relative Caregiver Program and the Guardianship Assistance Program and that they may choose which program is most appropriate for them.

**Section 9** amends s. 39.5086, F.S., relating to kinship navigator programs, to delete the unnecessary definition for the term "fictive kin".

**Section 10** amends s. 39.6225, F.S., relating to the Guardianship Assistance Program (GAP), to add a definition of the term "relative" and specify the circumstances under which guardianship assistance benefits under the GAP will be terminated. This change was suggested by the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.<sup>27</sup>

The bill also provides that the case plan must describe information regarding permanent guardianship if the guardian is *pursuing* guardianship assistance payments. Current statute requires the case plan to include information regarding permanent guardianship if the guardian is *receiving* guardianship assistance payments.

**Section 11** amends s. 39.6251, F.S., relating to extended foster care for young adults, to make a number of changes, including:

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<sup>27</sup> Department of Children and Families, *Senate Bill 1650 Analysis* (February 16, 2019) (on file with the Senate Committee on Health Policy).

- Requiring a young adult in the extended foster care program to either furnish documentation of participation in one of the required activities or execute a consent for release of records to the DCF or CBC to obtain the documentation.
- Amending the permanency goal for a young adult who chooses to remain in the extended foster care program past his or her 18th birthday to transition to independence.
- Allowing a young adult who is between the ages of 18 and 21 and who has left the program, to apply with the CBC for readmission through the execution of a voluntary placement agreement. This change allows the state to request Title IV-E reimbursement.
- Providing the DCF with rulemaking authority to administer the extended foster care program. The DCF is authorized to develop rules to establish processes and procedures for the program. This change will help provide consistent application of the program statewide.

**Section 12** amends s. 39.701, F.S., relating to judicial review, to make a number of changes including:

- Replacing the current provision that requires the court to return the child to the custody of the parent(s) if it is determined that the parent(s) have substantially complied with the case plan.
- Requiring that if the court determines at any judicial review that the child will remain in out-of-home care in a placement other than with a parent, the court must order that the DCF has placement and care responsibility for the child.
- Addressing additional ways to enter extended foster care while expanding the DCF's ability to seek reimbursement of Title IV-E funds. Section 39.701(4)(f), F.S., allows a young adult to elect to voluntarily leave extended foster care for the sole purpose of ending a removal episode and immediately executes a voluntary placement agreement with the DCF to reenroll in extended foster care, the court must enter an order finding that the prior removal episode ended. Under these circumstances, the court does not lose its jurisdiction and no petition to reinstate jurisdiction is required.
- Creating s. 39.701(4)(g), F.S., to require that when a youth enters extended foster care by executing a voluntary placement agreement, the court must enter an order within 180 days of the agreement that determines whether the supervised living arrangement is in the best interest of the youth. The supervised living arrangement may include a licensed foster home, licensed group home, college dormitory, shared housing, apartment or another housing arrangement if approved by the CBC and is acceptable to the young adult. In addition, when a youth is in extended foster care, the court must include in each judicial review order that the DCF has placement and care responsibility for the youth. Lastly, when a youth is in extended foster care, the court must enter an order at a minimum of every 12 months that includes a finding of whether the DCF has made reasonable efforts to finalize the permanency plan currently in effect.

**Section 13** amends s. 402.56, F.S.; relating to the children's cabinet, to provide that a representative of, rather than the director of, the Office of Adoption and Child Protection, shall be a member of the cabinet.

**Section 14** amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to clarify that financial assistance to young adults receiving independent living services including Postsecondary Education Services and Support (PESS), Title IV-E EFC, and Aftercare services may be disregarded for purposes of determining eligibility for, or the amount of, any other

federal or federally supported assistance. This will ensure that young adults have access to all assistance programs, if they meet the other eligibility criteria, regardless of their participation in independent living services pursuant to ss. 39.6251 and 409.1451, F.S.

**Section 15** amends s. 409.175, F.S., relating to the licensure of family foster homes, residential child-caring agencies, and child-placing agencies, to either meet federal requirements or to streamline requirements for level I licensure. Changes made to meet federal requirements in order to receive Title IV-E reimbursement related to licensure include:

- Clarifying that a family foster home is a home licensed by the DCF.
- Screening household members in the renewal process for licensure if they have worked or resided on a continuous basis in the home since fingerprints were submitted to the DCF.
- Adding the ability to extend a license up to, but no more than, 30 days.
- Deleting the DCF's ability to provide a provisional license.

Changes made to streamline Level I licensure include:

- Clarifying that the term "personnel" does not include a family foster home.
- Clarifying that background "screening" of personnel applies to Level II through Level V family foster home licensing.
- Adding foster family homes in the screening requirements for good moral character.
- Adding actions by a family foster home or household members to the list of who the DCF may deny, suspend, or revoke a license due to removing family foster home from the definition of personnel.
- Adding family foster homes and household members to the list of those who willfully or intentionally fail to comply with the requirements for background screening.
- Requiring the department to post on its website a list of agencies authorized to conduct licensing studies.
- Deleting the specified number of preservice and in-service training hours and allowing the DCF to establish the hours by rule.

**Section 16** amends s. 409.903, F.S., relating to mandatory payments for medical assistance and related services to eligible individuals, to include children who receive GAP benefits as eligible for Medicaid. Changes to this section will bring the DCF into compliance with federal requirements.

**Section 17** amends s. 409.991, F.S., relating to allocation of funds for community-based care lead agencies. Core services funds are all funds allocated to community-based care lead agencies with a number of exceptions. The bill excludes GAP funding from core services funds in determining the allocations for the CBC lead agencies. This means that funding for GAP is not eligible for distribution according to the equity formula and allows the funds to be distributed based on the projected population and GAP payments made by the CBC lead agencies.

**Section 18** amends s. 414.045, F.S., relating to the cash assistance program, to add families in GAP as a "child-only" case, which can be funded through TANF. Families in the Relative Caregiver Program are currently considered child-only cases.

**Section 19** amends s. 1009.25, F.S., relating to postsecondary fee exemptions.

Section 1009.25(1)(d), F.S., currently provides a tuition fee exemption to a student who is or was at the time he or she reached 18 years of age, in the custody of a relative or nonrelative. The change clarifies that children who are permanently placed with a relative have access to tuition exemptions until the age of 28, whether they are eligible for GAP or the RCP.

**Section 20** provides an effective date of July, 1, 2019.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF estimates the bill to have no fiscal impact.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The section creating a direct-support organization for the Children and Youth Cabinet may be more appropriately located in chapter 402, F.S., which is where the provisions relating to the cabinet are currently located, rather than in chapter 39, F.S.

**VIII. Statutes Affected:**

The bill amends the following sections of the Florida Statutes: 39.01, 39.201, 39.303, 39.4015, 39.402, 39.407, 39.5085, 39.5086, 39.6225, 39.6251, 39.701, 402.56, 409.1451, 409.175, 409.903, 409.991, 414.045, and 1009.25.

The bill creates s. 39.0012 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 April 8, 2019:**

The CS makes the following changes to the bill:

- Requires the department to establish a direct-support organization for the benefit of the Children and Youth Cabinet.
- Requires the department to accept abuse and neglect calls involving children from out of state and are being evaluated in medical facilities in this state. Requires the department to initiate an investigation of a report from an emergency room physician.
- Requires child abuse reports involving children from out of state who are currently being evaluated by a medical facility in this state to be referred to a child protection team.
- Amends provisions relating to the Relative Caregiver Program (RCP) to require that the department provide relatives and nonrelatives of the requirements and benefits of the Relative Caregiver Program and the Guardianship Assistance Program and that they may choose which program is most appropriate for them.
- Requires the department to post on its website a list of agencies authorized to conduct licensing studies.

**CS by Health Policy on March 25, 2019:**

The CS makes the following changes to the bill:

- Retains the definition of “fictive kin” in s. 39.01, F.S. The result is that multiple sections of statute which were modified in the underlying bill to conform cross-references are no longer necessary and have been removed from the bill.
- Modifies provisions under the Relative Caregiver Program such that relatives who are caring for a child and who do not meet the eligibility requirements for Level I under s. 409.175, F.S., relating to licensure of child-placement programs, are authorized to apply for the Relative Caregiver Program. The underlying bill required such caregivers to be denied under the Guardianship Assistance Program before applying to the Relative Caregiver Program.



B. Amendments:

None.

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

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546646

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
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The Committee on Children, Families, and Elder Affairs  
(Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 47 - 819

and insert:

Section 1. Section 39.0012, Florida Statutes, is created to  
read:

39.0012 Direct-support organization.-

(1) The Department of Children and Families shall establish  
a direct-support organization to assist the Children and Youth  
Cabinet in carrying out its purposes and responsibilities



546646

11 primarily relating to fostering public awareness of children and  
12 youth issues and developing new partners in the effort to serve  
13 children and youth by raising money; submitting requests for and  
14 receiving grants from the Federal Government, the state or its  
15 political subdivisions, private foundations, and individuals;  
16 and making expenditures to or for the benefit of the cabinet.

17 Such a direct-support organization is an organization that is:

18 (a) Incorporated under chapter 617 and approved by the  
19 Department of State as a Florida corporation not for profit;

20 (b) Organized and operated to make expenditures to or for  
21 the benefit of the cabinet; and

22 (c) Approved by the department to be operating for the  
23 benefit of and in a manner consistent with the goals of the  
24 cabinet and in the best interest of the state.

25 (2) The board of directors of the direct-support  
26 organization shall consist of seven members appointed by the  
27 Governor. Each member of the board of directors shall be  
28 appointed to a 4-year term.

29 (3) The direct-support organization shall operate under  
30 written contract with the department.

31 (4) All moneys received by the direct-support organization  
32 shall be deposited into an account of the direct-support  
33 organization and shall be used by the organization in a manner  
34 consistent with the goals of the cabinet.

35 (5) This section is repealed October 1, 2024, unless  
36 reviewed and saved from repeal by the Legislature.

37 Section 2. Subsection (37) of section 39.01, Florida  
38 Statutes, is amended to read:

39 39.01 Definitions.—When used in this chapter, unless the



546646

40 context otherwise requires:

41 (37) "Institutional child abuse or neglect" means  
42 situations of known or suspected child abuse or neglect in which  
43 the person allegedly perpetrating the child abuse or neglect is  
44 an employee of a public or private school, public or private day  
45 care center, residential home, institution, facility, or agency  
46 or any other person at such institution responsible for the  
47 child's care as defined in this section ~~subsection (54)~~.

48 Section 3. Paragraph (d) of subsection (2) of section  
49 39.201, Florida Statutes, is amended, and paragraph (1) is added  
50 to that subsection, to read:

51 39.201 Mandatory reports of child abuse, abandonment, or  
52 neglect; mandatory reports of death; central abuse hotline.—

53 (2)

54 (d) If the report is of an instance of known or suspected  
55 child abuse, abandonment, or neglect which ~~that~~ occurred out of  
56 state and the alleged perpetrator and the child alleged to be a  
57 victim live out of state, the central abuse hotline may ~~shall~~  
58 not accept the report or call for investigation unless the child  
59 is currently being evaluated in a medical facility in this  
60 state.

61 1. If the child is currently being evaluated in a medical  
62 facility in this state, the central abuse hotline shall accept  
63 the report or call for investigation and shall transfer the  
64 information on the report or call to the appropriate state or  
65 country.

66 2. If the child is not currently being evaluated in a  
67 medical facility in this state, the central abuse hotline, but  
68 shall transfer the information on the report to or call to the



546646

69 appropriate state or country.

70 (1) The department shall initiate an investigation when it  
71 receives a report from an emergency room physician.

72 Section 4. Paragraph (i) is added to subsection (4) of  
73 section 39.303, Florida Statutes, to read:

74 39.303 Child Protection Teams and sexual abuse treatment  
75 programs; services; eligible cases.-

76 (4) The child abuse, abandonment, and neglect reports that  
77 must be referred by the department to Child Protection Teams of  
78 the Department of Health for an assessment and other appropriate  
79 available support services as set forth in subsection (3) must  
80 include cases involving:

81 (i) A child who does not live in this state who is  
82 currently being evaluated in a medical facility in this state.

83 Section 5. Paragraph (d) of subsection (2) of section  
84 39.4015, Florida Statutes, is amended to read:

85 39.4015 Family finding.-

86 (2) DEFINITIONS.-As used in this section, the term:

87 ~~(d) "Fictive kin" means an individual who is unrelated to~~  
88 ~~the child by either birth or marriage, but has such a close~~  
89 ~~emotional relationship with the child that he or she may be~~  
90 ~~considered part of the family.~~

91 Section 6. Paragraph (h) of subsection (8) of section  
92 39.402, Florida Statutes, is amended to read:

93 39.402 Placement in a shelter.-

94 (8)

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



546646

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

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

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

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

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

119           a. The first contact of the department with the family  
120 occurs during an emergency;

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

126           c. The child cannot safely remain at home, either because



546646

127 there are no preventive services that can ensure the health and  
128 safety of the child or because, even with appropriate and  
129 available services being provided, the health and safety of the  
130 child cannot be ensured; or

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

134 6. That the department has made reasonable efforts to keep  
135 siblings together if they are removed and placed in out-of-home  
136 care unless such placement is not in the best interest of each  
137 child. It is preferred that siblings be kept together in a  
138 foster home, if available. Other reasonable efforts shall  
139 include short-term placement in a group home with the ability to  
140 accommodate sibling groups if such a placement is available. The  
141 department shall report to the court its efforts to place  
142 siblings together unless the court finds that such placement is  
143 not in the best interest of a child or his or her sibling.

144 7. That the court notified the parents, relatives that are  
145 providing out-of-home care for the child, or legal custodians of  
146 the time, date, and location of the next dependency hearing and  
147 of the importance of the active participation of the parents,  
148 relatives that are providing out-of-home care for the child, or  
149 legal custodians in all proceedings and hearings.

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

155 9. That the court notified relatives who are providing out-



546646

156 of-home care for a child as a result of the shelter petition  
157 being granted that they have the right to attend all subsequent  
158 hearings, to submit reports to the court, and to speak to the  
159 court regarding the child, if they so desire.

160 10. That the department has placement and care  
161 responsibility for any child who is not placed in the care of a  
162 parent at the conclusion of the shelter hearing.

163 Section 7. Subsection (3) and paragraphs (g), (h), and (i)  
164 of subsection (6) of section 39.407, Florida Statutes, are  
165 amended to read:

166 39.407 Medical, psychiatric, and psychological examination  
167 and treatment of child; physical, mental, or substance abuse  
168 examination of person with or requesting child custody.—

169 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
170 or paragraph (e), before the department provides psychotropic  
171 medications to a child in its custody, the prescribing physician  
172 or the advanced practice registered nurse whose specialty is  
173 psychiatric nursing, as defined in chapter 394, and who is given  
174 prescribing authority pursuant to chapter 464 shall attempt to  
175 obtain express and informed consent, as defined in s.

176 394.455(15) and as described in s. 394.459(3) (a), from the  
177 child's parent or legal guardian. The department must take steps  
178 necessary to facilitate the inclusion of the parent in the  
179 child's consultation with the physician or advanced practice  
180 registered nurse. However, if the parental rights of the parent  
181 have been terminated, the parent's location or identity is  
182 unknown or cannot reasonably be ascertained, or the parent  
183 declines to give express and informed consent, the department  
184 may, after consultation with the prescribing physician or





546646

185 advanced practice registered nurse, seek court authorization to  
186 provide the psychotropic medications to the child. Unless  
187 parental rights have been terminated and if it is possible to do  
188 so, the department shall continue to involve the parent in the  
189 decisionmaking process regarding the provision of psychotropic  
190 medications. If, at any time, a parent whose parental rights  
191 have not been terminated provides express and informed consent  
192 to the provision of a psychotropic medication, the requirements  
193 of this section that the department seek court authorization do  
194 not apply to that medication until such time as the parent no  
195 longer consents.

196         2. Any time the department seeks a medical evaluation to  
197 determine the need to initiate or continue a psychotropic  
198 medication for a child, the department must provide to the  
199 evaluating physician or advanced practice registered nurse all  
200 pertinent medical information known to the department concerning  
201 that child.

202         (b)1. If a child who is removed from the home under s.  
203 39.401 is receiving prescribed psychotropic medication at the  
204 time of removal and parental authorization to continue providing  
205 the medication cannot be obtained, the department may take  
206 possession of the remaining medication and may continue to  
207 provide the medication as prescribed until the shelter hearing,  
208 if it is determined that the medication is a current  
209 prescription for that child and the medication is in its  
210 original container.

211         2. If the department continues to provide the psychotropic  
212 medication to a child when parental authorization cannot be  
213 obtained, the department shall notify the parent or legal



546646

214 guardian as soon as possible that the medication is being  
215 provided to the child as provided in subparagraph 1. The child's  
216 official departmental record must include the reason parental  
217 authorization was not initially obtained and an explanation of  
218 why the medication is necessary for the child's well-being.

219 3. If the department is advised by a physician licensed  
220 under chapter 458 or chapter 459 or an advanced practice  
221 registered nurse whose specialty is psychiatric nursing, as  
222 defined in chapter 394, and who is given prescribing authority  
223 pursuant to chapter 464 that the child should continue the  
224 psychotropic medication and parental authorization has not been  
225 obtained, the department shall request court authorization at  
226 the shelter hearing to continue to provide the psychotropic  
227 medication and shall provide to the court any information in its  
228 possession in support of the request. Any authorization granted  
229 at the shelter hearing may extend only until the arraignment  
230 hearing on the petition for adjudication of dependency or 28  
231 days following the date of removal, whichever occurs sooner.

232 4. Before filing the dependency petition, the department  
233 shall ensure that the child is evaluated by a physician licensed  
234 under chapter 458 or chapter 459 or an advanced practice  
235 registered nurse whose specialty is psychiatric nursing, as  
236 defined in chapter 394, and who is given prescribing authority  
237 pursuant to chapter 464 to determine whether it is appropriate  
238 to continue the psychotropic medication. If, as a result of the  
239 evaluation, the department seeks court authorization to continue  
240 the psychotropic medication, a motion for such continued  
241 authorization shall be filed at the same time as the dependency  
242 petition, within 21 days after the shelter hearing.



546646

243 (c) Except as provided in paragraphs (b) and (e), the  
244 department must file a motion seeking the court's authorization  
245 to initially provide or continue to provide psychotropic  
246 medication to a child in its legal custody. The motion must be  
247 supported by a written report prepared by the department which  
248 describes the efforts made to enable the prescribing physician  
249 or advanced practice registered nurse whose specialty is  
250 psychiatric nursing, as defined in chapter 394, and who is given  
251 prescribing authority pursuant to chapter 464 to obtain express  
252 and informed consent for providing the medication to the child  
253 and other treatments considered or recommended for the child. In  
254 addition, the motion must be supported by the prescribing  
255 physician's or advanced practice registered nurse's signed  
256 medical report providing:

257 1. The name of the child, the name and range of the dosage  
258 of the psychotropic medication, and that there is a need to  
259 prescribe psychotropic medication to the child based upon a  
260 diagnosed condition for which such medication is being  
261 prescribed.

262 2. A statement indicating that the physician has reviewed  
263 all medical information concerning the child which has been  
264 provided.

265 3. A statement indicating that the psychotropic medication,  
266 at its prescribed dosage, is appropriate for treating the  
267 child's diagnosed medical condition, as well as the behaviors  
268 and symptoms the medication, at its prescribed dosage, is  
269 expected to address.

270 4. An explanation of the nature and purpose of the  
271 treatment; the recognized side effects, risks, and



546646

272 | contraindications of the medication; drug-interaction  
273 | precautions; the possible effects of stopping the medication;  
274 | and how the treatment will be monitored, followed by a statement  
275 | indicating that this explanation was provided to the child if  
276 | age appropriate and to the child's caregiver.

277 |         5. Documentation addressing whether the psychotropic  
278 | medication will replace or supplement any other currently  
279 | prescribed medications or treatments; the length of time the  
280 | child is expected to be taking the medication; and any  
281 | additional medical, mental health, behavioral, counseling, or  
282 | other services that the prescribing physician or advanced  
283 | practice registered nurse recommends.

284 |         (d)1. The department must notify all parties of the  
285 | proposed action taken under paragraph (c) in writing or by  
286 | whatever other method best ensures that all parties receive  
287 | notification of the proposed action within 48 hours after the  
288 | motion is filed. If any party objects to the department's  
289 | motion, that party shall file the objection within 2 working  
290 | days after being notified of the department's motion. If any  
291 | party files an objection to the authorization of the proposed  
292 | psychotropic medication, the court shall hold a hearing as soon  
293 | as possible before authorizing the department to initially  
294 | provide or to continue providing psychotropic medication to a  
295 | child in the legal custody of the department. At such hearing  
296 | and notwithstanding s. 90.803, the medical report described in  
297 | paragraph (c) is admissible in evidence. The prescribing  
298 | physician or advanced practice registered nurse whose specialty  
299 | is psychiatric nursing, as defined in chapter 394, and who is  
300 | given prescribing authority pursuant to chapter 464 need not



546646

301 attend the hearing or testify unless the court specifically  
302 orders such attendance or testimony, or a party subpoenas the  
303 physician or advanced practice registered nurse to attend the  
304 hearing or provide testimony. If, after considering any  
305 testimony received, the court finds that the department's motion  
306 and the physician's or advanced practice registered nurse's  
307 medical report meet the requirements of this subsection and that  
308 it is in the child's best interests, the court may order that  
309 the department provide or continue to provide the psychotropic  
310 medication to the child without additional testimony or  
311 evidence. At any hearing held under this paragraph, the court  
312 shall further inquire of the department as to whether additional  
313 medical, mental health, behavioral, counseling, or other  
314 services are being provided to the child by the department which  
315 the prescribing physician or advanced practice registered nurse  
316 considers to be necessary or beneficial in treating the child's  
317 medical condition and which the physician or advanced practice  
318 registered nurse recommends or expects to provide to the child  
319 in concert with the medication. The court may order additional  
320 medical consultation, including consultation with the MedConsult  
321 line at the University of Florida, if available, or require the  
322 department to obtain a second opinion within a reasonable  
323 timeframe as established by the court, not to exceed 21 calendar  
324 days, after such order based upon consideration of the best  
325 interests of the child. The department must make a referral for  
326 an appointment for a second opinion with a physician within 1  
327 working day. The court may not order the discontinuation of  
328 prescribed psychotropic medication if such order is contrary to  
329 the decision of the prescribing physician or advanced practice



546646

330 registered nurse unless the court first obtains an opinion from  
331 a licensed psychiatrist, if available, or, if not available, a  
332 physician licensed under chapter 458 or chapter 459, stating  
333 that more likely than not, discontinuing the medication would  
334 not cause significant harm to the child. If, however, the  
335 prescribing psychiatrist specializes in mental health care for  
336 children and adolescents, the court may not order the  
337 discontinuation of prescribed psychotropic medication unless the  
338 required opinion is also from a psychiatrist who specializes in  
339 mental health care for children and adolescents. The court may  
340 also order the discontinuation of prescribed psychotropic  
341 medication if a child's treating physician, licensed under  
342 chapter 458 or chapter 459, states that continuing the  
343 prescribed psychotropic medication would cause significant harm  
344 to the child due to a diagnosed nonpsychiatric medical  
345 condition.

346 2. The burden of proof at any hearing held under this  
347 paragraph shall be by a preponderance of the evidence.

348 (e)1. If the child's prescribing physician or advanced  
349 practice registered nurse whose specialty is psychiatric  
350 nursing, as defined in chapter 394, and who is given prescribing  
351 authority pursuant to chapter 464 certifies in the signed  
352 medical report required in paragraph (c) that delay in providing  
353 a prescribed psychotropic medication would more likely than not  
354 cause significant harm to the child, the medication may be  
355 provided in advance of the issuance of a court order. In such  
356 event, the medical report must provide the specific reasons why  
357 the child may experience significant harm and the nature and the  
358 extent of the potential harm. The department must submit a



546646

359 motion seeking continuation of the medication and the  
360 physician's medical report to the court, the child's guardian ad  
361 litem, and all other parties within 3 working days after the  
362 department commences providing the medication to the child. The  
363 department shall seek the order at the next regularly scheduled  
364 court hearing required under this chapter, or within 30 days  
365 after the date of the prescription, whichever occurs sooner. If  
366 any party objects to the department's motion, the court shall  
367 hold a hearing within 7 days.

368         2. Psychotropic medications may be administered in advance  
369 of a court order in hospitals, crisis stabilization units, and  
370 in statewide inpatient psychiatric programs. Within 3 working  
371 days after the medication is begun, the department must seek  
372 court authorization as described in paragraph (c).

373         (f)1. The department shall fully inform the court of the  
374 child's medical and behavioral status as part of the social  
375 services report prepared for each judicial review hearing held  
376 for a child for whom psychotropic medication has been prescribed  
377 or provided under this subsection. As a part of the information  
378 provided to the court, the department shall furnish copies of  
379 all pertinent medical records concerning the child which have  
380 been generated since the previous hearing. On its own motion or  
381 on good cause shown by any party, including any guardian ad  
382 litem, attorney, or attorney ad litem who has been appointed to  
383 represent the child or the child's interests, the court may  
384 review the status more frequently than required in this  
385 subsection.

386         2. The court may, in the best interests of the child, order  
387 the department to obtain a medical opinion addressing whether



546646

388 the continued use of the medication under the circumstances is  
389 safe and medically appropriate.

390 (g) The department shall adopt rules to ensure that  
391 children receive timely access to clinically appropriate  
392 psychotropic medications. These rules must include, but need not  
393 be limited to, the process for determining which adjunctive  
394 services are needed, the uniform process for facilitating the  
395 prescribing physician's or advanced practice registered nurse's  
396 ability to obtain the express and informed consent of a child's  
397 parent or guardian, the procedures for obtaining court  
398 authorization for the provision of a psychotropic medication,  
399 the frequency of medical monitoring and reporting on the status  
400 of the child to the court, how the child's parents will be  
401 involved in the treatment-planning process if their parental  
402 rights have not been terminated, and how caretakers are to be  
403 provided information contained in the physician's or advanced  
404 practice registered nurse's signed medical report. The rules  
405 must also include uniform forms to be used in requesting court  
406 authorization for the use of a psychotropic medication and  
407 provide for the integration of each child's treatment plan and  
408 case plan. The department must begin the formal rulemaking  
409 process within 90 days after the effective date of this act.

410 (6) Children who are in the legal custody of the department  
411 may be placed by the department, without prior approval of the  
412 court, in a residential treatment center licensed under s.  
413 394.875 or a hospital licensed under chapter 395 for residential  
414 mental health treatment only pursuant to this section or may be  
415 placed by the court in accordance with an order of involuntary  
416 examination or involuntary placement entered pursuant to s.





546646

417 394.463 or s. 394.467. All children placed in a residential  
418 treatment program under this subsection must have a guardian ad  
419 litem appointed.

420 (g)1. The department must submit, at the beginning of each  
421 month, to the court having jurisdiction over the child, a  
422 written report regarding the child's progress toward achieving  
423 the goals specified in the individualized plan of treatment.

424 2. The court must conduct a hearing to review the status of  
425 the child's residential treatment plan no later than 60 days ~~3~~  
426 ~~months~~ after the child's admission to the residential treatment  
427 program. An independent review of the child's progress toward  
428 achieving the goals and objectives of the treatment plan must be  
429 completed by a qualified evaluator and submitted to the court  
430 before its 60-day ~~3-month~~ review.

431 3. For any child in residential treatment at the time a  
432 judicial review is held pursuant to s. 39.701, the child's  
433 continued placement in residential treatment must be a subject  
434 of the judicial review.

435 4. If at any time the court determines that the child is  
436 not suitable for continued residential treatment, the court  
437 shall order the department to place the child in the least  
438 restrictive setting that is best suited to meet his or her  
439 needs.

440 (h) After the initial 60-day ~~3-month~~ review, the court must  
441 conduct a review of the child's residential treatment plan every  
442 90 days.

443 (i) The department must adopt rules for implementing  
444 timeframes for the completion of suitability assessments by  
445 qualified evaluators and a procedure that includes timeframes



546646

446 for completing the 60-day ~~3-month~~ independent review by the  
447 qualified evaluators of the child's progress toward achieving  
448 the goals and objectives of the treatment plan which review must  
449 be submitted to the court. The Agency for Health Care  
450 Administration must adopt rules for the registration of  
451 qualified evaluators, the procedure for selecting the evaluators  
452 to conduct the reviews required under this section, and a  
453 reasonable, cost-efficient fee schedule for qualified  
454 evaluators.

455 Section 8. Present paragraphs (a) through (h) of subsection  
456 (2) of section 39.5085, Florida Statutes, are redesignated as  
457 paragraphs (b) through (i), respectively, paragraph (a) of  
458 subsection (1) is amended, and a new paragraph (a) is added to  
459 subsection (2) of that section, to read:

460 39.5085 Relative Caregiver Program.—

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

463 (a) Provide for the establishment of procedures and  
464 protocols that serve to advance the continued safety of children  
465 by acknowledging the valued resource uniquely available through  
466 grandparents, relatives of children, and specified nonrelatives  
467 of children pursuant to subparagraph (2) (b) 3. ~~(2) (a) 3.~~

468 (2)

469 (a) Relatives or nonrelatives who are caring for a child and do  
470 not meet the eligibility requirements for level I licensure  
471 under s. 409.175 may apply for the Relative Caregiver Program.

472 Section 9. Paragraph (a) of subsection (1) of section  
473 39.5086, Florida Statutes, is amended to read:

474 39.5086 Kinship navigator programs.—



546646

475 (1) DEFINITIONS.—As used in this section, the term:  
476 ~~(a) "Fictive kin" has the same meaning as provided in s.~~  
477 ~~39.4015(2)(d).~~  
478 Section 10. Subsections (1), (2), (6), and (10) of section  
479 39.6225, Florida Statutes, are amended to read:  
480 39.6225 Guardianship Assistance Program.—  
481 (1) The department shall establish and operate the  
482 Guardianship Assistance Program to provide guardianship  
483 assistance payments to relatives, as defined in this subsection,  
484 ~~next of kin, and fictive kin~~ who meet the eligibility  
485 requirements established in this section. For purposes of  
486 administering the program, the term:  
487 (a) "Child" means an individual who has not attained 21  
488 years of age.  
489 (b) "Young adult" means an individual who has attained 18  
490 years of age but who has not attained 21 years of age.  
491 (c) "Relative" means fictive kin, a relative as defined in  
492 s. 39.01(73), or next of kin.  
493 (2) To approve an application for the program, the  
494 department shall determine that all of the following  
495 requirements have been met:  
496 (a) The child's placement with the guardian has been  
497 approved by the court.  
498 (b) The court has granted legal custody to the guardian  
499 pursuant to s. 39.6221 ~~39.521~~ or s. 39.522.  
500 (c) The guardian has been licensed to care for the child as  
501 provided in s. 409.175.  
502 (d) The child was eligible for foster care room and board  
503 payments pursuant to s. 409.145 for at least 6 consecutive



546646

504 months while the child resided in the home of the guardian and  
505 the guardian was licensed as a foster parent.

506 (6) Guardianship assistance benefits shall be terminated  
507 if:

508 (a) The child has attained the age of 18, or such greater  
509 age as the department may elect;

510 (b) The child has not attained the age of 18 and the  
511 relative guardians are no longer legally responsible for the  
512 support of the child; or

513 (c) The child is no longer receiving support from the  
514 guardian

515 ~~(a) The child is absent from the home of the guardian for a~~  
516 ~~period of at least 60 consecutive calendar days, unless the~~  
517 ~~child:~~

518 ~~1. Is absent due to medical care, school attendance,~~  
519 ~~runaway status, or detention in a Department of Juvenile Justice~~  
520 ~~facility; and~~

521 ~~2. Continues to be under the care and custody of the~~  
522 ~~guardian.~~

523 ~~(b) The court modifies the placement of the child and the~~  
524 ~~guardian is no longer eligible to receive guardianship~~  
525 ~~assistance benefits.~~

526 (10) The case plan must describe the following for each  
527 child with a permanency goal of permanent guardianship in which  
528 the guardian is pursuing ~~in receipt of~~ guardianship assistance  
529 ~~payments:~~

530 (a) The manner in which the child meets program eligibility  
531 requirements.

532 (b) The manner in which the department determined that



546646

533 reunification or adoption is not appropriate.

534 (c) Efforts to discuss adoption with the child's permanent  
535 guardian.

536 (d) Efforts to discuss guardianship assistance with the  
537 child's parent or the reasons why efforts were not made.

538 (e) The reasons why a permanent placement with the  
539 prospective guardian is in the best interest of the child.

540 (f) The reasons why the child is separated from his or her  
541 siblings during placement, if applicable.

542 (g) Efforts to consult the child, if the child is 14 years  
543 of age or older, regarding the permanent guardianship  
544 arrangement.

545 Section 11. Subsections (2) and (3), paragraph (a) of  
546 subsection (4), and subsection (6) of section 39.6251, Florida  
547 Statutes, are amended, and subsection (10) is added to that  
548 section, to read:

549 39.6251 Continuing care for young adults.—

550 (2) The primary goal for a child in care is permanency. A  
551 child who is living in licensed care on his or her 18th birthday  
552 and who has not achieved permanency under s. 39.621 is eligible  
553 to remain in licensed care under the jurisdiction of the court  
554 and in the care of the department. A child is eligible to remain  
555 in licensed care if he or she is:

556 (a) Completing secondary education or a program leading to  
557 an equivalent credential;

558 (b) Enrolled in an institution that provides postsecondary  
559 or vocational education;

560 (c) Participating in a program or activity designed to  
561 promote or eliminate barriers to employment;



546646

562 (d) Employed for at least 80 hours per month; or  
563 (e) Unable to participate in programs or activities listed  
564 in paragraphs (a)-(d) full time due to a physical, intellectual,  
565 emotional, or psychiatric condition that limits participation.  
566 Any such barrier to participation must be supported by  
567 documentation in the child's case file or school or medical  
568 records of a physical, intellectual, or psychiatric condition  
569 that impairs the child's ability to perform one or more life  
570 activities.

571  
572 The young adult must furnish documentation to the department or  
573 lead agency of his or her participation in one of the programs  
574 or activities listed in paragraphs (a)-(d), or his or her  
575 inability to participate in one of the programs or activities as  
576 provided in paragraph (e), or authorize the release of his or  
577 her records to the department or lead agency.

578 (3) The permanency goal for a young adult who chooses to  
579 remain in care past his or her 18th birthday is to transition to  
580 independence from licensed care to independent living.

581 (4) (a) The young adult must reside in a supervised living  
582 environment that is approved by the department or a community-  
583 based care lead agency. The young adult shall live  
584 independently, but in an environment in which he or she is  
585 provided supervision, case management, and supportive services  
586 by the department or lead agency. Such an environment must offer  
587 developmentally appropriate freedom and responsibility to  
588 prepare the young adult for adulthood. For the purposes of this  
589 subsection, a supervised living arrangement may include a  
590 licensed foster home, licensed group home, college dormitory,



546646

591 shared housing, apartment, or another housing arrangement if the  
592 arrangement is approved by the community-based care lead agency  
593 and is acceptable to the young adult, ~~with first choice being a~~  
594 ~~licensed foster home~~. A young adult may continue to reside with  
595 the same licensed foster family or group care provider with whom  
596 he or she was residing at the time he or she reached the age of  
597 18 years.

598 (6) A young adult who is between the ages of 18 and 21 and  
599 who has left care may return to care by applying to the  
600 community-based care lead agency for readmission through the  
601 execution of a voluntary placement agreement. The community-  
602 based care lead agency shall readmit the young adult if he or  
603 she continues to meet the eligibility requirements in this  
604 section.

605 (a) The department shall develop a standard procedure and  
606 application packet for readmission to care to be used by all  
607 community-based care lead agencies.

608 (b) Within 30 days after the young adult has been  
609 readmitted to care, the community-based care lead agency shall  
610 assign a case manager to update the case plan and the transition  
611 plan and to arrange for the required services. Updates to the  
612 case plan and the transition plan and arrangements for the  
613 required services shall be undertaken in consultation with the  
614 young adult. The department shall petition the court to  
615 reinstate jurisdiction over the young adult. Notwithstanding s.  
616 39.013(2), the court shall resume jurisdiction over the young  
617 adult if the department establishes that he or she continues to  
618 meet the eligibility requirements in this section.

619 (10) The department shall adopt rules to administer this



546646

620 section.

621 Section 12. Paragraph (d) of subsection (2) of section  
622 39.701, Florida Statutes, is amended, and paragraphs (f) and (g)  
623 are added to subsection (4) of that section, to read:

624 39.701 Judicial review.—

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

627 (d) *Orders.*—

628 1. Based upon the criteria set forth in paragraph (c) and  
629 the recommended order of the citizen review panel, if any, the  
630 court shall determine whether ~~or not~~ the social service agency  
631 shall initiate proceedings to have a child declared a dependent  
632 child, return the child to the parent, continue the child in  
633 out-of-home care for a specified period of time, or initiate  
634 termination of parental rights proceedings for subsequent  
635 placement in an adoptive home. Amendments to the case plan must  
636 be prepared as provided ~~prescribed~~ in s. 39.6013. If the court  
637 finds that the prevention or reunification efforts of the  
638 department will allow the child to remain safely at home or be  
639 safely returned to the home, the court shall allow the child to  
640 remain in or return to the home after making a specific finding  
641 of fact that the reasons for the creation of the case plan have  
642 been remedied to the extent that the child's safety, well-being,  
643 and physical, mental, and emotional health will not be  
644 endangered.

645 2. The court shall return the child to the custody of his  
646 or her ~~the~~ parents at any time it determines that the  
647 circumstances which caused the out-of-home placement, and issues  
648 subsequently identified, have been remedied to the extent that





546646

649 return of the child to the home with an in-home safety plan  
650 prepared or approved by the department ~~that they have~~  
651 ~~substantially complied with the case plan, if the court is~~  
652 ~~satisfied that reunification~~ will not be detrimental to the  
653 child's safety, well-being, and physical, mental, and emotional  
654 health.

655         3. If, in the opinion of the court, the social service  
656 agency has not complied with its obligations as specified in the  
657 written case plan, the court may find the social service agency  
658 in contempt, shall order the social service agency to submit its  
659 plans for compliance with the agreement, and shall require the  
660 social service agency to show why the child could not safely be  
661 returned to the home of the parents.

662         4. If, at any judicial review, the court finds that the  
663 parents have failed to substantially comply with the case plan  
664 to the degree that further reunification efforts are without  
665 merit and not in the best interest of the child, on its own  
666 motion, the court may order the filing of a petition for  
667 termination of parental rights, regardless of ~~or not~~ the  
668 time period as contained in the case plan for substantial  
669 compliance has expired.

670         5. Within 6 months after the date that the child was placed  
671 in shelter care, the court shall conduct a judicial review  
672 hearing to review the child's permanency goal as identified in  
673 the case plan. At the hearing the court shall make findings  
674 regarding the likelihood of the child's reunification with the  
675 parent or legal custodian. In making such findings, the court  
676 shall consider the level of the parent or legal custodian's  
677 compliance with the case plan and demonstrated change in



546646

678 protective capacities compared to that necessary to achieve  
679 timely reunification within 12 months after the removal of the  
680 child from the home. The court shall also consider the  
681 frequency, duration, manner, and level of engagement of the  
682 parent or legal custodian's visitation with the child in  
683 compliance with the case plan. If the court makes a written  
684 finding that it is not likely that the child will be reunified  
685 with the parent or legal custodian within 12 months after the  
686 child was removed from the home, the department must file with  
687 the court, and serve on all parties, a motion to amend the case  
688 plan under s. 39.6013 and declare that it will use concurrent  
689 planning for the case plan. The department must file the motion  
690 within 10 business days after receiving the written finding of  
691 the court. The department must attach the proposed amended case  
692 plan to the motion. If concurrent planning is already being  
693 used, the case plan must document the efforts the department is  
694 taking to complete the concurrent goal.

695         6. The court may issue a protective order in assistance, or  
696 as a condition, of any other order made under this part. In  
697 addition to the requirements included in the case plan, the  
698 protective order may set forth requirements relating to  
699 reasonable conditions of behavior to be observed for a specified  
700 period of time by a person or agency who is before the court,<sup>17</sup>  
701 and the order may require any person or agency to make periodic  
702 reports to the court containing such information as the court in  
703 its discretion may prescribe.

704         7. If, at any judicial review, the court determines that  
705 the child shall remain in out-of-home care in a placement other  
706 than with a parent, the court shall order that the department



546646

707 has placement and care responsibility for the child.

708 (4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During  
709 each period of time that a young adult remains in foster care,  
710 the court shall review the status of the young adult at least  
711 every 6 months and must hold a permanency review hearing at  
712 least annually.

713 (f) If the young adult elects to voluntarily leave extended  
714 foster care for the sole purpose of ending a removal episode and  
715 immediately thereafter executes a voluntary placement agreement  
716 with the department to reenroll in extended foster care, the  
717 court shall enter an order finding that the prior removal  
718 episode has ended. Under these circumstances, the court  
719 maintains jurisdiction and a petition to reinstate jurisdiction  
720 as provided in s. 39.6251(6) (b) is not required.

721 (g)1. When a young adult enters extended foster care by  
722 executing a voluntary placement agreement, the court shall enter  
723 an order within 180 days after execution of the agreement which  
724 determines whether the placement is in the best interest of the  
725 young adult. For purposes of this paragraph, a placement may  
726 include a licensed foster home, licensed group home, college  
727 dormitory, shared housing, apartment, or another housing  
728 arrangement, if the arrangement is approved by the community-  
729 based care lead agency and is acceptable to the young adult.

730 2. When a young adult is in extended foster care, each  
731 judicial review order shall provide that the department has  
732 placement and care responsibility for the young adult.

733 3. When a young adult is in extended foster care, the court  
734 shall enter an order at least every 12 months that includes a  
735 finding of whether the department has made reasonable efforts to



546646

736 finalize the permanency plan currently in effect.

737 Section 13. Paragraph (a) of subsection (4) of section  
738 402.56, Florida Statutes, is amended to read:

739 402.56 Children's cabinet; organization; responsibilities;  
740 annual report.—

741 (4) MEMBERS.—The cabinet shall consist of 16 members  
742 including the Governor and the following persons:

743 (a)1. The Secretary of Children and Families;

744 2. The Secretary of Juvenile Justice;

745 3. The director of the Agency for Persons with  
746 Disabilities;

747 4. The director of the Office of Early Learning;

748 5. The State Surgeon General;

749 6. The Secretary of Health Care Administration;

750 7. The Commissioner of Education;

751 8. The director of the Statewide Guardian Ad Litem Office;

752 9. A representative ~~The director~~ of the Office of Adoption  
753 and Child Protection;

754 10. A superintendent of schools, appointed by the Governor;  
755 and

756 11. Five members who represent children and youth advocacy  
757 organizations and who are not service providers, appointed by  
758 the Governor.

759 Section 14. Present subsections (9) and (10) of section  
760 409.1451, Florida Statutes, are redesignated as subsections (10)  
761 and (11), respectively, paragraph (b) of subsection (2) is  
762 amended, and a new subsection (9) is added to that section, to  
763 read:

764 409.1451 The Road-to-Independence Program.—



546646

765 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—  
766 (b) The amount of the financial assistance shall be as  
767 follows:  
768 1. For a young adult who does not remain in foster care and  
769 is attending a postsecondary school as provided in s. 1009.533,  
770 the amount is \$1,256 monthly.  
771 2. For a young adult who remains in foster care, is  
772 attending a postsecondary school, as provided in s. 1009.533,  
773 and continues to reside in a licensed foster home, the amount is  
774 the established room and board rate for foster parents. This  
775 takes the place of the payment provided for in s. 409.145(4).  
776 3. For a young adult who remains in foster care, but  
777 temporarily resides away from a licensed foster home for  
778 purposes of attending a postsecondary school as provided in s.  
779 1009.533, the amount is \$1,256 monthly. This takes the place of  
780 the payment provided for in s. 409.145(4).  
781 4. For a young adult who remains in foster care, is  
782 attending a postsecondary school as provided in s. 1009.533, and  
783 continues to reside in a licensed group home, the amount is  
784 negotiated between the community-based care lead agency and the  
785 licensed group home provider.  
786 5. For a young adult who remains in foster care, but  
787 temporarily resides away from a licensed group home for purposes  
788 of attending a postsecondary school as provided in s. 1009.533,  
789 the amount is \$1,256 monthly. This takes the place of a  
790 negotiated room and board rate.  
791 ~~6. The amount of the award may be disregarded for purposes~~  
792 ~~of determining the eligibility for, or the amount of, any other~~  
793 ~~federal or federally supported assistance.~~



546646

794           ~~6.7.~~ A young adult is eligible to receive financial  
795 assistance during the months when he or she is enrolled in a  
796 postsecondary educational institution.

797           (9) FINANCIAL ASSISTANCE FOR YOUNG ADULTS RECEIVING  
798 SERVICES.—Financial awards to young adults receiving services  
799 under subsections (2) and (3) and s. 39.6251 may be disregarded  
800 for purposes of determining the eligibility for, or the amount  
801 of, any other federal or federally supported assistance for  
802 which the department is required to determine eligibility for to  
803 administer the program.

804           Section 15. Paragraphs (e), (j), and (m) of subsection (2),  
805 paragraph (b) of subsection (5), paragraphs (b) and (c) of  
806 subsection (6), subsection (7), paragraph (b) of subsection (9),  
807 paragraphs (b) and (c) of subsection (12), and paragraphs (b)  
808 and (d) of subsection (14) of section 409.175, Florida Statutes,  
809 are amended to read:

810           409.175 Licensure of family foster homes, residential  
811 child-caring agencies, and child-placing agencies; public  
812 records exemption.—

813           (2) As used in this section, the term:

814           (e) "Family foster home" means a ~~private~~ residence licensed  
815 by the department in which children who are unattended by a  
816 parent or legal guardian are provided 24-hour care. The term  
817 does not include an adoptive home that has been approved by the  
818 department or approved by a licensed child-placing agency for  
819 children placed for adoption.

820           (j) "Personnel" means all owners, operators, employees, and  
821 volunteers working in a child-placing agency, ~~family foster~~  
822 ~~home,~~ or residential child-caring agency who may be employed by



546646

823 or do volunteer work for a person, corporation, or agency that  
824 holds a license as a child-placing agency or a residential  
825 child-caring agency, but the term does not include those who do  
826 not work on the premises where child care is furnished and have  
827 no direct contact with a child or have no contact with a child  
828 outside of the presence of the child's parent or guardian. For  
829 purposes of screening, the term includes any member, over the  
830 age of 12 years, of the family of the owner or operator or any  
831 person other than a client, over the age of 12 years, residing  
832 with the owner or operator if the agency ~~or family foster home~~  
833 is located in or adjacent to the home of the owner or operator  
834 or if the family member of, or person residing with, the owner  
835 or operator has any direct contact with the children. Members of  
836 the family of the owner or operator, or persons residing with  
837 the owner or operator, who are between the ages of 12 years and  
838 18 years are not required to be fingerprinted, but must be  
839 screened for delinquency records. For purposes of screening, the  
840 term also includes owners, operators, employees, and volunteers  
841 working in summer day camps, or summer 24-hour camps providing  
842 care for children. A volunteer who assists on an intermittent  
843 basis for less than 10 hours per month shall not be included in  
844 the term "personnel" for the purposes of screening if a person  
845 who meets the screening requirement of this section is always  
846 present and has the volunteer in his or her line of sight.

847 (m) "Screening" means the act of assessing the background  
848 of personnel or level II through level V family foster homes and  
849 includes, but is not limited to, employment history checks as  
850 provided in chapter 435, using the level 2 standards for  
851 screening set forth in that chapter.



546646

852 (5) The department shall adopt and amend rules for the  
853 levels of licensed care associated with the licensure of family  
854 foster homes, residential child-caring agencies, and child-  
855 placing agencies. The rules may include criteria to approve  
856 waivers to licensing requirements when applying for a child-  
857 specific license.

858 (b) The requirements for licensure and operation of family  
859 foster homes, residential child-caring agencies, and child-  
860 placing agencies shall include:

861 1. The operation, conduct, and maintenance of these homes  
862 and agencies and the responsibility which they assume for  
863 children served and the evidence of need for that service.

864 2. The provision of food, clothing, educational  
865 opportunities, services, equipment, and individual supplies to  
866 assure the healthy physical, emotional, and mental development  
867 of the children served.

868 3. The appropriateness, safety, cleanliness, and general  
869 adequacy of the premises, including fire prevention and health  
870 standards, to provide for the physical comfort, care, and well-  
871 being of the children served.

872 4. The ratio of staff to children required to provide  
873 adequate care and supervision of the children served and, in the  
874 case of family foster homes, the maximum number of children in  
875 the home.

876 5. The good moral character based upon screening,  
877 education, training, and experience requirements for personnel  
878 and family foster homes.

879 6. The department may grant exemptions from  
880 disqualification from working with children or the





546646

881 developmentally disabled as provided in s. 435.07.

882       7. The provision of preservice and inservice training for  
883 all foster parents and agency staff.

884       8. Satisfactory evidence of financial ability to provide  
885 care for the children in compliance with licensing requirements.

886       9. The maintenance by the agency of records pertaining to  
887 admission, progress, health, and discharge of children served,  
888 including written case plans and reports to the department.

889       10. The provision for parental involvement to encourage  
890 preservation and strengthening of a child's relationship with  
891 the family.

892       11. The transportation safety of children served.

893       12. The provisions for safeguarding the cultural,  
894 religious, and ethnic values of a child.

895       13. Provisions to safeguard the legal rights of children  
896 served.

897       (6)

898       (b) Upon application, the department shall conduct a  
899 licensing study based on its licensing rules; shall inspect the  
900 home or the agency and the records, including financial records,  
901 of the agency; and shall interview the applicant. The department  
902 may authorize a licensed child-placing agency to conduct the  
903 licensing study of a family foster home to be used exclusively  
904 by that agency and to verify to the department that the home  
905 meets the licensing requirements established by the department.  
906 The department shall post on its website a list of the agencies  
907 authorized to conduct such studies. Upon certification by a  
908 licensed child-placing agency that a family foster home meets  
909 the licensing requirements and upon receipt of a letter from a



546646

910 community-based care lead agency in the service area where the  
911 home will be licensed which indicates that the family foster  
912 home meets the criteria established by the lead agency, the  
913 department shall issue the license. A letter from the lead  
914 agency is not required if the lead agency where the proposed  
915 home is located is directly supervising foster homes in the same  
916 service area.

917  
918 ===== T I T L E A M E N D M E N T =====

919 And the title is amended as follows:

920 Delete lines 2 - 36

921 and insert:

922 An act relating to child welfare; creating s. 39.0012,  
923 F.S.; requiring the Department of Children and  
924 Families to establish a direct-support organization to  
925 assist the Children and Youth Cabinet with carrying  
926 out certain purposes and responsibilities; providing  
927 purposes and duties of the direct-support  
928 organization; providing for a board of directors;  
929 providing membership requirements; delineating  
930 contract and other governance requirements; providing  
931 for the future repeal of the direct-support  
932 organization; amending s. 39.01, F.S.; revising  
933 definitions; amending s. 39.201, F.S.; requiring the  
934 central abuse hotline to accept certain reports or  
935 calls for investigation for children who do not live  
936 in this state; requiring the Department of Children  
937 and Families to initiate an investigation when a  
938 report is received from an emergency room physician;



546646

939 amending s. 39.303, F.S.; expanding the types of  
940 reports that the department must refer to Child  
941 Protection Teams; amending s. 39.4015, F.S.; revising  
942 definitions; amending s. 39.402, F.S.; requiring that  
943 the order for placement of a child in shelter care  
944 contain a written finding specifying that the  
945 Department of Children and Families has placement and  
946 care responsibility for certain children; amending s.  
947 39.407, F.S.; authorizing certain advanced practice  
948 registered nurses to prescribe psychotropic  
949 medications to certain children; revising the time  
950 period within which a court must review a child's  
951 residential treatment plan; amending s. 39.5085, F.S.;  
952 revising eligibility for the Relative Caregiver  
953 Program; amending s. 39.5086, F.S.; deleting the term  
954 "fictive kin"; amending s. 39.6225, F.S.; revising who  
955 the department must provide guardianship assistance  
956 payments to; defining the term "relative"; revising  
957 the requirements that must be met for approval of an  
958 application for the Guardianship Assistance Program;  
959 revising when guardianship assistance benefits must be  
960 terminated; conforming provisions to changes made by  
961 the act; amending s. 39.6251, F.S.; requiring a young  
962 adult in extended foster care to provide certain  
963 documentation or authorize release of certain records;  
964 revising permanency goals for young adults in extended  
965 foster care; requiring execution of a voluntary  
966 placement agreement under certain circumstances;  
967 requiring the department to adopt rules; amending s.



546646

968 39.701, F.S.; revising when a court must return a  
969 child to the custody of his or her parents after  
970 making certain determinations; requiring the court to  
971 enter certain orders if a young adult enters extended  
972 foster care; amending s. 402.56, F.S.; revising  
973 membership of the Children and Youth Cabinet; amending  
974 s. 409.1451, F.S.; authorizing certain financial  
975 awards to be disregarded when a young adult is  
976 applying for other federal assistance; amending s.  
977 409.175, F.S.; revising definitions; revising  
978 provisions related to the licensure of family foster  
979 homes and certain child-caring and child-placing  
980 agencies; requiring the department to post certain  
981 information on its website; deleting



231468

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2019	.	
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The Committee on Children, Families, and Elder Affairs (Book) recommended the following:

**Senate Amendment to Amendment (546646)**

Delete lines 469 - 471

and insert:

(a) Relatives and nonrelatives must be informed of the availability of, and the requirements and benefits of, the Relative Caregiver Program and the Guardianship Assistance Program and must be informed that they may choose which program to enroll in that best suits the particular needs of the caregiver.



231468

11

By the Committee on Health Policy; and Senator Albritton

588-03477-19

20191650c1

1 A bill to be entitled  
 2 An act relating to child welfare; amending ss. 39.01  
 3 and 39.4015, F.S.; revising definitions; amending s.  
 4 39.402, F.S.; requiring that the order for placement  
 5 of a child in shelter care contain a written finding  
 6 specifying that the Department of Children and  
 7 Families has placement and care responsibility for  
 8 certain children; amending s. 39.407, F.S.;  
 9 authorizing certain advanced practice registered  
 10 nurses to prescribe psychotropic medications to  
 11 certain children; revising the time period within  
 12 which a court must review a child's residential  
 13 treatment plan; amending s. 39.5085, F.S.; revising  
 14 eligibility for the Relative Caregiver Program;  
 15 amending s. 39.5086, F.S.; deleting the term "fictive  
 16 kin"; amending s. 39.6225, F.S.; providing for the  
 17 termination of guardianship assistance benefits under  
 18 certain circumstances; conforming provisions to  
 19 changes made by the act; amending s. 39.6251, F.S.;  
 20 requiring a young adult in extended foster care to  
 21 provide certain documentation or authorize release of  
 22 certain records; revising permanency goals for young  
 23 adults in extended foster care; requiring execution of  
 24 a voluntary placement agreement under certain  
 25 circumstances; requiring the department to adopt  
 26 rules; amending s. 39.701, F.S.; revising when a court  
 27 must return a child to the custody of his or her  
 28 parents after making certain determinations; requiring  
 29 the court to enter certain orders if a young adult

Page 1 of 37

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

588-03477-19

20191650c1

30 enters extended foster care; amending s. 409.1451,  
 31 F.S.; authorizing certain financial awards to be  
 32 disregarded when a young adult is applying for other  
 33 federal assistance; amending s. 409.175, F.S.;  
 34 revising definitions; revising provisions related to  
 35 the licensure of family foster homes and certain  
 36 child-caring and child-placing agencies; deleting  
 37 required numbers of training hours for foster parents;  
 38 amending s. 409.903, F.S.; revising eligibility for  
 39 Medicaid coverage; amending s. 409.991, F.S.; revising  
 40 a definition; amending s. 414.045, F.S.; revising  
 41 eligibility for child-only funding; amending s.  
 42 1009.25, F.S.; revising eligibility for tuition fee  
 43 exemptions; providing an effective date.

44  
 45 Be It Enacted by the Legislature of the State of Florida:

46  
 47 Section 1. Subsection (37) of section 39.01, Florida  
 48 Statutes, is amended to read:

49 39.01 Definitions.—When used in this chapter, unless the  
 50 context otherwise requires:

51 (37) "Institutional child abuse or neglect" means  
 52 situations of known or suspected child abuse or neglect in which  
 53 the person allegedly perpetrating the child abuse or neglect is  
 54 an employee of a public or private school, public or private day  
 55 care center, residential home, institution, facility, or agency  
 56 or any other person at such institution responsible for the  
 57 child's care as defined in this section ~~subsection (54)~~.

58 Section 2. Paragraph (d) of subsection (2) of section

Page 2 of 37

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588-03477-19

20191650c1

59 39.4015, Florida Statutes, is amended to read:

60 39.4015 Family finding.-

61 (2) DEFINITIONS.-As used in this section, the term:

62 ~~(d) "Fictive kin" means an individual who is unrelated to~~  
 63 ~~the child by either birth or marriage, but has such a close~~  
 64 ~~emotional relationship with the child that he or she may be~~  
 65 ~~considered part of the family.~~

66 Section 3. Paragraph (h) of subsection (8) of section

67 39.402, Florida Statutes, is amended to read:

68 39.402 Placement in a shelter.-

69 (8)

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

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

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

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

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

588-03477-19

20191650c1

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

94 a. The first contact of the department with the family  
 95 occurs during an emergency;

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

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

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

109 6. That the department has made reasonable efforts to keep  
 110 siblings together if they are removed and placed in out-of-home  
 111 care unless such placement is not in the best interest of each  
 112 child. It is preferred that siblings be kept together in a  
 113 foster home, if available. Other reasonable efforts shall  
 114 include short-term placement in a group home with the ability to  
 115 accommodate sibling groups if such a placement is available. The  
 116 department shall report to the court its efforts to place



588-03477-19

20191650c1

117 siblings together unless the court finds that such placement is  
118 not in the best interest of a child or his or her sibling.

119 7. That the court notified the parents, relatives that are  
120 providing out-of-home care for the child, or legal custodians of  
121 the time, date, and location of the next dependency hearing and  
122 of the importance of the active participation of the parents,  
123 relatives that are providing out-of-home care for the child, or  
124 legal custodians in all proceedings and hearings.

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

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

135 10. That the department has placement and care  
136 responsibility for any child who is not placed in the care of a  
137 parent at the conclusion of the shelter hearing.

138 Section 4. Subsection (3) and paragraphs (g), (h), and (i)  
139 of subsection (6) of section 39.407, Florida Statutes, are  
140 amended to read:

141 39.407 Medical, psychiatric, and psychological examination  
142 and treatment of child; physical, mental, or substance abuse  
143 examination of person with or requesting child custody.—

144 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
145 or paragraph (e), before the department provides psychotropic

588-03477-19

20191650c1

146 medications to a child in its custody, the prescribing physician  
147 or the advanced practice registered nurse whose specialty is  
148 psychiatric nursing, as defined in chapter 394, and who is given  
149 prescribing authority pursuant to chapter 464 shall attempt to  
150 obtain express and informed consent, as defined in s.  
151 394.455(15) and as described in s. 394.459(3)(a), from the  
152 child's parent or legal guardian. The department must take steps  
153 necessary to facilitate the inclusion of the parent in the  
154 child's consultation with the physician or advanced practice  
155 registered nurse. However, if the parental rights of the parent  
156 have been terminated, the parent's location or identity is  
157 unknown or cannot reasonably be ascertained, or the parent  
158 declines to give express and informed consent, the department  
159 may, after consultation with the prescribing physician or  
160 advanced practice registered nurse, seek court authorization to  
161 provide the psychotropic medications to the child. Unless  
162 parental rights have been terminated and if it is possible to do  
163 so, the department shall continue to involve the parent in the  
164 decisionmaking process regarding the provision of psychotropic  
165 medications. If, at any time, a parent whose parental rights  
166 have not been terminated provides express and informed consent  
167 to the provision of a psychotropic medication, the requirements  
168 of this section that the department seek court authorization do  
169 not apply to that medication until such time as the parent no  
170 longer consents.

171 2. Any time the department seeks a medical evaluation to  
172 determine the need to initiate or continue a psychotropic  
173 medication for a child, the department must provide to the  
174 evaluating physician or advanced practice registered nurse all

588-03477-19 20191650c1

175 pertinent medical information known to the department concerning  
176 that child.

177 (b)1. If a child who is removed from the home under s.  
178 39.401 is receiving prescribed psychotropic medication at the  
179 time of removal and parental authorization to continue providing  
180 the medication cannot be obtained, the department may take  
181 possession of the remaining medication and may continue to  
182 provide the medication as prescribed until the shelter hearing,  
183 if it is determined that the medication is a current  
184 prescription for that child and the medication is in its  
185 original container.

186 2. If the department continues to provide the psychotropic  
187 medication to a child when parental authorization cannot be  
188 obtained, the department shall notify the parent or legal  
189 guardian as soon as possible that the medication is being  
190 provided to the child as provided in subparagraph 1. The child's  
191 official departmental record must include the reason parental  
192 authorization was not initially obtained and an explanation of  
193 why the medication is necessary for the child's well-being.

194 3. If the department is advised by a physician licensed  
195 under chapter 458 or chapter 459 or an advanced practice  
196 registered nurse whose specialty is psychiatric nursing, as  
197 defined in chapter 394, and who is given prescribing authority  
198 pursuant to chapter 464 that the child should continue the  
199 psychotropic medication and parental authorization has not been  
200 obtained, the department shall request court authorization at  
201 the shelter hearing to continue to provide the psychotropic  
202 medication and shall provide to the court any information in its  
203 possession in support of the request. Any authorization granted

Page 7 of 37

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588-03477-19 20191650c1

204 at the shelter hearing may extend only until the arraignment  
205 hearing on the petition for adjudication of dependency or 28  
206 days following the date of removal, whichever occurs sooner.

207 4. Before filing the dependency petition, the department  
208 shall ensure that the child is evaluated by a physician licensed  
209 under chapter 458 or chapter 459 or an advanced practice  
210 registered nurse whose specialty is psychiatric nursing, as  
211 defined in chapter 394, and who is given prescribing authority  
212 pursuant to chapter 464 to determine whether it is appropriate  
213 to continue the psychotropic medication. If, as a result of the  
214 evaluation, the department seeks court authorization to continue  
215 the psychotropic medication, a motion for such continued  
216 authorization shall be filed at the same time as the dependency  
217 petition, within 21 days after the shelter hearing.

218 (c) Except as provided in paragraphs (b) and (e), the  
219 department must file a motion seeking the court's authorization  
220 to initially provide or continue to provide psychotropic  
221 medication to a child in its legal custody. The motion must be  
222 supported by a written report prepared by the department which  
223 describes the efforts made to enable the prescribing physician  
224 or advanced practice registered nurse whose specialty is  
225 psychiatric nursing, as defined in chapter 394, and who is given  
226 prescribing authority pursuant to chapter 464 to obtain express  
227 and informed consent for providing the medication to the child  
228 and other treatments considered or recommended for the child. In  
229 addition, the motion must be supported by the prescribing  
230 physician's or advanced practice registered nurse's signed  
231 medical report providing:

232 1. The name of the child, the name and range of the dosage

Page 8 of 37

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588-03477-19

20191650c1

233 of the psychotropic medication, and that there is a need to  
 234 prescribe psychotropic medication to the child based upon a  
 235 diagnosed condition for which such medication is being  
 236 prescribed.

237 2. A statement indicating that the physician has reviewed  
 238 all medical information concerning the child which has been  
 239 provided.

240 3. A statement indicating that the psychotropic medication,  
 241 at its prescribed dosage, is appropriate for treating the  
 242 child's diagnosed medical condition, as well as the behaviors  
 243 and symptoms the medication, at its prescribed dosage, is  
 244 expected to address.

245 4. An explanation of the nature and purpose of the  
 246 treatment; the recognized side effects, risks, and  
 247 contraindications of the medication; drug-interaction  
 248 precautions; the possible effects of stopping the medication;  
 249 and how the treatment will be monitored, followed by a statement  
 250 indicating that this explanation was provided to the child if  
 251 age appropriate and to the child's caregiver.

252 5. Documentation addressing whether the psychotropic  
 253 medication will replace or supplement any other currently  
 254 prescribed medications or treatments; the length of time the  
 255 child is expected to be taking the medication; and any  
 256 additional medical, mental health, behavioral, counseling, or  
 257 other services that the prescribing physician or advanced  
 258 practice registered nurse recommends.

259 (d)1. The department must notify all parties of the  
 260 proposed action taken under paragraph (c) in writing or by  
 261 whatever other method best ensures that all parties receive

588-03477-19

20191650c1

262 notification of the proposed action within 48 hours after the  
 263 motion is filed. If any party objects to the department's  
 264 motion, that party shall file the objection within 2 working  
 265 days after being notified of the department's motion. If any  
 266 party files an objection to the authorization of the proposed  
 267 psychotropic medication, the court shall hold a hearing as soon  
 268 as possible before authorizing the department to initially  
 269 provide or to continue providing psychotropic medication to a  
 270 child in the legal custody of the department. At such hearing  
 271 and notwithstanding s. 90.803, the medical report described in  
 272 paragraph (c) is admissible in evidence. The prescribing  
 273 physician or advanced practice registered nurse whose specialty  
 274 is psychiatric nursing, as defined in chapter 394, and who is  
 275 given prescribing authority pursuant to chapter 464 need not  
 276 attend the hearing or testify unless the court specifically  
 277 orders such attendance or testimony, or a party subpoenas the  
 278 physician or advanced practice registered nurse to attend the  
 279 hearing or provide testimony. If, after considering any  
 280 testimony received, the court finds that the department's motion  
 281 and the physician's or advanced practice registered nurse's  
 282 medical report meet the requirements of this subsection and that  
 283 it is in the child's best interests, the court may order that  
 284 the department provide or continue to provide the psychotropic  
 285 medication to the child without additional testimony or  
 286 evidence. At any hearing held under this paragraph, the court  
 287 shall further inquire of the department as to whether additional  
 288 medical, mental health, behavioral, counseling, or other  
 289 services are being provided to the child by the department which  
 290 the prescribing physician or advanced practice registered nurse

588-03477-19 20191650c1

291 considers to be necessary or beneficial in treating the child's  
 292 medical condition and which the physician or advanced practice  
 293 registered nurse recommends or expects to provide to the child  
 294 in concert with the medication. The court may order additional  
 295 medical consultation, including consultation with the MedConsult  
 296 line at the University of Florida, if available, or require the  
 297 department to obtain a second opinion within a reasonable  
 298 timeframe as established by the court, not to exceed 21 calendar  
 299 days, after such order based upon consideration of the best  
 300 interests of the child. The department must make a referral for  
 301 an appointment for a second opinion with a physician within 1  
 302 working day. The court may not order the discontinuation of  
 303 prescribed psychotropic medication if such order is contrary to  
 304 the decision of the prescribing physician or advanced practice  
 305 registered nurse unless the court first obtains an opinion from  
 306 a licensed psychiatrist, if available, or, if not available, a  
 307 physician licensed under chapter 458 or chapter 459, stating  
 308 that more likely than not, discontinuing the medication would  
 309 not cause significant harm to the child. If, however, the  
 310 prescribing psychiatrist specializes in mental health care for  
 311 children and adolescents, the court may not order the  
 312 discontinuation of prescribed psychotropic medication unless the  
 313 required opinion is also from a psychiatrist who specializes in  
 314 mental health care for children and adolescents. The court may  
 315 also order the discontinuation of prescribed psychotropic  
 316 medication if a child's treating physician, licensed under  
 317 chapter 458 or chapter 459, states that continuing the  
 318 prescribed psychotropic medication would cause significant harm  
 319 to the child due to a diagnosed nonpsychiatric medical

588-03477-19 20191650c1

320 condition.

321 2. The burden of proof at any hearing held under this  
 322 paragraph shall be by a preponderance of the evidence.

323 (e)1. If the child's prescribing physician or advanced  
 324 practice registered nurse whose specialty is psychiatric  
 325 nursing, as defined in chapter 394, and who is given prescribing  
 326 authority pursuant to chapter 464 certifies in the signed  
 327 medical report required in paragraph (c) that delay in providing  
 328 a prescribed psychotropic medication would more likely than not  
 329 cause significant harm to the child, the medication may be  
 330 provided in advance of the issuance of a court order. In such  
 331 event, the medical report must provide the specific reasons why  
 332 the child may experience significant harm and the nature and the  
 333 extent of the potential harm. The department must submit a  
 334 motion seeking continuation of the medication and the  
 335 physician's medical report to the court, the child's guardian ad  
 336 litem, and all other parties within 3 working days after the  
 337 department commences providing the medication to the child. The  
 338 department shall seek the order at the next regularly scheduled  
 339 court hearing required under this chapter, or within 30 days  
 340 after the date of the prescription, whichever occurs sooner. If  
 341 any party objects to the department's motion, the court shall  
 342 hold a hearing within 7 days.

343 2. Psychotropic medications may be administered in advance  
 344 of a court order in hospitals, crisis stabilization units, and  
 345 in statewide inpatient psychiatric programs. Within 3 working  
 346 days after the medication is begun, the department must seek  
 347 court authorization as described in paragraph (c).

348 (f)1. The department shall fully inform the court of the

588-03477-19

20191650c1

349 child's medical and behavioral status as part of the social  
 350 services report prepared for each judicial review hearing held  
 351 for a child for whom psychotropic medication has been prescribed  
 352 or provided under this subsection. As a part of the information  
 353 provided to the court, the department shall furnish copies of  
 354 all pertinent medical records concerning the child which have  
 355 been generated since the previous hearing. On its own motion or  
 356 on good cause shown by any party, including any guardian ad  
 357 litem, attorney, or attorney ad litem who has been appointed to  
 358 represent the child or the child's interests, the court may  
 359 review the status more frequently than required in this  
 360 subsection.

361 2. The court may, in the best interests of the child, order  
 362 the department to obtain a medical opinion addressing whether  
 363 the continued use of the medication under the circumstances is  
 364 safe and medically appropriate.

365 (g) The department shall adopt rules to ensure that  
 366 children receive timely access to clinically appropriate  
 367 psychotropic medications. These rules must include, but need not  
 368 be limited to, the process for determining which adjunctive  
 369 services are needed, the uniform process for facilitating the  
 370 prescribing physician's or advanced practice registered nurse's  
 371 ability to obtain the express and informed consent of a child's  
 372 parent or guardian, the procedures for obtaining court  
 373 authorization for the provision of a psychotropic medication,  
 374 the frequency of medical monitoring and reporting on the status  
 375 of the child to the court, how the child's parents will be  
 376 involved in the treatment-planning process if their parental  
 377 rights have not been terminated, and how caretakers are to be

Page 13 of 37

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588-03477-19

20191650c1

378 provided information contained in the physician's or advanced  
 379 practice registered nurse's signed medical report. The rules  
 380 must also include uniform forms to be used in requesting court  
 381 authorization for the use of a psychotropic medication and  
 382 provide for the integration of each child's treatment plan and  
 383 case plan. The department must begin the formal rulemaking  
 384 process within 90 days after the effective date of this act.

385 (6) Children who are in the legal custody of the department  
 386 may be placed by the department, without prior approval of the  
 387 court, in a residential treatment center licensed under s.  
 388 394.875 or a hospital licensed under chapter 395 for residential  
 389 mental health treatment only pursuant to this section or may be  
 390 placed by the court in accordance with an order of involuntary  
 391 examination or involuntary placement entered pursuant to s.  
 392 394.463 or s. 394.467. All children placed in a residential  
 393 treatment program under this subsection must have a guardian ad  
 394 litem appointed.

395 (g)1. The department must submit, at the beginning of each  
 396 month, to the court having jurisdiction over the child, a  
 397 written report regarding the child's progress toward achieving  
 398 the goals specified in the individualized plan of treatment.

399 2. The court must conduct a hearing to review the status of  
 400 the child's residential treatment plan no later than 60 days ~~3~~  
 401 ~~months~~ after the child's admission to the residential treatment  
 402 program. An independent review of the child's progress toward  
 403 achieving the goals and objectives of the treatment plan must be  
 404 completed by a qualified evaluator and submitted to the court  
 405 before its 60-day ~~3-month~~ review.

406 3. For any child in residential treatment at the time a

Page 14 of 37

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588-03477-19 20191650c1

407 judicial review is held pursuant to s. 39.701, the child's  
408 continued placement in residential treatment must be a subject  
409 of the judicial review.

410 4. If at any time the court determines that the child is  
411 not suitable for continued residential treatment, the court  
412 shall order the department to place the child in the least  
413 restrictive setting that is best suited to meet his or her  
414 needs.

415 (h) After the initial 60-day ~~3-month~~ review, the court must  
416 conduct a review of the child's residential treatment plan every  
417 90 days.

418 (i) The department must adopt rules for implementing  
419 timeframes for the completion of suitability assessments by  
420 qualified evaluators and a procedure that includes timeframes  
421 for completing the 60-day ~~3-month~~ independent review by the  
422 qualified evaluators of the child's progress toward achieving  
423 the goals and objectives of the treatment plan which review must  
424 be submitted to the court. The Agency for Health Care  
425 Administration must adopt rules for the registration of  
426 qualified evaluators, the procedure for selecting the evaluators  
427 to conduct the reviews required under this section, and a  
428 reasonable, cost-efficient fee schedule for qualified  
429 evaluators.

430 Section 5. Present paragraphs (a) through (h) of subsection  
431 (2) of section 39.5085, Florida Statutes, are redesignated as  
432 paragraphs (b) through (i), respectively, paragraph (a) of  
433 subsection (1) is amended, and a new paragraph (a) is added to  
434 subsection (2) of that section, to read:

435 39.5085 Relative Caregiver Program.—

588-03477-19 20191650c1

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

438 (a) Provide for the establishment of procedures and  
439 protocols that serve to advance the continued safety of children  
440 by acknowledging the valued resource uniquely available through  
441 grandparents, relatives of children, and specified nonrelatives  
442 of children pursuant to subparagraph (2)(b)3. ~~(2)(a)3.~~

443 (2)

444 (a) Relatives or nonrelatives who are caring for a child  
445 and do not meet the eligibility requirements for Level I  
446 licensure under s. 409.175 may apply for the Relative Caregiver  
447 Program.

448 Section 6. Paragraph (a) of subsection (1) of section  
449 39.5086, Florida Statutes, is amended to read:

450 39.5086 Kinship navigator programs.—

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

452 ~~(a) "Fictive kin" has the same meaning as provided in s.~~  
453 ~~39.4015(2)(d).~~

454 Section 7. Subsections (6) and (10) of section 39.6225,  
455 Florida Statutes, are amended to read:

456 39.6225 Guardianship Assistance Program.—

457 (6) Guardianship assistance benefits shall be terminated if  
458 the guardian is no longer providing support to the child. For  
459 purposes of this subsection, a guardian is considered to no  
460 longer be providing support to the child if:

461 (a) The child is absent from the home of the guardian for a  
462 period of at least 60 consecutive calendar days, unless the  
463 child:

464 1. Is absent due to medical care, school attendance,

588-03477-19 20191650c1

465 runaway status, or detention in a Department of Juvenile Justice  
466 facility; and

467 2. Continues to be under the care and custody of the  
468 guardian.

469 (b) The court modifies the placement of the child and the  
470 guardian is no longer eligible to receive guardianship  
471 assistance benefits.

472 (10) The case plan must describe the following for each  
473 child with a permanency goal of permanent guardianship in which  
474 the guardian is pursuing ~~in receipt of~~ guardianship assistance  
475 ~~payments~~:

476 (a) The manner in which the child meets program eligibility  
477 requirements.

478 (b) The manner in which the department determined that  
479 reunification or adoption is not appropriate.

480 (c) Efforts to discuss adoption with the child's permanent  
481 guardian.

482 (d) Efforts to discuss guardianship assistance with the  
483 child's parent or the reasons why efforts were not made.

484 (e) The reasons why a permanent placement with the  
485 prospective guardian is in the best interest of the child.

486 (f) The reasons why the child is separated from his or her  
487 siblings during placement, if applicable.

488 (g) Efforts to consult the child, if the child is 14 years  
489 of age or older, regarding the permanent guardianship  
490 arrangement.

491 Section 8. Subsections (2) and (3), paragraph (a) of  
492 subsection (4), and subsection (6) of section 39.6251, Florida  
493 Statutes, are amended, and subsection (10) is added to that

588-03477-19 20191650c1

494 section, to read:

495 39.6251 Continuing care for young adults.—

496 (2) The primary goal for a child in care is permanency. A  
497 child who is living in licensed care on his or her 18th birthday  
498 and who has not achieved permanency under s. 39.621 is eligible  
499 to remain in licensed care under the jurisdiction of the court  
500 and in the care of the department. A child is eligible to remain  
501 in licensed care if he or she is:

502 (a) Completing secondary education or a program leading to  
503 an equivalent credential;

504 (b) Enrolled in an institution that provides postsecondary  
505 or vocational education;

506 (c) Participating in a program or activity designed to  
507 promote or eliminate barriers to employment;

508 (d) Employed for at least 80 hours per month; or

509 (e) Unable to participate in programs or activities listed  
510 in paragraphs (a)-(d) full time due to a physical, intellectual,  
511 emotional, or psychiatric condition that limits participation.  
512 Any such barrier to participation must be supported by  
513 documentation in the child's case file or school or medical  
514 records of a physical, intellectual, or psychiatric condition  
515 that impairs the child's ability to perform one or more life  
516 activities.

517  
518 The young adult must furnish documentation to the department or  
519 lead agency of his or her participation in one of the programs  
520 or activities listed in paragraphs (a)-(d), or his or her  
521 inability to participate in one of the programs or activities as  
522 provided in paragraph (e), or authorize the release of his or

588-03477-19

20191650c1

523 her records to the department or lead agency.

524 (3) The permanency goal for a young adult who chooses to  
525 remain in care past his or her 18th birthday is to transition to  
526 independence from licensed care to independent living.

527 (4) (a) The young adult must reside in a supervised living  
528 environment that is approved by the department or a community-  
529 based care lead agency. The young adult shall live  
530 independently, but in an environment in which he or she is  
531 provided supervision, case management, and supportive services  
532 by the department or lead agency. Such an environment must offer  
533 developmentally appropriate freedom and responsibility to  
534 prepare the young adult for adulthood. For the purposes of this  
535 subsection, a supervised living arrangement may include a  
536 licensed foster home, licensed group home, college dormitory,  
537 shared housing, apartment, or another housing arrangement if the  
538 arrangement is approved by the community-based care lead agency  
539 and is acceptable to the young adult, ~~with first choice being a~~  
540 ~~licensed foster home.~~ A young adult may continue to reside with  
541 the same licensed foster family or group care provider with whom  
542 he or she was residing at the time he or she reached the age of  
543 18 years.

544 (6) A young adult who is between the ages of 18 and 21 and  
545 who has left care may return to care by applying to the  
546 community-based care lead agency for readmission through the  
547 execution of a voluntary placement agreement. The community-  
548 based care lead agency shall readmit the young adult if he or  
549 she continues to meet the eligibility requirements in this  
550 section.

551 (a) The department shall develop a standard procedure and

Page 19 of 37

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588-03477-19

20191650c1

552 application packet for readmission to care to be used by all  
553 community-based care lead agencies.

554 (b) Within 30 days after the young adult has been  
555 readmitted to care, the community-based care lead agency shall  
556 assign a case manager to update the case plan and the transition  
557 plan and to arrange for the required services. Updates to the  
558 case plan and the transition plan and arrangements for the  
559 required services shall be undertaken in consultation with the  
560 young adult. The department shall petition the court to  
561 reinstate jurisdiction over the young adult. Notwithstanding s.  
562 39.013(2), the court shall resume jurisdiction over the young  
563 adult if the department establishes that he or she continues to  
564 meet the eligibility requirements in this section.

565 (10) The department shall adopt rules to administer this  
566 section.

567 Section 9. Paragraph (d) of subsection (2) of section  
568 39.701, Florida Statutes, is amended, and paragraphs (f) and (g)  
569 are added to subsection (4) of that section, to read:

570 39.701 Judicial review.—

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

573 (d) *Orders.*—

574 1. Based upon the criteria set forth in paragraph (c) and  
575 the recommended order of the citizen review panel, if any, the  
576 court shall determine whether ~~or not~~ the social service agency  
577 shall initiate proceedings to have a child declared a dependent  
578 child, return the child to the parent, continue the child in  
579 out-of-home care for a specified period of time, or initiate  
580 termination of parental rights proceedings for subsequent

Page 20 of 37

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588-03477-19 20191650c1

581 placement in an adoptive home. Amendments to the case plan must  
 582 be prepared as provided ~~prescribed~~ in s. 39.6013. If the court  
 583 finds that the prevention or reunification efforts of the  
 584 department will allow the child to remain safely at home or be  
 585 safely returned to the home, the court shall allow the child to  
 586 remain in or return to the home after making a specific finding  
 587 of fact that the reasons for the creation of the case plan have  
 588 been remedied to the extent that the child's safety, well-being,  
 589 and physical, mental, and emotional health will not be  
 590 endangered.

591 2. The court shall return the child to the custody of his  
 592 or her ~~the~~ parents at any time it determines that the  
 593 circumstances which caused the out-of-home placement, and issues  
 594 subsequently identified, have been remedied to the extent that  
 595 return of the child to the home with an in-home safety plan  
 596 prepared or approved by the department ~~that they have~~  
 597 ~~substantially complied with the case plan, if the court is~~  
 598 ~~satisfied that reunification~~ will not be detrimental to the  
 599 child's safety, well-being, and physical, mental, and emotional  
 600 health.

601 3. If, in the opinion of the court, the social service  
 602 agency has not complied with its obligations as specified in the  
 603 written case plan, the court may find the social service agency  
 604 in contempt, shall order the social service agency to submit its  
 605 plans for compliance with the agreement, and shall require the  
 606 social service agency to show why the child could not safely be  
 607 returned to the home of the parents.

608 4. If, at any judicial review, the court finds that the  
 609 parents have failed to substantially comply with the case plan

588-03477-19 20191650c1

610 to the degree that further reunification efforts are without  
 611 merit and not in the best interest of the child, on its own  
 612 motion, the court may order the filing of a petition for  
 613 termination of parental rights, regardless of whether ~~or not~~ the  
 614 time period as contained in the case plan for substantial  
 615 compliance has expired.

616 5. Within 6 months after the date that the child was placed  
 617 in shelter care, the court shall conduct a judicial review  
 618 hearing to review the child's permanency goal as identified in  
 619 the case plan. At the hearing the court shall make findings  
 620 regarding the likelihood of the child's reunification with the  
 621 parent or legal custodian. In making such findings, the court  
 622 shall consider the level of the parent or legal custodian's  
 623 compliance with the case plan and demonstrated change in  
 624 protective capacities compared to that necessary to achieve  
 625 timely reunification within 12 months after the removal of the  
 626 child from the home. The court shall also consider the  
 627 frequency, duration, manner, and level of engagement of the  
 628 parent or legal custodian's visitation with the child in  
 629 compliance with the case plan. If the court makes a written  
 630 finding that it is not likely that the child will be reunified  
 631 with the parent or legal custodian within 12 months after the  
 632 child was removed from the home, the department must file with  
 633 the court, and serve on all parties, a motion to amend the case  
 634 plan under s. 39.6013 and declare that it will use concurrent  
 635 planning for the case plan. The department must file the motion  
 636 within 10 business days after receiving the written finding of  
 637 the court. The department must attach the proposed amended case  
 638 plan to the motion. If concurrent planning is already being

588-03477-19

20191650c1

639 used, the case plan must document the efforts the department is  
640 taking to complete the concurrent goal.

641 6. The court may issue a protective order in assistance, or  
642 as a condition, of any other order made under this part. In  
643 addition to the requirements included in the case plan, the  
644 protective order may set forth requirements relating to  
645 reasonable conditions of behavior to be observed for a specified  
646 period of time by a person or agency who is before the court,<sup>+</sup>  
647 and the order may require any person or agency to make periodic  
648 reports to the court containing such information as the court in  
649 its discretion may prescribe.

650 7. If, at any judicial review, the court determines that  
651 the child shall remain in out-of-home care in a placement other  
652 than with a parent, the court shall order that the department  
653 has placement and care responsibility for the child.

654 (4) REVIEW HEARINGS FOR YOUNG ADULTS IN FOSTER CARE.—During  
655 each period of time that a young adult remains in foster care,  
656 the court shall review the status of the young adult at least  
657 every 6 months and must hold a permanency review hearing at  
658 least annually.

659 (f) If the young adult elects to voluntarily leave extended  
660 foster care for the sole purpose of ending a removal episode and  
661 immediately thereafter executes a voluntary placement agreement  
662 with the department to reenroll in extended foster care, the  
663 court shall enter an order finding that the prior removal  
664 episode has ended. Under these circumstances, the court  
665 maintains jurisdiction and a petition to reinstate jurisdiction  
666 as provided in s. 39.6251(6)(b) is not required.

667 (g)1. When a young adult enters extended foster care by

588-03477-19

20191650c1

668 executing a voluntary placement agreement, the court shall enter  
669 an order within 180 days after execution of the agreement which  
670 determines whether the placement is in the best interest of the  
671 young adult. For purposes of this paragraph, a placement may  
672 include a licensed foster home, licensed group home, college  
673 dormitory, shared housing, apartment, or another housing  
674 arrangement, if the arrangement is approved by the community-  
675 based care lead agency and is acceptable to the young adult.

676 2. When a young adult is in extended foster care, each  
677 judicial review order shall provide that the department has  
678 placement and care responsibility for the young adult.

679 3. When a young adult is in extended foster care, the court  
680 shall enter an order at least every 12 months that includes a  
681 finding of whether the department has made reasonable efforts to  
682 finalize the permanency plan currently in effect.

683 Section 10. Present subsections (9) and (10) of section  
684 409.1451, Florida Statutes, are redesignated as subsections (10)  
685 and (11), respectively, paragraph (b) of subsection (2) is  
686 amended, and a new subsection (9) is added to that section, to  
687 read:

688 409.1451 The Road-to-Independence Program.—

689 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

690 (b) The amount of the financial assistance shall be as  
691 follows:

692 1. For a young adult who does not remain in foster care and  
693 is attending a postsecondary school as provided in s. 1009.533,  
694 the amount is \$1,256 monthly.

695 2. For a young adult who remains in foster care, is  
696 attending a postsecondary school, as provided in s. 1009.533,

588-03477-19 20191650c1

697 and continues to reside in a licensed foster home, the amount is  
698 the established room and board rate for foster parents. This  
699 takes the place of the payment provided for in s. 409.145(4).

700 3. For a young adult who remains in foster care, but  
701 temporarily resides away from a licensed foster home for  
702 purposes of attending a postsecondary school as provided in s.  
703 1009.533, the amount is \$1,256 monthly. This takes the place of  
704 the payment provided for in s. 409.145(4).

705 4. For a young adult who remains in foster care, is  
706 attending a postsecondary school as provided in s. 1009.533, and  
707 continues to reside in a licensed group home, the amount is  
708 negotiated between the community-based care lead agency and the  
709 licensed group home provider.

710 5. For a young adult who remains in foster care, but  
711 temporarily resides away from a licensed group home for purposes  
712 of attending a postsecondary school as provided in s. 1009.533,  
713 the amount is \$1,256 monthly. This takes the place of a  
714 negotiated room and board rate.

715 ~~6. The amount of the award may be disregarded for purposes~~  
716 ~~of determining the eligibility for, or the amount of, any other~~  
717 ~~federal or federally supported assistance.~~

718 ~~6.7.~~ A young adult is eligible to receive financial  
719 assistance during the months when he or she is enrolled in a  
720 postsecondary educational institution.

721 (9) FINANCIAL ASSISTANCE FOR YOUNG ADULTS RECEIVING  
722 SERVICES.—Financial awards to young adults receiving services  
723 under subsections (2) and (3) and s. 39.6251 may be disregarded  
724 for purposes of determining the eligibility for, or the amount  
725 of, any other federal or federally supported assistance.

588-03477-19 20191650c1

726 Section 11. Paragraphs (e), (j), and (m) of subsection (2),  
727 paragraph (b) of subsection (5), paragraph (c) of subsection  
728 (6), subsection (7), paragraph (b) of subsection (9), paragraphs  
729 (b) and (c) of subsection (12), and paragraphs (b) and (d) of  
730 subsection (14) of section 409.175, Florida Statutes, are  
731 amended to read:

732 409.175 Licensure of family foster homes, residential  
733 child-caring agencies, and child-placing agencies; public  
734 records exemption.—

735 (2) As used in this section, the term:

736 (e) "Family foster home" means a ~~private~~ residence licensed  
737 by the department in which children who are unattended by a  
738 parent or legal guardian are provided 24-hour care. The term  
739 does not include an adoptive home that has been approved by the  
740 department or approved by a licensed child-placing agency for  
741 children placed for adoption.

742 (j) "Personnel" means all owners, operators, employees, and  
743 volunteers working in a child-placing agency, ~~family foster~~  
744 ~~home,~~ or residential child-caring agency who may be employed by  
745 or do volunteer work for a person, corporation, or agency that  
746 holds a license as a child-placing agency or a residential  
747 child-caring agency, but the term does not include those who do  
748 not work on the premises where child care is furnished and have  
749 no direct contact with a child or have no contact with a child  
750 outside of the presence of the child's parent or guardian. For  
751 purposes of screening, the term includes any member, over the  
752 age of 12 years, of the family of the owner or operator or any  
753 person other than a client, over the age of 12 years, residing  
754 with the owner or operator if the agency ~~or family foster home~~

588-03477-19

20191650c1

755 is located in or adjacent to the home of the owner or operator  
 756 or if the family member of, or person residing with, the owner  
 757 or operator has any direct contact with the children. Members of  
 758 the family of the owner or operator, or persons residing with  
 759 the owner or operator, who are between the ages of 12 years and  
 760 18 years are not required to be fingerprinted, but must be  
 761 screened for delinquency records. For purposes of screening, the  
 762 term also includes owners, operators, employees, and volunteers  
 763 working in summer day camps, or summer 24-hour camps providing  
 764 care for children. A volunteer who assists on an intermittent  
 765 basis for less than 10 hours per month shall not be included in  
 766 the term "personnel" for the purposes of screening if a person  
 767 who meets the screening requirement of this section is always  
 768 present and has the volunteer in his or her line of sight.

769 (m) "Screening" means the act of assessing the background  
 770 of personnel or level II through level V family foster homes and  
 771 includes, but is not limited to, employment history checks as  
 772 provided in chapter 435, using the level 2 standards for  
 773 screening set forth in that chapter.

774 (5) The department shall adopt and amend rules for the  
 775 levels of licensed care associated with the licensure of family  
 776 foster homes, residential child-caring agencies, and child-  
 777 placing agencies. The rules may include criteria to approve  
 778 waivers to licensing requirements when applying for a child-  
 779 specific license.

780 (b) The requirements for licensure and operation of family  
 781 foster homes, residential child-caring agencies, and child-  
 782 placing agencies shall include:

783 1. The operation, conduct, and maintenance of these homes

Page 27 of 37

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588-03477-19

20191650c1

784 and agencies and the responsibility which they assume for  
 785 children served and the evidence of need for that service.

786 2. The provision of food, clothing, educational  
 787 opportunities, services, equipment, and individual supplies to  
 788 assure the healthy physical, emotional, and mental development  
 789 of the children served.

790 3. The appropriateness, safety, cleanliness, and general  
 791 adequacy of the premises, including fire prevention and health  
 792 standards, to provide for the physical comfort, care, and well-  
 793 being of the children served.

794 4. The ratio of staff to children required to provide  
 795 adequate care and supervision of the children served and, in the  
 796 case of family foster homes, the maximum number of children in  
 797 the home.

798 5. The good moral character based upon screening,  
 799 education, training, and experience requirements for personnel  
 800 and family foster homes.

801 6. The department may grant exemptions from  
 802 disqualification from working with children or the  
 803 developmentally disabled as provided in s. 435.07.

804 7. The provision of preservice and inservice training for  
 805 all foster parents and agency staff.

806 8. Satisfactory evidence of financial ability to provide  
 807 care for the children in compliance with licensing requirements.

808 9. The maintenance by the agency of records pertaining to  
 809 admission, progress, health, and discharge of children served,  
 810 including written case plans and reports to the department.

811 10. The provision for parental involvement to encourage  
 812 preservation and strengthening of a child's relationship with

Page 28 of 37

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588-03477-19 20191650c1

813 the family.

814 11. The transportation safety of children served.

815 12. The provisions for safeguarding the cultural,

816 religious, and ethnic values of a child.

817 13. Provisions to safeguard the legal rights of children

818 served.

819 (6)

820 (c) A licensed family foster home, child-placing agency, or

821 residential child-caring agency which applies for renewal of its

822 license shall submit to the department a list of personnel or

823 household members who have worked or resided on a continuous

824 basis at the applicant family foster home or agency since

825 submitting fingerprints to the department, identifying those for

826 whom a written assurance of compliance was provided by the

827 department and identifying those personnel or household members

828 who have recently begun working or residing at the family foster

829 home or agency and are awaiting the results of the required

830 fingerprint check, along with the date of the submission of

831 those fingerprints for processing. The department shall by rule

832 determine the frequency of requests to the Department of Law

833 Enforcement to run state criminal records checks for such

834 personnel or household members except for those personnel or

835 household members awaiting the results of initial fingerprint

836 checks for employment at the applicant family foster home or

837 agency.

838 (7) ~~(a)~~ The department may extend a license expiration date

839 once for a period of up to 30 days. However, the department may

840 not extend a license expiration date more than once during a

841 licensure period ~~The department may issue a provisional license~~

588-03477-19 20191650c1

842 ~~to an applicant who is unable to conform to the licensing~~

843 ~~requirements at the time of the study, but who is believed able~~

844 ~~to meet the licensing requirements within the time allowed by~~

845 ~~the provisional license. The issuance of a provisional license~~

846 ~~shall be contingent upon the submission to the department of an~~

847 ~~acceptable written plan to overcome the deficiency by the~~

848 ~~expiration date of the provisional license.~~

849 ~~(b) A provisional license may be issued when the applicant~~

850 ~~fails to meet licensing requirements in matters that are not of~~

851 ~~immediate danger to the children and the agency has submitted a~~

852 ~~corrective action plan which is approved by the department. A~~

853 ~~provisional license may be issued if the screening material has~~

854 ~~been timely submitted; however, a provisional license may not be~~

855 ~~issued unless the applicant is in compliance with the~~

856 ~~requirements in this section for screening of personnel.~~

857 ~~(c) A provisional license shall not be issued for a period~~

858 ~~in excess of 1 year and shall not be subject to renewal, and it~~

859 ~~may be suspended if periodic inspection by the department~~

860 ~~indicates that insufficient progress has been made toward~~

861 ~~compliance with the requirements.~~

862 (9)

863 (b) Any of the following actions by a family foster home or

864 its household members or an agency or its personnel is a ground

865 for denial, suspension, or revocation of a license:

866 1. An intentional or negligent act materially affecting the

867 health or safety of children in the home or agency.

868 2. A violation of ~~the provisions of~~ this section or of

869 licensing rules adopted ~~promulgated~~ pursuant to this section.

870 3. Noncompliance with the requirements for good moral

588-03477-19 20191650c1

871 character as specified in paragraph (5) (b).  
 872 4. Failure to dismiss personnel or a household member found  
 873 in noncompliance with requirements for good moral character.  
 874 5. Failure to comply with the requirements of ss. 63.0422  
 875 and 790.335.  
 876 (12)  
 877 (b) It is unlawful for any person, agency, family foster  
 878 home, summer day camp, or summer 24-hour camp providing care for  
 879 children to:  
 880 1. Willfully or intentionally fail to comply with the  
 881 requirements for the screening of personnel and family foster  
 882 homes or the dismissal of personnel or household members found  
 883 not to be in compliance with the requirements for good moral  
 884 character as specified in paragraph (5) (b).  
 885 2. Use information from the criminal records obtained under  
 886 this section for any purpose other than screening a person for  
 887 employment as specified in this section or to release such  
 888 information to any other person for any purpose other than  
 889 screening for employment as specified in this section.  
 890 (c) It is unlawful for any person, agency, family foster  
 891 home, summer day camp, or summer 24-hour camp providing care for  
 892 children to use information from the juvenile records of any  
 893 person obtained under this section for any purpose other than  
 894 screening for employment as specified in this section or to  
 895 release information from such records to any other person for  
 896 any purpose other than screening for employment as specified in  
 897 this section.  
 898 (14)  
 899 (b) As a condition of licensure, foster parents shall

588-03477-19 20191650c1

900 successfully complete ~~a minimum of 21 hours of~~ preservice  
 901 training. The preservice training shall be uniform statewide and  
 902 shall include, but not be limited to, such areas as:  
 903 1. Orientation regarding agency purpose, objectives,  
 904 resources, policies, and services;  
 905 2. Role of the foster parent as a treatment team member;  
 906 3. Transition of a child into and out of foster care,  
 907 including issues of separation, loss, and attachment;  
 908 4. Management of difficult child behavior that can be  
 909 intensified by placement, by prior abuse or neglect, and by  
 910 prior placement disruptions;  
 911 5. Prevention of placement disruptions;  
 912 6. Care of children at various developmental levels,  
 913 including appropriate discipline; and  
 914 7. Effects of foster parenting on the family of the foster  
 915 parent.  
 916 (d) ~~Before prior to~~ licensure renewal, each ~~level II~~  
 917 ~~through level V~~ foster parent must shall successfully complete ~~8~~  
 918 ~~hours of~~ inservice training. ~~Each level I foster parent shall~~  
 919 ~~successfully complete 4 hours of inservice training.~~ Periodic  
 920 time-limited training courses shall be made available for  
 921 selective use by foster parents. Such inservice training shall  
 922 include subjects affecting the daily living experiences of  
 923 foster parenting as a foster parent. For a foster parent  
 924 participating in the required inservice training, the department  
 925 shall reimburse such parent for travel expenditures and, if both  
 926 parents in a home are attending training or if the absence of  
 927 the parent would leave the children without departmentally  
 928 approved adult supervision, the department shall make provision

588-03477-19 20191650c1

929 for child care or shall reimburse the foster parents for child  
930 care purchased by the parents for children in their care.

931 Section 12. Subsection (4) of section 409.903, Florida  
932 Statutes, is amended to read:

933 409.903 Mandatory payments for eligible persons.—The agency  
934 shall make payments for medical assistance and related services  
935 on behalf of the following persons who the department, or the  
936 Social Security Administration by contract with the Department  
937 of Children and Families, determines to be eligible, subject to  
938 the income, assets, and categorical eligibility tests set forth  
939 in federal and state law. Payment on behalf of these Medicaid  
940 eligible persons is subject to the availability of moneys and  
941 any limitations established by the General Appropriations Act or  
942 chapter 216.

943 (4) A child who is eligible under Title IV-E of the Social  
944 Security Act for subsidized board payments, foster care, or  
945 adoption subsidies, and a child for whom the state has assumed  
946 temporary or permanent responsibility and who does not qualify  
947 for Title IV-E assistance but is in foster care, shelter or  
948 emergency shelter care, or subsidized adoption. This category  
949 includes:

950 (a) A young adult who is eligible to receive services under  
951 s. 409.1451, until the young adult reaches 21 years of age,  
952 without regard to any income, resource, or categorical  
953 eligibility test that is otherwise required.

954 (b) ~~This category also includes~~ A person who as a child was  
955 eligible under Title IV-E of the Social Security Act for foster  
956 care or the state-provided foster care and who is a participant  
957 in the Road-to-Independence Program.

588-03477-19 20191650c1

958 (c) A child who is eligible for the Guardianship Assistance  
959 Program as provided in s. 39.6225.

960 Section 13. Paragraph (a) of subsection (1) of section  
961 409.991, Florida Statutes, is amended to read:

962 409.991 Allocation of funds for community-based care lead  
963 agencies.—

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

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

- 969 1. Funds appropriated for independent living;
- 970 2. Funds appropriated for maintenance adoption subsidies;
- 971 3. Funds allocated by the department for protective  
972 investigations training;
- 973 4. Nonrecurring funds;
- 974 5. Designated mental health wrap-around services funds; ~~and~~
- 975 6. Funds for special projects for a designated community-  
976 based care lead agency; and

977 7. Funds appropriated for the Guardianship Assistance  
978 Program under s. 39.6225.

979 Section 14. Paragraph (b) of subsection (1) of section  
980 414.045, Florida Statutes, is amended to read:

981 414.045 Cash assistance program.—Cash assistance families  
982 include any families receiving cash assistance payments from the  
983 state program for temporary assistance for needy families as  
984 defined in federal law, whether such funds are from federal  
985 funds, state funds, or commingled federal and state funds. Cash  
986 assistance families may also include families receiving cash

588-03477-19 20191650c1

987 assistance through a program defined as a separate state  
988 program.

989 (1) For reporting purposes, families receiving cash  
990 assistance shall be grouped into the following categories. The  
991 department may develop additional groupings in order to comply  
992 with federal reporting requirements, to comply with the data-  
993 reporting needs of the board of directors of CareerSource  
994 Florida, Inc., or to better inform the public of program  
995 progress.

996 (b) *Child-only cases.*—Child-only cases include cases that  
997 do not have an adult or teen head of household as defined in  
998 federal law. Such cases include:

999 1. Children in the care of caretaker relatives, if the  
1000 caretaker relatives choose to have their needs excluded in the  
1001 calculation of the amount of cash assistance.

1002 2. Families in the Relative Caregiver Program as provided  
1003 in s. 39.5085.

1004 3. Families in which the only parent in a single-parent  
1005 family or both parents in a two-parent family receive  
1006 supplemental security income (SSI) benefits under Title XVI of  
1007 the Social Security Act, as amended. To the extent permitted by  
1008 federal law, individuals receiving SSI shall be excluded as  
1009 household members in determining the amount of cash assistance,  
1010 and such cases shall not be considered families containing an  
1011 adult. Parents or caretaker relatives who are excluded from the  
1012 cash assistance group due to receipt of SSI may choose to  
1013 participate in work activities. An individual whose ability to  
1014 participate in work activities is limited who volunteers to  
1015 participate in work activities shall be assigned to work

Page 35 of 37

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588-03477-19 20191650c1

1016 activities consistent with such limitations. An individual who  
1017 volunteers to participate in a work activity may receive child  
1018 care or support services consistent with such participation.

1019 4. Families in which the only parent in a single-parent  
1020 family or both parents in a two-parent family are not eligible  
1021 for cash assistance due to immigration status or other  
1022 limitation of federal law. To the extent required by federal  
1023 law, such cases shall not be considered families containing an  
1024 adult.

1025 5. To the extent permitted by federal law and subject to  
1026 appropriations, special needs children who have been adopted  
1027 pursuant to s. 409.166 and whose adopting family qualifies as a  
1028 needy family under the state program for temporary assistance  
1029 for needy families. Notwithstanding any provision to the  
1030 contrary in s. 414.075, s. 414.085, or s. 414.095, a family  
1031 shall be considered a needy family if:

1032 a. The family is determined by the department to have an  
1033 income below 200 percent of the federal poverty level;

1034 b. The family meets the requirements of s. 414.095(2) and  
1035 (3) related to residence, citizenship, or eligible noncitizen  
1036 status; and

1037 c. The family provides any information that may be  
1038 necessary to meet federal reporting requirements specified under  
1039 Part A of Title IV of the Social Security Act.

1040 6. Families in the Guardianship Assistance Program as  
1041 provided in s. 39.6225.

1042 Families described in subparagraph 1., subparagraph 2., or  
1043 subparagraph 3. may receive child care assistance or other  
1044

Page 36 of 37

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588-03477-19

20191650c1

1045 supports or services so that the children may continue to be  
1046 cared for in their own homes or in the homes of relatives. Such  
1047 assistance or services may be funded from the temporary  
1048 assistance for needy families block grant to the extent  
1049 permitted under federal law and to the extent funds have been  
1050 provided in the General Appropriations Act.

1051 Section 15. Paragraph (d) of subsection (1) of section  
1052 1009.25, Florida Statutes, is amended to read:

1053 1009.25 Fee exemptions.—

1054 (1) The following students are exempt from the payment of  
1055 tuition and fees, including lab fees, at a school district that  
1056 provides workforce education programs, Florida College System  
1057 institution, or state university:

1058 (d) A student who is or was at the time he or she reached  
1059 18 years of age in the custody of a relative or nonrelative  
1060 under s. 39.5085 or s. 39.6225 or who was adopted from the  
1061 Department of Children and Families after May 5, 1997. Such  
1062 exemption includes fees associated with enrollment in applied  
1063 academics for adult education instruction. The exemption remains  
1064 valid until the student reaches 28 years of age.

1065 Section 16. This act shall take effect July 1, 2019.

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Children, Families, and Elder Affairs  
**ITEM:** CS/SB 1650  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS	4/08/2019 <sup>1</sup> Amendment 546646		4/08/2019 <sup>2</sup> Amendment 231468			
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bean						
X		Harrell						
X		Rader						
X		Torres						
X		Wright						
		Mayfield, VICE CHAIR						
X		Book, CHAIR						
6	0	<b>TOTALS</b>	RCS	-	RCS	-		
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

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